INDIAN ARTISANS AND THE LAW: PROTECTING TRADITIONAL CULTURAL EXPRESSIONS IN A GLOBAL FASHION ECONOMY

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ABSTRACT

The study explores legal and cultural contestations concerning Traditional Cultural Expressions (TCEs) and Traditional Knowledge (TK) in India. It does so within the framework of the Kolhapuri chappal–Prada controversy as a locus of cultural appropriation, commercial misrepresentation, and a “crisis of originality” in intellectual property law. The dominant IP system model, which focuses on individual authorship, novelty, fixation, and limited duration, cannot accommodate the living traditions of handicrafts, textiles, embroidery, footwear, and other folk artistic expressions that characterize India’s rich artisanal heritage. These traditions involve collective, intergenerational, and community-based creative processes. This article argues that the existing legal regime in India is based on copyright, design, geographical indications, and defensive mechanisms such as the Traditional Knowledge Digital Library that gives only piecemeal and largely defensive protection to artisans and communities. While some types of misappropriation might be prevented, these instruments do not ensure community ownership and equitable sharing of benefits, nor do they prevent aesthetic copying and distortion of cultures. The article uses the Kolhapuri chappal controversy to illustrate how the transformation of a centuries-old craft into a luxury product on the global market leaves the original artisan community without recognition or economic benefits. The case also reveals the limits of GI protection, as it only protects the product’s name and reputation related to a specific geographical origin but does not necessarily extend to the design idiom, technique, or cultural meaning that underlies the craft. India needs, therefore, a sui generis, community-based regime that situates the protection of TCEs and TK within a matrix of legal protection, cultural preservation, prior informed consent, and fair and equitable benefit-sharing. This will reflect better the collective, evolving nature of traditional creativity and reinforce the position of artisans as rightful custodians of India’s cultural heritage.

I. Introduction

Ever since ancient times, India has been among the countries most known for its cultural diversity and traditional arts and crafts. At different times in history, it has been associated with many types of cultural products, including handicrafts, textiles, footwear, jewellery, pottery, embroidery, dance, and music. Today, most of what was once viewed as diverse cultural expressions is subsumed under the categories of Traditional Cultural Expressions (TCEs) and Traditional Knowledge (TK)[1].In fact, they are modes of safeguarding and sustaining community identity, usually being handed down from one generation to another, thus constituting part of indigenous and local communities' identity, heritage, and social traditions. The country is extraordinary in this respect because it has nurtured a vibrant tradition of artisanal production where cultural identity and craftsmanship go hand in hand. Almost every state and region in India is associated with unique craftsmanship, which, for centuries, has been part of the cultural evolution of different areas. From handloom textiles to exquisite embroidery and pottery to wood and metal crafts, every product that is produced bears the stamp of local community cultural identities and their historical traditions. Much of this artisanal knowledge is still alive in village communities, where craft is preserved from one generation to the next within families and communities. [2]Most skills are acquired informally, through observation and imitation; this process has ensured the transmission of traditional knowledge and skills over the centuries. To take just a few examples, the regional craftsmanship that has been developed through the accumulation of community knowledge and skills over the centuries may be seen in the renowned Pashmina shawls from Jammu and Kashmir, the Chikankari work of Uttar Pradesh, Bandhani from Gujarat and Rajasthan, and the traditional Kolhapuri Chappal of Maharashtra.These products are living cultural expressions representing a body of collective knowledge, heritage, and identity. They speak to a level of craftsmanship that has stood the test of time, is connected to the past, and strongly relates to the cultural roots of India. Today, most of these are considered royal or luxurious artifacts. Artisans thus represent one of the pillars of the Indian economy and bearers of civilizational and cultural heritage. However, a large part of them remain within the informal sector and thus do not benefit from legal protection, financial security, and welfare schemes designed and implemented by the government. Thus, a paradoxical situation arises whereby the agents responsible for safeguarding and nurturing

