CASE STUDY 55

Silk making in Tchaa: Geographical indications and intangible cultural heritage

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Disclaimer: the facts in this case study are entirely fictitious. Any resemblance with actual facts is mere coincidence.

#### **Facts**

1. The Kan community lives in the north of the Bakam region in the country Tchaa. The Kan women practice a traditional way of weaving and dyeing silk from silkworms raised on mulberry leaves. The silkworms from the region produce famously strong and soft strands of silk. The silk is woven in bas-relief motifs, created by using the heddle to lift and depress selected warp threads. Twisted silk threads are used as warp and weft, and supplementary silk threads are inserted to constitute designs. To complete a motif, the process must be repeated, raising each heddle from first to last. Then the steps must be repeated once again in reverse order, from the last heddle to the first.
2. A geographical indication (see below) is a form of intellectual property protection which indicates that a product originates (and gains its character and/or reputation) from a specific location. In 2010, the Kan community approached the government intellectual property office to register ‘Bakam Silk’ as a geographical indication. The registration document specified that to be called ‘Bakam Silk’, the silk had to be made with silk from, and be woven in, Bakam. The document also describes the method of weaving and the designs used.
3. The Kan women started to sell their silk products with the label ‘Bakam Silk’ and were able to charge premium prices in national and foreign markets because of the reputation their silk had for being strong and well made.
4. The following year, the Kan silk weavers from Bakam succeeded in having their weaving and dyeing tradition included in the inventory of intangible cultural heritage in Tchaa. Here, they called it ‘Bakam silk-making in the Kan community’. They described the place where the silk came from and the weaving was done, and they also explained the weaving methods and designs they used, which they considered very important in maintaining the link between their work and those of their mothers and grandmothers.
5. The Zan live in the south of Bakam. The women there have different traditions of weaving and dyeing from the Kan, although the silk they use is the same. Because of the weaving process, their silks are much thinner and weaker than the silk cloth from the Kan. New designs and colors are used frequently, something the women in the Zan community are very proud of. They included this aspect of their practice in their inventory entry for ‘Bakam Silk making in the Zan community’ on the ICH Inventory.
6. The Zan community was impressed at the way in which the Kan community was marketing their silk products. They also started to use the label ‘Bakam Silk’ to sell their products.

#### **Questions for discussion:**

1. Is the silk weaving tradition in the Kan and Zan community the same ICH element or should it be inventoried as two different elements? Who should decide?
2. What differences are there between the registration of ‘Bakam Silk’ as a geographical indication and the inventory of ‘Bakam silk-making in the Kan community’ in Tchaa?
3. Why was the Kan community able to use ‘Bakam Silk’ as a geographical indication (see below for more about geographical indications)? How did this initially help them in safeguarding their ICH?
4. Can Community B also use ‘Bakam Silk’ to market their silk product? Why, or why not?
5. Can the registration of geographical indication ‘Bakam Silk’ prevent other communities from using the weaving and dyeing tradition of the Kan community? Why, or why not?
6. Can the inscription of the element on the ICH inventory prevent other communities from using the weaving and dyeing tradition of the Kan community? Why, or why not?

#### **Background information**

In Tchaa it is possible to register a geographical indication with the government intellectual property office. This is a sign used on products that are produced, processed and prepared in a given geographical area in a specified way. Since the qualities of the product depend on the geographical place of production, there is a clear link between the product and its original place of production. The government intellectual property office registers geographical indications (sometimes at the request of producers), and works with producers to develop a specification for the geographical indication (this is a description of criteria with which products should comply). A geographical indication can be used on certified products that comply with the specification. Those whose products do not conform to the applicable standards are not permitted to use the sign, or any translation or modification of it.

In Tchaa, geographical indication applicants are requested to provide information detailing the inspection structure of the geographical indication system and to nominate an independent inspection body. The inspection body may be a public or private body. It will need to monitor compliance of the goods bearing the geographical indication with product specifications.

A geographical indication is not like a patent: although it might specify a method of production, it does not enable the holder to prevent someone else from making a product using the same techniques as those set out in the specification for that indication.