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## PROTECTING INDIGENOUS KNOWLEDGE THROUGH GI LAW IN INDIA: A STUDY OF NAGA TRIBAL SHAWLS

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### ABSTRACT

*This paper investigates the socio-legal transformation of Naga tribal shawls from a "visual constitution" of identity to a globally traded commodity protected by the Geographical Indications of Goods (Registration and Protection) Act, 1999. Historically, Naga textiles were governed by a pre-colonial order of "customary sovereignty," where the right to wear specific motifs was strictly regulated by the "Feast of Merit" and social taboos rather than statutory law. The research explores the friction between this fluid, oral customary law—protected under Article 371A of the Indian Constitution and the codification required by the central GI regime.*

*Through a critical analysis of the Chakhesang Shawl's GI registration, the study argues that the legal requirement to submit a written "Statement of Case" forces the "fixation" of dynamic oral traditions, potentially ossifying culture into a static bureaucratic definition. The paper further highlights the structural inequality of the GI framework, evidenced by the abandonment of applications for Ao, Angami, and Sumi shawls due to administrative barriers and the incompatibility of oral history with the registry's documentation requirements.*

*Furthermore, the research identifies significant loopholes in the current legal framework, including the failure of GI law to protect visual motifs from "Naga pattern" power-loom imitations and the absence of "moral rights" to prevent cultural appropriation by the fashion industry. Ultimately, the paper concludes that while GI laws provide necessary economic shields, they effectuate a shift from "customary sovereignty" to "statutory sovereignty," transferring authority from village elders to state-mediated bureaucracies and redefining the shawl from a marker of status to a property asset. The study calls for a sui generis legal framework that incorporates "prior informed consent" to reconcile the preservation of heritage with market integration.*

**Keyword's:** Geographical Indications (GI), Naga Shawls, Indigenous Knowledge, Customary Law, Traditional Cultural Expressions

### 1. Introduction: The Shawl as Archive, Identity and Market Commodity

In the verdant, mist-laden typography of the Naga Hills, the textile is not merely a covering for the body; it is a "visual constitution," a woven document that archives the history, social

hierarchy, and political identity of a people who, for centuries, possessed no written script. Among the Naga tribes a collective of distinct ethnic groups including the Angami, Ao, Chakhesang, Sumi, and Lotha, among others

the shawl functions as a semiotic skin.<sup>1994</sup> It speaks a complex, silent language of stripes, motifs, and colours that communicates the wearer's clan, village, gender, and, most crucially, their meritocratic achievements in war and community service.<sup>1995</sup> The textile tradition of the Nagas is historically embedded in a complex socio-political order governed by customary laws, where the right to wear a specific shawl was strictly regulated by the performance of the "Feast of Merit" or success in headhunting.<sup>1996</sup> Thus, historically, the Naga shawl was an encoded document of sovereignty and status, protected not by statutes, but by the potent enforcement of social sanction, taboo, and community consensus.<sup>1997</sup>

However, the trajectory of this cultural artefact has undergone a radical transformation over the last century, evolving from a closed-loop ritual object to a globally traded commodity. From being a ritual object embedded in a reciprocity economy, the Naga shawl was first transformed into an ethnographic specimen by colonial administrators like J.H. Hutton and J.P. Mills, who catalogued these living traditions into museum objects, effectively divorcing them from their living context.<sup>1998</sup> Subsequently, with the advent of globalisation and India's accession to the World Trade Organization (WTO) in 1995, the shawl has been re-imagined as an "economic asset" and "intellectual property".<sup>1999</sup> The enactment of the *Geographical Indications of Goods (Registration and Protection) Act, 1999* (GI Act) in India represented a modern legal attempt to protect these Traditional Cultural Expressions

(TCEs) from misappropriation and market dilution.<sup>2000</sup>

This transition from customary sovereignty to statutory protection raises profound questions about the nature of legal stewardship over indigenous knowledge. Modern intellectual property law, specifically the Geographical Indication regime, seeks to protect what was historically governed by a fluid, oral, and community-based regulatory order. The central inquiry of this research is not merely whether legal protection exists for Naga shawls evidenced by the GI registration of the Chakhesang Shawl but whether the legal form reshapes the cultural substance. As the shawl moves from the loom of the village elder to the bureaucratic registry in Chennai, and finally to the global fashion market, the interaction between Article 371A of the Indian Constitution (which protects Naga customary law) and the central GI Act creates a unique socio-legal friction.<sup>2001</sup>