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[1] Legal protection of traditional knowledge and traditional cultural expressions in India, Indian J. Traditional Knowledge

[2] WIPO Magazine, How artisans use IP to protect traditional instrument-making in India

the cultural heritage of India do not themselves benefit from it. Generally, copyright law seeks to ensure that a balance is struck between providing the right incentives for creativity and innovation and granting authors and artists certain rights in the use and exploitation of their work for a limited period. However, copyright only protects an expression and not an idea; it recognizes only individual authorship and originality, which again makes it inappropriate in the Indian context. While Indian artisans produce designs, this form of expression is embedded within a system of community knowledge accumulated over many generations [3].While Indian artisans produce designs, this form of expression is embedded within a system of community knowledge accumulated over many generations. Although every piece made is one of a kind, it is ultimately created from a tradition inherited through the ages, which at most would struggle to meet the relatively high standard of "originality" set by most mainstream IP laws. Most artisans operate in rural areas and are largely unaware of the tools the law offers to protect their creations.The absence of access to legal knowledge and institutional support further marginalizes their already disadvantaged position within the market. In the last ten years, many luxury fashion brands have taken greater inspiration from traditional Indian cultural forms, sourcing designs, textiles, and techniques to create their collections. These have thus been presented under the rubric of a "crisis of originality" as brands depend on existing traditional designs as "new" or "proprietary." This disrespects the labour, skill, and cultural legacy of Indian artisans. Locally and culturally rooted artisanal products are removed from their original contexts and presented and sold as luxury items with no reference to or acknowledgment of their source communities. Consequently, these artisans are neither recognized nor compensated and remain outside the legal and economic benefits of commercializing their work. In addition to the economic loss, this raises issues of cultural appropriation, unjust value sharing, and the inability of existing IP regimes to protect traditional cultural expressions. Thus, this paper seeks to critically examine the interface of Indian copyright, design protection, and geographical indication laws with traditional cultural expressions and the resulting legal regimes contributing to the "crisis of originality" in the fashion industry; critically appraise why the situation of local artisan communities remains structurally weak and unprotected; and suggest possible legal and policy reforms that may secure just recognition and remuneration.

II. Literature- Traditional Cultural Expressions and Traditional Knowledge in India: Legal Protection and the Need for a Sui Generis Regime

[3] Protection of Traditional Cultural Expressions as Intellectual Property, Khurana & Khurana

- **Traditional Cultural Expressions and Traditional Knowledge**

Traditional Cultural Expressions (TCEs), also known as expressions of folklore, along with Traditional Knowledge (TK), form an integral part of the cultural and intellectual heritage of indigenous and local communities[4]. India is home to one of the largest tribal populations in the world, numbering over 84 million. These expressions and knowledge systems have been deeply embedded for generations. The range is enormous: from handicrafts and textiles to music and dance; from rituals and medicinal practices to agriculture. Rather than constituting mere cultural artifacts, these are living traditions that continue to develop, preserve, and transmit from generation to generation, constituting the identity and livelihood of the concerned communities.

Despite their enormous cultural and economic value, TCEs and TK present significant challenges to intellectual property law. Traditional systems of IP protection such as copyright[5], patents, trademarks, and geographical indications are premised on individual authorship, novelty, fixation, and a limited duration of protection. In contrast, TCEs and TK are collective, intergenerational, and oral; they change dynamically and continue to evolve. This fundamental divergence makes existing IP regimes ill-suited to protecting TCEs and TK[6]. The inadequacies of this system surfaced when foreign companies attempted to patent turmeric and basmati rice in the 1990s. The examples showed how easily traditional knowledge, long established and common in Indian society, might be misappropriated because of poor documentation or legal recognition. In response, defensive mechanisms such as the Traditional Knowledge Digital Library (TKDL)[7] were created in India. Such steps are primarily taken to prevent the granting of erroneous patents; however, they do not confer any direct legal rights over traditional knowledge to the communities.

- **International and Domestic Protection Framework**

There have been many international efforts to protect traditional knowledge and cultural expressions. Over the past few decades, the World Intellectual Property Organization and UNESCO have led these debates. The earliest attempts date back to the Berne Convention for the Protection of Literary and Artistic Works, particularly Article 15(4), which contained

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[4] WIPO, Global Reference on IP and GRs, TK and TCEs
[5] Hand Book of Copyright Law
[6] (PDF) Handwork of India : Impacts on Artisan Capabilities
[7] Traditional Knowledge Digital Library Unit (TKDL) | Council of Scientific & Industrial Research

provisions on protecting works of unknown authorship, including folklore. This was followed by the Tunis Model Law of 1976 and the 1982 Model Provisions, both of which sought to prohibit the unauthorized use of folklore while respecting its cultural importance. Subsequent developments include the adoption of the WIPO Performances and Phonograms Treaty and the creation of the WIPO Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore in 2000. This committee has become an important forum for examining the policy and legal sides of protecting traditional knowledge and cultural expressions, including whether international standards can be developed. For decades, despite much discussion and some progress at the institutional level, the lack of a binding international legal instrument has remained a fundamental gap in protecting these types of knowledge worldwide[8]. Against this background, two dominant approaches have been developed in the protection of TCEs and TK. One favours the adaptation of existing intellectual property systems-copyright, geographical indications, defensive databases, and others-to accommodate traditional knowledge. The other favours a sui generis approach in creating a special legal framework for TCEs and TK. This second approach is increasingly favoured on the grounds that knowledge and creativity that are collective, passed down through generations, and embedded in culture cannot be accommodated within the ordinary IP laws.

- **India's Patchwork Approach and Its Limits**

While many countries have developed dedicated sui generis systems, India relies on a fragmented or "patchwork" approach in protecting TCEs and TK. This is to say that protection is provided under several overlapping laws rather than through one coherent, unified legal regime. These laws include the Patents Act, 2005, the Biological Diversity Act, 2002, the Protection of Plant Varieties and Farmers' Rights Act, 2001, along with limited use of copyright law[9] and geographical indications. Each of these laws applies to specific, limited aspects of the overall problem. For example, the Patents Act has provisions for preventing misappropriation through the granting of patents on prior existing knowledge; the Biological Diversity Act addresses access and benefit sharing; and the PPVFR Act recognizes the contribution of farmers in developing and conserving plant varieties. However, this fragmented system has serious conceptual and practical problems. First, it does not acknowledge community ownership since most of these laws are still based on individual rights or control

[8] 120_ShodhKosh_RS_5333.pdf
[9] Hand Book of Copyright Law

by the state, not collective custodianship by communities. Second, protection is almost always defensive rather than proactive. For example, a tool like the Traditional Knowledge Digital Library is intended to prevent misappropriation, such as wrongly granted patents, but it does not provide communities with enforceable ownership rights or real economic control over their knowledge. Third, because of the incoherence of this body of law, there are various regulatory gaps and overlaps, all of which make enforcement a practical challenge. Furthermore, such a patchwork of instruments does not adequately cover the non-economic and cultural dimensions of TCEs, including their spiritual significance, customary laws, and the prevention of their distortion and misrepresentation.

- **Need for a Sui Generis Regime**

Equally important, the system does not provide for direct benefits to artisans and knowledge holders from the commercial exploitation of their cultural expressions, thereby perpetuating earlier inequities.India affords only fragmented and indirect protection, which is hardly sufficient to respond adequately to the complex, collective, and intergenerational nature of TCEs and TK.Accordingly, the need for a sui generis community-based system integrating legal protection with cultural preservation and equitable benefit-sharing cannot be overstated.