Furthermore, the introduction of statutory frameworks often necessitates a codification of culture that is inherently antithetical to the fluid nature of oral traditions. When a community is required to submit a "Statement of Case" to a centralised registry, defining the precise thread count, colour bands, and motifs of a "traditional" shawl, does this act of definition act as a vessel of preservation or an instrument of ossification? Does the legal requirement for standardisation freeze a dynamic tradition into a static bureaucratic description, rendering variations "inauthentic"? This paper explores these tensions, arguing that while GI laws provide a necessary shield against commercial exploitation, they simultaneously impose a "statutory institutionalisation" that may erode the traditional authority structures the clan elders and customary sanctions that originally gave the shawl its meaning. Thus, the Naga shawl today exists in a liminal space:

<sup>1994</sup> Niraj Kumar & Chingngaih Biak, "Measuring Timelessness through Naga Skirts", 2(2) *Journal of Indian Research* 62 (2014); Monalisa Changkija, "Interrogating the 'Customary': Monalisa Changkija on Naga Women's Rights", *Open Library of Humanities* (2020).

<sup>1995</sup> Franky Varah et al., "Protecting expressions of Naga folklore through sui generis model", 26 *Journal of Intellectual Property Rights* 384 (2021).

<sup>1996</sup> Ketholeno Neihu, "Naga Tradition and Culture: Understanding Feast of Merit", *The Morung Express*, Nov. 18, 2017.

<sup>1997</sup> Varah et al., *supra* note 2, at 385.

<sup>1998</sup> J.H. Hutton, *The Angami Nagas* (Macmillan & Co., London, 1921); J.P. Mills, *The Ao Nagas* (Macmillan & Co., London, 1926).

<sup>1999</sup> V.K. Unni, "Traditional Knowledge and Intellectual Property Rights", 23 *Journal of Intellectual Property Rights* 120 (2018).

<sup>2000</sup> The Geographical Indications of Goods (Registration and Protection) Act, 1999, No. 48, Acts of Parliament, 1999.

<sup>2001</sup> Renchumi Kikon Kuotsu, "Gender Perspective of Art 371 (A): A Social Inquiry on Legal Pluralism in Nagaland", 8 *International Journal of Research in Social Sciences* 771 (2018).

simultaneously a ritual artefact of the ancestors and a registered property of the state, suspended between the preservation of heritage and the transformation of identity.

## 2. Pre-Colonial Textile Order: Customary Law and Semiotic Sovereignty

To understand the magnitude of the shift to modern Intellectual Property (IP) rights, one must first immerse in the pre-colonial order where the "protection" of designs was absolute, decentralised, and rigorously enforced. In the traditional Naga worldview, there was no concept of "public domain." Every motif, every arrangement of red, black, and white threads, and every cowrie shell stitched onto a cloth belonged to a specific category of person or clan, earned through tangible acts of valour or generosity.<sup>2002</sup> The regulation of these textiles was not a matter of commerce, but of political legitimacy and social order.

### The Semiotics of Status and the "Visual Constitution"

In the absence of a written script, the Naga tribes developed a sophisticated visual literacy through their textiles. The shawl was a badge of identity, a visual curriculum vitae that could be read by any member of the community. For the Ao Nagas, the *Tsüngkotepsü* (warrior shawl) could historically only be worn by a man who had taken heads in battle or performed the requisite sacrifices.<sup>2003</sup> The design often featuring a median white band painted in black with figures of mithun (bison), tiger, elephant, and human heads was not merely decorative; it was a record of the wearer's biography. The mithun symbolised wealth; the tiger, valour; and the human head, success in warfare.<sup>2004</sup> The "ownership" of these symbols was not collective in the sense of open access; it was restricted to a meritocratic elite.