Thus, at best, the existing Indian framework only offers partial and indirect protection. However, such protection is insufficient in view of the complicated collective and intergenerational nature of TCEs and TK. It is, therefore, all the more necessary that the regime be clarified in a community-oriented sui generis approach combining legal protection, cultural preservation, and fair benefit-sharing.

Structural Weakness of Indian Artisans in Intellectual Property Law

The Indian craftsmen suffer from economic, informational, organizational and legal deficiencies. The low bargaining power of most artisans acts as a marginal producer in an unorganised sector. Further, they mostly operate in the informal sector. The Code on Social Security, 2020 does define unorganised workers and also recognises them. However, gaps in implementation leave them exposed to risk in practice. Many craftspeople lack awareness regarding the processes for registering their intellectual property (IP), the procedures for enforcing their IP rights and the substantive rights that can be enforced under copyright, designs, trade mark and the Geographical Indications of Goods (Registration and Protection)

Act, 1999[10]. Individual authorship and ownership is also an important aspect of the whole Indian IP regime. It basically contradicts the social and collective nature of work in this centuries-old craft. For example, Kolhapuri chappal-making, Banarasi weaving or Kutch embroidery. There is a structural marginalisation of artisans and weaker sections that are further intensified by global fashion houses' ('commercial intermediaries') appropriation of traditional motifs and designs. For instance, Prada's Kolhapuri-style motif, without attribution, consent and benefit-sharing. In the matter of Amerandra Pratap Singh v. Tej Bahadur Prajapati and Ors, the Supreme Court and Parvej Aktar and Others v. Union of India v. Section 57 of the Act recognises the author's right to be identified as the first owner of an artistic, dramatic or musical work. In addition, the author has the right to prevent distortion that is against his honour or reputation. Despite the above, the Act fails the artisans as imandates fixation in a tangible medium, excludes oral and evolving forms, vests making communal TCEs ineligible and protection lasts only for the author's life plus sixty years, so centuries-old traditions fall into the public domain[11]. Section 15(2) further strips copyright from an artistic work if it is industrially reproduced more than fifty times without Designs Act registration, directly harming mass-producing artisans. Section 31A offers only defensive, compulsory-licensing space for folklore-like works, not positive communal rights. The *Designs Act, 2000* protects novel, registered industrial designs, but traditional motifs rarely satisfy the "novelty" requirement, and the registration process is costly and inaccessible to rural artisans. India provides **no protection for unregistered designs**, and the maximum ten-year term is wholly inadequate for designs that are centuries old and continuously evolving.

Geographical Indications Act, 1999 is the closest we can get to a sui generis type collective protection mechanism allowing producer associations to register GIs, acquire exclusive rights and initiate passing off actions under Section 20. The GI has been successful in distinct original artisanal production from machine-based imitations, with products like Darjeeling tea, Pashmina shawls, Pochampalli Ikat and Chanderi fabric being GI registered.

The Act is, however, product, not expression protected-only the goods produced from a geographical indication are protected, and not the design elements. There are problems with enforcement due to prohibitive appeal costs; there is no mandatory sharing mechanism, and all GI registered products do not receive TRIPS-type Article 23 protection. The Patents Act, 1970

[10] Traditional Cultural Expressions, Intellectual Property Laws & Protection of Folklore in India, Ignited
[11] Safeguarding India's Traditional Cultural Expressions From Misappropriation Through Intellectual Property Rights — Kautilya Society, RMLNLU

is largely irrelevant to TCEs, although the Traditional Knowledge Digital Library (TKDL)[12]system offers defensive protection against biopiracy of biological knowledge and does not extend positive protection to folklore or undocumented traditions.

The interests of minority cultural communities will be protected under the provisions of Article 29(1) of the Constitution. As per Article 51A(f), every citizen of India has a fundamental duty to preserve the heritage of the country. The cultural integrity of a TCE holder can be read into Article 21 of the Constitution. According to Articles 19(1)(g) and 19(6), reasonable restrictions are placed relating to Scheduled Tribes and other weaker sections, for instance, artisans, such as in the case of Artistic Crafts by OBCs. The Biological Diversity Act, 2002[13] has a sui generis model through its provisions on community-based governance in relation to "biological resources" and "associated knowledge", prior informed consent, and benefit sharing. This Act only applies to biological or genetic resources and associated knowledge. The Act does not apply to cultural expressions.

As of April 2026, the protection of traditional knowledge and TCEs in India, drafted by the legislature, is among the most significant legal frameworks globally[14]. The Parliament drafted the Draft Protection of Traditional Knowledge Bill, 2016 and the Protection of Traditional Knowledge Bill, 2022 due to their fascination with the way rights appear on communal surfaces. The situation involves a National Authority for TK registration, and the digital databases reflect the legislature's idea of the connection between community benefit sharing and FPIC. This excellent proposed law contains various elements of protection, such as communal ownership and perpetual protection, as well as the principles, for instance, equitable benefit sharing. Until such a regime is enacted, artisans remain reliant on a patchwork of inadequate protections that appear faded and lack distinct features. The urgent need for a TCE specific law modelled partly on the Biological Diversity Act would reform the Copyright and Designs Acts to deliver an excellent piece that genuinely accommodates living, evolving traditions.

[12] Traditional Knowledge Digital Library Unit, Council of Scientific & Industrial Research, "TKDL" (Jan. 1, 2026), https://www.csir.res.in/en/documents/tkdl.
[13] Biological Diversity Act, 2002, Drishti IAS (Dec. 28, 2020), https://www.drishtiias.com/to-the-points/paper3/biological-diversity-act-2002.
[14] Traditional Cultural Expressions: Intellectual Property Laws / Protection of Folklore in India — JLMPG Official.

III. The "Crisis of Originality" and the Epistemological Failure of IP Law

Indian artisans are incredibly talented, yet they are prohibited from profiting from their creative efforts due to a law that does not acknowledge communal creation. The legal system was built on a Western cultural paradigm which views creation as a solitary process and the author of the work as its sole proprietary owner. In stark contrast, artisans derive their knowledge and skills from their families and communities where they work within established traditions that they develop and evolve over time. For them, being a good craftsman or artist does not boil down to claiming sole proprietorship over a product or mark. Their modes of production are, in a large measure, inseparable from the broader social and cultural practices that characterize their ways of life. Works of art and crafts such as Kolhapuri chappals, Banarasi weaves and textiles of Kutch are not products that an individual can conjure up overnight in isolation.

For centuries, artisans have drawn upon tradition, engaged in communal collaboration, and continuously brought forth innovations within the evolving idioms of their crafts.As authors, the law ought to recognize that such evolving communal forms of creativity are as valid as valid as any individual creator. Rather than viewing this mode of production with suspicion or as intellectual property theft, it is imperative that the Indian legal system views and values such productive practices within their rightful cultural context. The law is unable to effectively address traditional cultural expressions and practices. The fixing of such expressions and practices in a tangible form is paradoxical to their inherent evolution. Fixing traditional Kolhapuri or Warli designs would be as irrelevant as stopping a flowing river. Such designs, traditions, and practices are evolving and not static. One cannot capture the very essence of such traditions through fixed objects[15]. Second, the older a tradition is, the less likely it is considered novel. Novelty in our law is equated with newness. How can something that is already centuries old be deemed novel and hence deserving of protection? It is precisely because of their age that traditional practices and expressions possess value that is economic as well as cultural. The law's stance thus privileges the new and the momentary over the old and the enduring.

A third paradox is that of the duration of such protection. When does protection cease to be a right and become an intrusion? What is the time period that we deem sufficient to safeguard a cultural practice or tradition that is not going to disappear tomorrow? Unlike industrial property

[15] Protecting Indian Heritage Through Intellectual Property Rights — Asian Laws.

that can be patented for a limited period and then allowed to lapse into the public domain, once traditions are recognised as intellectual property they cannot simply cease to exist. Thus, we have the fixation paradox, the novelty paradox, and the duration paradox all springing from the law's inability to effectively handle traditional cultural expressions. This architecture makes sense of cultural appropriation as a market failure story. Global luxury brands like Prada are drawn to designs that they appropriate from middle-class cultures of the Global South Kolhapuri binding, for example.