Similarly, among the Chakhesang Nagas, the *Rira* is a warrior shawl where the red bands signify the blood of enemies, and the black

bands represent the darkness of the night raids.<sup>2005</sup> The *Thüpi khü* (elephant cloth) was reserved for those of high social standing.<sup>2006</sup> The distinctive feature of this pre-colonial order was that these designs were "owned" in a way that modern copyright struggles to conceptualise. They were not owned by the creator (the weaver) but by the wearer, whose entitlement was determined by customary law. If an ineligible man dared to wear a *Tsüngkotepsü* or a cowrie-shell shawl, it was believed he would suffer supernatural retribution, such as leprosy, or social death through ridicule and ostracisation.<sup>2007</sup> This constituted a potent, informal "infringement" mechanism that was far more effective within the community than any modern civil injunction. The "law" was written on the body, and the enforcement was metaphysical and social.

### The Feast of Merit: The Economic Engine of Textile Rights

The primary mechanism regulating the "license" to wear these prestigious textiles was the "Feast of Merit." This was a graded series of social ceremonies that functioned as a redistributive economic system.<sup>2008</sup> In a society with limited means of storing surplus (grain rots, meat spoils), wealth was converted into social prestige. A rich man would sponsor a feast, slaughtering mithuns, pigs, and cattle to feed the entire village.

In return for dissipating his economic surplus, the donor was granted the "right" to wear specific shawls and ornaments, and to decorate his house with "house horns" (crossed wooden beams).<sup>2009</sup> For example, in the Lotha tribe, each successive feast allowed the donor to add a specific stripe to his shawl.<sup>2010</sup> This system

<sup>2005</sup> "Chakhesang Shawl", *Geographical Indications Journal*, No. 97, at 39 (2017).

<sup>2006</sup> "How the Chakhesang Naga community weaves a world of meaning into a shawl", *Scroll.in*, Nov. 25, 2023.

<sup>2007</sup> Abantika Parashar, "Textiles of Nagaland: A Study", CIDOC Conference Paper (2015).

<sup>2008</sup> Neihu, *supra* note 3.

<sup>2009</sup> *Ibid.*

<sup>2010</sup> "Nagaland Tribal Shawls: A Story Woven in Every Thread", *Runway Nagaland*, available at: <https://runwaynagaland.com> (last visited Feb. 18, 2026).

<sup>2002</sup> Varah et al., *supra* note 2, at 386.

<sup>2003</sup> Mills, *The Ao Nagas*, *supra* note 5, at 40.

<sup>2004</sup> *Ibid.*

ensured that the most ornate textiles were visually synonymous with generosity and community service. The "protection" of the design was therefore intrinsically linked to the economic structure of the village. The textile was a receipt of social payment. The "copyright" was not in the weaving, but in the *earning*. This ensured that the visual landscape of the village was a direct reflection of its social hierarchy, where wealth was not hoarded but circulated to validate status.

### Gendered Weaving and Oral Transmission

The production of these textiles was strictly gendered. Weaving was the exclusive domain of women, performed on the loom (or backstrap loom), a portable device that relies on the weaver's body tension to create the warp.<sup>2011</sup> The knowledge of weaving the complex techniques of warping, wefting, and dyeing with indigenous roots and barks was transmitted orally from mother to daughter.

However, a dichotomy existed: women were the *creators* and *custodians* of the technology, but men were largely the *bearers* of the semiotic status the textiles conferred.<sup>2012</sup> While women had their own specific skirts and shawls denoting age and marital status, the most elaborated "status cloths" were male-centric. The pre-colonial order, therefore, was a dual system: a female-held technical knowledge system and a male-dominated semiotic hierarchy, both held together by the rigid glue of customary law. This order was sovereign; it required no external validation until the arrival of the British. The protection mechanism was internal, organic, and severe a stark contrast to the procedural, bureaucratic protection of the modern GI regime.

### 3. Colonial Encounter and the First Wave of Modernisation

The arrival of the British in the Naga Hills in the 19th century marked the beginning of a

profound epistemic violence that would eventually necessitate the modern IP framework. The colonial encounter did not merely conquer territory; it reclassified the Naga world, transforming living subjects into "tribes" and ritual objects into "specimens." This period represents the initial disruption of the semiotic sovereignty described above.