They sell these designs at vastly higher prices to a largely Western audience, without any attribution, credit or payment to the original designers. What is particularly sad is that these borrowers do not even honour the original prices and intermediaries of the designs they Appropriateness.

The architecture here is that the current legal regime does not internalise the social cost of erosion, how the dilution of cultural identity and devaluation of human labour can have such devastating impact on the very economic incentive for artisans to keep at their crafts generation after generation. Instead, the law positions these vocal claimants as the real owners of cultural property, treating the actual designers and makers as legal outsiders to their own creation. This produces a "crisis of originality" not because the work of the thousands of artisans involved in generating the diverse jewellery designs that drive the craft economy are unoriginal, but because the law refuses to recognise communal, intergenerational, custodial creativity as "original" in the first place.

IV. Kolhapur Chappal Case: Prada scandal and Artisans lesson

The Kolhapuri chappal controversy constitutes one of the clearest recent cases of the confluence of traditional crafts, global luxury brands, and intellectual property law. How a community-based cultural product is remade as a high-fashion luxury brand while the original community of artisan producers remains unrecognized and invisible, retaining no meaningful control and negligible economic gains, is paradigmatically illustrated in this respect. This, therefore, emerges as a good case study of how India's GI system works on paper and how it is limited in practice. This, therefore, emerges as a good case study of how India's GI system works on paper and how it is limited in practice.[16]

[16] The Prada-Kolhapuri Chappal Controversy and the IPR Dilemma, Khurana & Khurana

- **Background of the Craft**

Kolhapuri chappals are handcrafted leather sandals traditionally associated with Kolhapur and surrounding regions in Maharashtra and Karnataka. They are not merely footwear; they are a living craft tradition developed over generations through local skill, informal transmission, and community labour. Artisan families have historically preserved the making process, including stitching methods, leather treatment, shaping, and finishing, making the craft an important marker of regional identity and cultural continuity[17]. The craft has long been valued for its durability, handwork, and distinctive aesthetic. In public commentary, it has often been described as part of India's artisanal heritage rather than just a commercial product. This argument is critical in asserting that copying a Kolhapuri design is more than merely imitating a pair of shoes; it is a form of cultural appropriation that directly draws upon community knowledge.

- **The Prada Episode**

The controversy gained national and international attention in June and July 2025, when Prada displayed footwear at Milan Fashion Week that visually resembled Kolhapuri chappals[18]. The shoes were widely seen as borrowing the form, structure, and style of the original craft without attribution to the artisan communities that have preserved it for generations. The backlash focused on the fact that Prada had taken inspiration from a deeply rooted Indian craft and presented it in a luxury context without any visible benefit-sharing or acknowledgement of the source community. From this moment on, the issue extended beyond fashion to cover cultural theft, asymmetries of power between global brands and local producers, and the recycled dynamics of how designs originating in specific social contexts get rebranded as "new" luxury products. From this moment on, the issue extended beyond fashion to cover cultural theft, asymmetries of power between global brands and local producers, and the recycled dynamics of how designs originating in specific social contexts get rebranded as "new" luxury products.[19]

- **Pricing and Public Reaction**

The price of Prada's version intensified the criticism. Media reports noted that the footwear

[17] The Devil Wears Kolhapuri or Prada? Understanding GI Law, Cultural Appropriation & More, SpicyIP.
[18] Kolhapuri chappal gets leg-up over 'copying' by Italian brand, The Times of India.
[19] Why Prada – and other luxury brands – keep getting India wrong, BBC News.

was being sold or positioned at around Rs 1.2 lakh[20], which created a strong contrast with the much lower prices of genuine Kolhapuri chappals sold by artisans in Indian markets. That difference was widely interpreted as evidence that the luxury market was monetising a traditional craft at a huge premium while the original makers remained outside the value chain. However, the outcry in the public domain was about more than just the price. It was about how the meaning of a craft is transformed so quickly once it enters the realm of high fashion: what constitutes everyday labor for artisans gets commodified into expensive fashion objects for consumers, and all that remains is the erasure of the cultural and historical identity of the craft.

- **Legal issue**

The critical legal question was whether GI protection would have barred Prada from launching the product. The short answer is that the GI regime cannot cover such conduct. Geographical indications protect a product's name and reputation associated with the name linked to a particular geographic region. However, it does not cover the craft's design element, technique, or style that others may copy so long as they do not use the name of the geographical indication. Thus, a brand can replicate the "look" of a Kolhapuri chappal while avoiding the use of the "Kolhapuri" chappal in a manner that does not infringe the geographical indication. The case thus reveals a significant limitation of the Indian GI system: while GIs are collective in form, their scope is limited. They would stop acts of passing off and false claims of origin but not acts of aesthetic borrowing, design plundering, and cultural repackaging by a global brand. In the present case, the gap was very evident. The second problem is enforcement: even when GI rights are recognized, most artisans do not have the means to enforce them themselves without depending on an authorized body or institutional intermediary, They usually depend on authorised bodies or institutional intermediaries, which makes the protection less immediate and less responsive to market misuse.

- **Crisis of Originality**

The Kolhapuri case is also a textbook example of the crisis of originality. Indian IP law assumes originality is tied to individual authorship, fixation, and novelty. Traditional crafts work differently: they are collective, inherited, repetitive in form, and constantly refined over time. Under this legal logic, a centuries-old craft may be culturally rich but legally invisible

[20] Rs 1.2 lakh for Kolhapuri chappals! Prada slammed for 'cultural theft', The Economic Times.

unless it can be forced into categories designed for modern individual creators. This is where the deeper injustice lies. The craft's value is not produced by one author, but by generations of makers whose skills have been transmitted within communities[21]. Yet the legal and commercial system rewards the external actor who repackages the design, not the community that sustained it. That is why the controversy was framed not only as a GI problem but also as a structural failure of intellectual property law.

- **Impact on Artisans**

For artisans, the harm is both symbolic and economic. Symbolically, the craft is detached from its roots and treated as a trend. Economically, the added value created by branding, global fashion, and luxury pricing does not flow back to the original makers. Instead, the artisan remains in the low-value segment of the market while the brand captures the premium. This pattern is particularly serious in traditional crafts because artisans often operate in informal settings, with low bargaining power and limited access to legal resources. The result is a recurring cycle in which the community bears the cultural burden of preservation but does not receive a fair share of commercial returns. Why This Matters The Kolhapuri chappal-Prada controversy matters because it shows that legal recognition alone is not enough. A GI tag can preserve a name, but not the broader cultural meaning, community labour, or design ecosystem behind the craft. If the law does not protect those deeper layers, then global fashion brands can continue to borrow from traditional Indian crafts with little practical restraint.[22] As a case study, it supports the argument for stronger community-based protection, better enforcement, and possibly a sui generis framework for traditional cultural expressions. It also shows why benefit-sharing, attribution, and artisan participation must be treated as central legal concerns rather than moral afterthoughts.