### Ethnographic Cataloguing: Hutton and Mills

Colonial administrators like J.H. Hutton and J.P. Mills, who served as Deputy Commissioners of the Naga Hills, were prolific ethnographers. They did not just govern; they collected. Thousands of textiles, spears, and ornaments were extracted from the Naga Hills and shipped to museums in Europe, most notably the Pitt Rivers Museum in Oxford.<sup>2013</sup>

This process of "cataloguing" had two profound effects. First, it divorced the textile from its ritual context. A *Tsüngkotepsü* shawl in a museum glass case in Oxford is no longer a testament to a warrior's bravery; it is an example of "primitive technology" or "material culture".<sup>2014</sup> Second, the detailed monographs written by Hutton (e.g., *The Angami Nagas*, 1921) and Mills (e.g., *The Ao Nagas*, 1926) froze fluid traditions into static descriptions.<sup>2015</sup> These texts became the "authoritative" definitions of Naga culture, often overriding the oral, evolving variations of the tribes themselves. This was the first wave of "codification," a precursor to the modern GI "Statement of Case," where the written word of the outsider began to define the identity of the insider.

### Missionary Influence and the Disruption of Semiotics

Concurrent with colonial administration was the arrival of American Baptist missionaries. Their influence was perhaps more disruptive to the textile order than the administration itself. Missionaries viewed the "Feast of Merit" and headhunting the very engines that generated

<sup>2011</sup> "Ancient to contemporary: The saga of Indian handloom sector", *ResearchGate*, available at: <https://www.researchgate.net> (last visited Feb. 18, 2026).

<sup>2012</sup> Varah et al., *supra* note 2, at 388.

<sup>2013</sup> "Digitization of Naga Collections", Pitt Rivers Museum, available at: <https://www.prm.ox.ac.uk/> (last visited Feb. 18, 2026).

<sup>2014</sup> *Ibid.*

<sup>2015</sup> Hutton, *The Angami Nagas*, *supra* note 5.

the right to wear status shawls as "heathen" practices.<sup>2016</sup> Converts were often forbidden from participating in these rituals or wearing the associated ornaments.

As the Feasts of Merit declined under missionary pressure, the traditional "licensing" system for textiles began to collapse.<sup>2017</sup> If one no longer needed to host a feast to wear a specific shawl because the church discouraged the feast, the restrictive covenants protecting the designs weakened. Furthermore, missionaries introduced "modesty" codes and Western tailoring, which competed with traditional attire.<sup>2018</sup> The textile began to shift from a *political document* (proof of merit) to a *cultural symbol* (proof of ethnicity), and increasingly, a *commodity* to be sold to the new market of outsiders.

#### Introduction of Mill Cloth and Monetisation

The colonial economy also introduced mill-made yarn and cloth. The laborious process of spinning cotton and dyeing it with natural indigo began to face competition from ready-made coloured yarn.<sup>2019</sup> This technological shift allowed for faster production but began to decouple the textile from the deep ecological knowledge of the forest. The "monetisation" of the hills meant that textiles could now be sold for currency, rather than bartered. This was the nascent stage of the commodification that would eventually lead to the need for GI protection: once a shawl has a monetary price rather than a ritual value, it becomes susceptible to market theft.

#### 4. Post-Independence State Formation and Constitutional Autonomy

With the departure of the British and the formation of the independent Indian state, the Nagas entered a tumultuous period of armed conflict and negotiation, culminating in the 16-Point Agreement of 1960 and the granting of

statehood to Nagaland in 1963.<sup>2020</sup> This political settlement was enshrined in the Constitution of India through Article 371A, a provision that has immense implications for the application of intellectual property laws.

#### Article 371A: The Constitutional Shield

Article 371A states that "no Act of Parliament in respect of... (i) religious or social practices of the Nagas, (ii) Naga customary law and procedure... shall apply to the State of Nagaland unless the Legislative Assembly of Nagaland by a resolution so decides".<sup>2021</sup> This provision acknowledges the "customary sovereignty" of the Naga tribes.

Here lies a critical socio-legal tension. The textile traditions rules regarding who can weave, who can wear, and what motifs can be used are fundamentally "social practices" governed by "customary law".<sup>2022</sup> The *Geographical Indications of Goods (Registration and Protection) Act, 1999* is an Act of Parliament.<sup>2023</sup> Theoretically, under a strict interpretation of Article 371A, the central GI Act should not automatically apply to Naga textiles if it interferes with customary governance.