V. Conclusion

India's traditional cultural expressions embody a living heritage of communal creativity, economic vitality, and cultural identity, yet they remain perilously unprotected under a fragmented IP regime ill-suited to their intergenerational, evolving nature. As this paper has demonstrated, copyright law's emphasis on individual originality, fixation, and limited

[21] Where the Law Forgets the Maker, The India Forum.
[22] How GI Tags Are Protecting India's Traditional Crafts and Products, IndiaHandmade.

duration; the Designs Act's novelty threshold and inaccessibility and the GI Act's narrow focus on nomenclature that is evident in the Kolhapuri chappal's failed stand against Prada's appropriation, collectively perpetuate a "crisis of originality." This crisis marginalizes artisans through economic exclusion, cultural dilution, and legal paradoxes of fixation, novelty, and duration, trapping them in informal vulnerability despite constitutional safeguards like Articles 21, 29, and 51A(f).

The patchwork approach, reliant on defensive tools like the TKDL and partial measures under the Biological Diversity Act, offers no positive rights to communities, equitable benefit-sharing, or safeguards against distortion. Global fashion intermediaries exploit this gap, commodifying TCEs without attribution or remuneration, eroding artisan livelihoods and India's civilizational legacy.

To resolve this, India must enact a comprehensive sui generis TCE law, modeled on the Biological Diversity Act's principles of prior informed consent, communal ownership, perpetual protection, and mandatory benefit-sharing. Reforms should amend the Copyright and Designs Acts to recognize collective authorship, waive fixation and novelty for TCEs, extend durations indefinitely, and subsidize rural registration. Bolstering GI enforcement through dedicated funds, extraterritorial reciprocity, and artisan standing—coupled with awareness campaigns, cooperatives, and digital documentation—would empower communities. Internationally, India should champion WIPO binding instruments.

Ultimately, protecting TCEs demands reimagining IP not as a Western monopoly on novelty, but as a custodian of enduring communal wisdom. By centering artisans as rightful stewards, India can transform cultural appropriation into shared prosperity, preserving its artisanal soul for generations.

References

- *Legal protection of traditional knowledge and traditional cultural expressions in India*, Indian J. Traditional Knowledge

- WIPO Magazine, *How artisans use IP to protect traditional instrument-making in India*,

- *Protection of Traditional Cultural Expressions as Intellectual Property*, Khurana & Khurana

- WIPO, *Global Reference on IP and GRs, TK and TCEs*

- *Handbook of Copyright Law*, Copyright Office

- *Handwork of India: Impacts on Artisan Capabilities*, Academia.edu

- *Traditional Knowledge Digital Library Unit (TKDL)*, Council of Scientific & Industrial Research

- *ShodhKosh_RS_5333.pdf*, ShodhKosh

- *Handbook of Copyright Law*, Copyright Office

- *Traditional Cultural Expressions, Intellectual Property Laws & Protection of Folklore in India*, Ignited

- *Safeguarding India's Traditional Cultural Expressions From Misappropriation Through Intellectual Property Rights* — Kautilya Society, RMLNLU

- Traditional Knowledge Digital Library Unit, Council of Scientific & Industrial Research, "TKDL" (Jan. 1, 2026), https://www.csir.res.in/en/documents/tkdl.

- Biological Diversity Act, 2002, Drishti IAS (Dec. 28, 2020), https://www.drishtiias.com/to-the-points/paper3/biological-diversity-act-2002.

- *Traditional Cultural Expressions: Intellectual Property Laws / Protection of Folklore*

in India — JLMPG Official.

- *Protecting Indian Heritage Through Intellectual Property Rights* — Asian Laws.
- *The Prada-Kolhapuri Chappal Controversy and the IPR Dilemma*, Khurana & Khurana
- *The Devil Wears Kolhapuri or Prada? Understanding GI Law, Cultural Appropriation & More*, SpicyIP.
- *Kolhapuri chappal gets leg-up over 'copying' by Italian brand*, The Times of India.
- *Why Prada – and other luxury brands – keep getting India wrong*, BBC News.
- *Rs 1.2 lakh for Kolhapuri chappals! Prada slammed for 'cultural theft'*, The Economic Times.
- *Where the Law Forgets the Maker*, The India Forum.
- *How GI Tags Are Protecting India's Traditional Crafts and Products*, IndiaHandmade.