However, the Nagaland Legislative Assembly has arguably acquiesced to the central IP regime by facilitating GI registrations (like the Chakhesang shawl) through state agencies. The tension remains: Can a centrally administered GI registry in Chennai, operating under TRIPS-compliant definitions of "goods" and "producers," fully accommodate the customary textile governance embedded in tribal political structures? The GI Act treats the shawl as a "good" with a "geographical origin." Customary law treats it as a "status" with a "ritual origin." By accepting the GI framework, the Naga tribes are essentially agreeing to translate their customary rights into the language of the Indian state, potentially trading their constitutional autonomy under 371A for

<sup>2016</sup> R.R. Shimray, *Origin and Cultures of Nagas* (Somson Publications, New Delhi, 1986).

<sup>2017</sup> Neihu, *supra* note 3.

<sup>2018</sup> "The Religious Life of Dress: Global Fashion and Faith", available at: <https://dokumen.pub> (last visited Feb. 18, 2026).

<sup>2019</sup> *Supra* note 18.

<sup>2020</sup> 16-Point Agreement, 1960.

<sup>2021</sup> The Constitution of India, art. 371A.

<sup>2022</sup> Kuotsu, *supra* note 8.

<sup>2023</sup> *Supra* note 7.

market protection under the GI Act.<sup>2024</sup> This represents a significant shift from a regime of *political exception* to one of *economic integration*.

### 5. Globalisation and the Second Wave of Modernisation

The liberalisation of the Indian economy in 1991 and the subsequent accession to the WTO in 1995 ushered in the second, more aggressive wave of modernisation. The Trade-Related Aspects of Intellectual Property Rights (TRIPS) agreement mandated that member countries protect Geographical Indications.<sup>2025</sup> India enacted the GI Act in 1999, which came into force in 2003.

#### The Commodification of Culture

In the post-liberalisation era, "culture" became a currency. The rise of the tourism economy, exemplified by the state-sponsored "Hornbill Festival," packaged Naga culture for global consumption.<sup>2026</sup> Naga shawls, once strictly regulated ritual wear, became souvenirs. This shift from *ritual text* to *market commodity* exposed the textiles to new vulnerabilities. The shawl was no longer restricted to the "Big Man" of the village; it was available to any tourist with purchasing power.

#### The Threat of Power Looms and Appropriation

The most significant threat came from outside Nagaland. Manufacturers in industrial hubs like Ludhiana and Surat began to mass-produce "Naga-style" shawls using power looms and synthetic acrylic yarns.<sup>2027</sup> These imitation shawls could be produced at a fraction of the cost and time of the traditional loom shawls. They flooded local markets in Kohima and Dimapur, undercutting Naga weavers.

Furthermore, the fashion industry began to appropriate Naga motifs. Designers would take

the "spear" motif of the Ao warrior shawl or the "elephant" of the Chakhesang and print them onto modern garments, often without understanding or respecting the ritual taboos associated with them.<sup>2028</sup> The "Naga Pattern" became a generic descriptor in online marketplaces, detached from the community that created it.<sup>2029</sup> This rampant misappropriation and economic displacement provided the impetus for Naga communities to seek protection under the GI Act, viewing it as a tool to reclaim their heritage from the open market. The transition was complete: from ritual text to cultural symbol to market commodity, and finally, to intellectual property.

### 6. The Chakhesang Registration and the Institutionalisation of Identity

The Chakhesang tribe, inhabiting the Phek district, was the first to successfully navigate the GI bureaucracy for a textile product from Nagaland. In 2016, the **Chakhesang Women Welfare Society (CWWS)** filed Application No. 542 for the "Chakhesang Shawl," which was granted registration in 2017.<sup>2030</sup> This event marks a watershed moment in the history of Naga textiles the formal "institutionalisation" of identity.

#### Documentation and Fixation

To obtain registration, the CWWS had to submit a "Statement of Case" to the GI Registry.<sup>2031</sup> This document required the applicants to prove the historical origin, unique characteristics, and method of production of the shawl. The application codified specific shawls like the *Rira* (warrior shawl) and the *Thüpi khü* (elephant shawl), defining their colour bands and motifs in precise terms.

Critically, this process involves a "fixation" of culture. Oral traditions are fluid; they vary from village to village. A *Rira* shawl in one Chakhesang village might differ slightly in

<sup>2024</sup> Kuotsu, *supra* note 8.

<sup>2025</sup> Agreement on Trade-Related Aspects of Intellectual Property Rights, Apr. 15, 1994.

<sup>2026</sup> "Hornbill Festival", Nagaland Tourism, available at: <https://tourism.nagaland.gov.in> (last visited Feb. 18, 2026).

<sup>2027</sup> Veroli Zhimo, "Cultural Plagiarism of Naga Textiles Rife", *The Morning Express*, Sept. 3, 2021.

<sup>2028</sup> *Ibid.*

<sup>2029</sup> *Ibid.*

<sup>2030</sup> Government of India, *GI Application No. 542: Chakhesang Shawl* (Geographical Indications Registry, Chennai, 2016).

<sup>2031</sup> "Statement of Case: Chakhesang Shawl", GI Registry, available at: <https://search.ipindia.gov.in> (last visited Feb. 18, 2026).

thread count or stripe width from another. However, the GI registration demands a "standard." By defining the "Chakhesang Shawl" in a legal document, the diverse, evolving oral tradition is collapsed into a single, bureaucratically manageable definition. While this is necessary for legal enforcement (one must know *what* is being protected to protect it), it risks "fossilizing" the culture, privileging the version recorded in the application over other local variations.<sup>2032</sup> The fluid "performance" of culture becomes a fixed "product" of law.

### Bureaucratic Mediation and Authority Shift

The registration also shifts authority. Traditionally, the right to govern the shawl rested with the village council or clan elders. Under the GI Act, the "Registered Proprietor" (CWWS) and the "Inspection Body" (comprising government officials and society members) become the new custodians. The power to determine authenticity moves from the "memory of the elder" to the "certificate of the registry." This represents a profound socio-political reorganisation, where a modern NGO-style organisation (CWWS) assumes a role previously held by traditional institutions, mediated by the Indian state.<sup>2033</sup> The Chakhesang registration demonstrates that GI protection validates identity, but it also standardises and bureaucratises it, fundamentally altering the social relations that underpin the textile.

### 7. Abandoned Tribal Applications and Administrative Inequality

While the Chakhesang application succeeded, the story of Naga GIs is also one of failure. Applications for the **Angami Naga Shawl**, **Ao Naga Shawl**, and **Sumi Naga Shawl** were filed but subsequently marked as "Abandoned" by the GI Registry.<sup>2034</sup>

### The Burden of Procedure

The abandonment of these applications exposes the structural asymmetry of the GI regime. The GI Registry is located in Chennai, geographically and culturally distant from the realities of Nagaland.<sup>2035</sup> The application process requires rigorous documentation, historical proof (often demanding written records which oral societies lack), and sustained legal follow-up.

The research indicates that these applications were abandoned due to "deficiencies in meeting requirements" and failure to rectify them within the stipulated time.<sup>2036</sup> This highlights a critical gap: GI protection depends not merely on *cultural authenticity* (which the Ao and Angami shawls undoubtedly possess) but on *administrative capacity*. The Chakhesang success was likely due to the strong organisational backing of the CWWS and perhaps state support, whereas other tribal bodies may have lacked the resources to navigate the legal labyrinth of Chennai.

### Geographic Disadvantage and Oral Incompatibility

This creates a tiered system of protection where some tribes are "legally recognised" and others are not, purely based on their ability to perform bureaucratic tasks. It essentially punishes oral cultures for their lack of written archives and administrative infrastructure.<sup>2037</sup> The requirement for "historical proof" in a format acceptable to a Chennai-based registry ignores the validity of oral history as evidence. The abandonment of the Ao, Angami, and Sumi applications serves as a stark reminder that the GI framework, while theoretically inclusive, is practically exclusionary for communities that cannot bridge the gap between their customary oral systems and the state's bureaucratic demands.

<sup>2032</sup> Yaseer Ahmad Mir, "The Routledge Handbook of Craft and Sustainability in India" (2021).

<sup>2033</sup> Varah et al., *supra* note 2, at 389.

<sup>2034</sup> "GI Application Status: Naga Angami Shawl, Naga Ao Shawl, Naga Sumi Shawl", Geographical Indications Registry, available at: <https://ipindiaservices.gov.in> (last visited Feb. 18, 2026).

<sup>2035</sup> "Challenges Posing to Geographical Indication in India", *NLU Nagpur Publications*.

<sup>2036</sup> "Abandoned GI Applications", *Nagaland GK*, available at: <https://nagalandgk.com> (last visited Feb. 18, 2026).

<sup>2037</sup> Varah et al., *supra* note 2, at 387.

## 8. Present-Day Modernisation: Commercialisation, Fashion and Market Dilution

In contemporary Nagaland, the shawl exists in a hyper-commercialised reality. The "Hornbill Festival" has turned tribal attire into a tourist spectacle. While this generates revenue, it also accelerates "market dilution."

### The "Naga Pattern" Loophole

A significant challenge is the "Naga pattern" loophole. Power loom manufacturers in mainland India produce textiles that mimic the *visual aesthetic* of Naga shawls but do not use the protected names (like "Chakhesang Shawl"). They might label them as "Tribal Ethnic Shawl" or "Naga Design".<sup>2038</sup>

Because the GI Act primarily protects the *geographical indication* (the name linked to the place) rather than the *design itself* (which would fall under Copyright or Design law), these knock-offs often evade legal liability. They are sold at a fraction of the price of a genuine hand-woven shawl (e.g., ₹300 vs. ₹3000), flooding the market and making it economically unviable for traditional weavers to compete. The "aura" of the Naga shawl is appropriated, but the economic benefit is siphoned off by industrial manufacturers.

### Fashion and Appropriation

The case of **CWWS vs. Ritu Beri/TRIFED** (2020) highlights the conflict with the high-fashion industry. The CWWS alleged that Naga shawls were "wrongly represented" in a fashion show, violating their GI rights.<sup>2039</sup> Designers often treat indigenous motifs as "raw material" for their creativity, decontextualizing them from their ritual meaning. A shawl meant for a warrior who has taken heads might be cut up to make a skirt or a jacket, an act that is culturally sacrilegious to the Nagas but "innovation" to the fashion world.<sup>2040</sup>

<sup>2038</sup> Zhimo, *supra* note 34.

<sup>2039</sup> "Naga women's body files civil suit against designer Ritu Beri, TRIFED for GI tag infringement", *The Sentinel*, Sept. 29, 2020.

<sup>2040</sup> Zhimo, *supra* note 34.

## Socio-Economic Impact on Weavers

Modernisation has transformed gendered labour. Weaving, once a domestic chore for household consumption, is now a micro-enterprise.<sup>2041</sup> While this provides economic independence for women, the competition from power looms and the demand for cheap souvenirs pushes weavers to compromise on quality, using synthetic wool instead of cotton and simplifying intricate motifs to save time. The "sacredness" of the weaving process, the chanting, the taboos is often sacrificed at the altar of efficiency. The weaver is no longer just a custodian of tradition; she is a precarious worker in a global supply chain.

### 9. Structural Loopholes in the GI Framework

The analysis of the Naga experience reveals deep structural loopholes in the Indian GI framework when applied to Indigenous Knowledge (IK):

1. **Protection of Name, Not Motif:** The GI Act protects the *term* "Chakhesang Shawl." It does not explicitly protect the *visual motif* (e.g., the specific shape of the elephant or spear). If a manufacturer replicates the design but calls it "Exotic North East Shawl," the GI protection is difficult to enforce.<sup>2042</sup> The law protects the *brand*, not the *cultural expression*.
2. **Lack of Moral Rights:** The Act is economic in nature. It lacks a "moral rights" framework to prevent the *distortion* or *derogatory use* of the cultural expression. If a sacred motif is used on a doormat, GI law offers little remedy unless it causes consumer confusion regarding origin.<sup>2043</sup>
3. **Absence of Prior Informed Consent:** The Act does not mandate that commercial users obtain the "free, prior, and informed consent" (FPIC) of the community. This contradicts

<sup>2041</sup> "State Focus Paper Nagaland 2024-25", NABARD.

<sup>2042</sup> Zhimo, *supra* note 34.

<sup>2043</sup> "Moral Rights and Geographical Indications", 15 *Journal of Intellectual Property Rights* 33 (2010).

international standards like the Convention on Biological Diversity (CBD) and allows for appropriation without community permission.<sup>2044</sup>

4. **Territorial Limitation:** The protection is largely domestic. It is ineffective against misappropriation in international markets unless registered there, which is a costly process for tribal bodies.
5. **Weak Enforcement and Civil Remedy Burden:** Infringement is often a civil matter, placing the burden of litigation (time, money, evidence) on the community (e.g., CWWS). The criminal provisions are rarely utilised due to lack of police awareness regarding IP crimes.<sup>2045</sup>
6. **Administrative Centralisation:** The centralisation of the registry in Chennai creates a "geographic disadvantage" for Northeast India, hindering access to justice and registration for remote tribes.<sup>2046</sup>
7. **Standardisation vs. Evolution:** The requirement to fix specific details in the "Statement of Case" does not account for the fluid, evolving nature of folklore, potentially freezing the tradition in time.
8. **No Economic Redistribution Guarantee:** While the Act creates market value, it does not mandate how that value is distributed within the community, often benefiting intermediaries over the actual weavers.<sup>2047</sup>

## 10. Has Legal Protection Changed the Naga Shawl?

Synthesising the legal and sociological evidence, it is evident that legal protection has fundamentally altered the ontology of the Naga shawl.

<sup>2044</sup> Convention on Biological Diversity, art. 8(j), June 5, 1992.

<sup>2045</sup> "Criminal Deterrence and GI Act", *Journal of Intellectual Property Rights*, available at: <https://lawgratis.com> (last visited Feb. 18, 2026).

<sup>2046</sup> "Challenges Posing to Geographical Indication in India", *supra* note 42.

<sup>2047</sup> "Economic impact of geographical indication certification on handicraft industry", *Journal of Revenue and Pricing Management* (2024).

**Economic Returns vs. Cultural Visibility:** While GI registration has increased the "brand value" and visibility of the Chakhesang shawl, evidence suggests that the economic returns do not always trickle down to the individual weaver. The benefits often accrue to the "intermediaries" or the organisational bodies managing the GI. The weaver remains a laborer, while the "GI" becomes a marketing tool.

**Shifting Power Hierarchies:** The most profound change is the shift in authority. The "customary sovereignty" of the clan elders, enforced through social taboos and the Feast of Merit, has been replaced (or overlaid) by the "statutory sovereignty" of the Registered Proprietor (CWWS) and the State, enforced through the GI Act. This formalisation empowers modern legal associations over traditional hierarchies, creating new power centres within the tribe.<sup>2048</sup>

**The Shawl as Property:** The law has successfully redefined the shawl as "property." In the pre-colonial era, the shawl was "status" something you *were*. Now, it is "IP" something you *own*. This commodification, while necessary for market survival, inevitably dilutes the ritual essence of the object. The shawl is no longer just a "visual constitution"; it is a "trademark" of ethnicity.

## 11. Conclusion: Between Preservation and Transformation

The journey of the Naga shawl from a "Feast of Merit" status marker to a "GI Registered" commodity illustrates the complex interplay between law and culture. The Indian GI law, while a well-intentioned instrument for protecting indigenous knowledge, is not a neutral vessel. It does not merely *preserve* the shawl; it *transforms* it.

By demanding written documentation, standardisation, and bureaucratic management, the law reshapes the fluid oral tradition into a fixed legal category. It provides a shield against the worst excesses of the global market the cheap power loom imitations but it

<sup>2048</sup> Varah et al., *supra* note 2, at 390.

does so by forcing the Naga tribes to adopt the language and logic of the market itself. The abandonment of the Angami, Ao, and Sumi applications serves as a stark reminder that this protection is not accessible to all, but reserved for those with the administrative capacity to navigate the modern state.

Ultimately, the Naga shawl now exists in a dual reality. On the village loom, during the festivals, it remains a sacred connector to the ancestors and the land, protected by the spirit of Article 371A. But in the showrooms of Delhi and the databases of Chennai, it is Application No. 542, a tradeable asset protected by the GI Act. The challenge for the future is to reconcile these two realities to ensure that the legal shell of the GI does not suffocate the living cultural organism it was designed to protect. A *sui generis* legal framework that incorporates "moral rights" and "prior informed consent," respecting the customary laws of the Nagas, would be the necessary next step to bridge this divide. The law must evolve to recognise that for the Nagas, the shawl is not just a good to be sold, but a history to be worn.

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