

Both Muslim law and Kandyan law provide examples for non-adversarial court atmospheres. However, neither the *Quazi* nor the District Registrar is necessarily qualified in law or trained in mediation, and this is a drawback in many instances. The New York law makes it compulsory for the judge to be both qualified in law and trained in mediation.

3. Collaborative divorce, which is practiced in many other countries, brings in the judge and the lawyers into the process, yet retains its non-adversarial features. This provides an ideal procedure to complement the fault-free divorce law advocated by the Law Commission of Sri Lanka.

Reshaping Consumer Law relating to FOOD in Sri Lanka towards making the consumer not necessarily a King, but a ‘Protected Satisfied Consumer’

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Background

Every person, from birth to death, consumes food and drink and therefore is a consumer. Thus the Consumer Law covers the entire human population. The term consumer may range from a buyer of a sweet worth just one rupee to a buyer of a cake worth two thousand rupees. The treatment of the customer, a term that can be used for consumer, was well recognized from very early times. ‘Customer (consumer) is the King’ is a well known proverb among businessmen or entrepreneurs. However, in reality it is not so. Consumer suffers or gets affected in the hands of manufacturer, dealer, trader or whatever the similar term that may be used in different jurisdictions. These suffering referred include wrong pricing or no pricing policy at all, poor quality, no date of expiry in food items available for sale, no specification relating to ingredients or horrific food related services like catering. These types of irregularities in connection with food items have more serious and direct repercussion on the society than the other consumer goods since food is an essential consumer item that decides the health.

Health is Wealth!. Therefore, issues affecting the health of the society are given important consideration by the States. Further, it has gained wide spread acceptance that the consumer should be protected and consumer rights should be safeguarded generally. Countries have enacted laws to this effect and so did Sri Lanka. Consumer protection movements in various countries reached the international stage in 1970s and in 1998 the UN formulated Guidelines for Global Consumer known as “right to safety, right to be informed, right to choose, right to be heard, right to redress, right to consumer education, and right for a healthy environment”. Consumer International, the only independent global campaign body, through its members is striving to follow these guidelines through its members and has formulated a theme for the year 2010 “**OUR MONEY, OUR RIGHTS**”

Hence, it is high time for Sri Lanka to work towards the UN guidelines and towards the theme of the year and ensure that the consumer rights are protected for the money they paid especially with regard to food items. To achieve this, at the outset the country should have a well-suited law in place. It is obvious that failure of a sound law will have a serious

repercussion on every human irrespective of the age, economic status or gender. Currently, Consumer Affairs Authority Act No.9 of 2003, Food Act No.26 of 1980, Sri Lanka Standards Institution Act, No. 6 of 1984 and Sale of Goods Ordinance (implied conditions) deal with and provide safeguards to the consumers of food items. The Consumer Affairs Authority, the Local Authority and the Sri Lanka Standards Institution under the first three statutes respectively are the regulatory authorities charged with the enforcement of the respective laws while there is no regulator named under the Sale of Goods Ordinance.

In addition, the common law principles under the Law of Contract and the Product Liability Law under the Tort Law are applicable in this regard.

Nevertheless, there is no purpose in having laws in black and white unless it reaches the ordinary layman. In particular, the consumer rights should be understood clearly by the consumer himself/herself and the rights should be clear with easy terms to enable the poor consumer to make full use of the protection of the law. In Sri Lanka, the people are either unaware of consumer rights under different laws or even if they are aware they do not resort to relief due to time and money constraints. There are practical problems in the enforcement mechanism that makes the whole purpose ineffective. Therefore, the time has come to have a user friendly law which is less expensive, speedy and has effective method of redress for the vulnerable consumer.

In this research, comparison of the Sri Lankan Law with the consumer protection laws of India and the United Kingdom was done with the intention of identifying the strengths in these two jurisdictions that are easily adoptable to the Sri Lankan framework. India, a highly populated country having a large percentage of low income group has a remarkable consumer law in place, in the opinion of the author.

Method

The main sources of the research are library research and internet search which include the research of statutes, regulations, books, cases and articles. The author also interviewed officers in the above mentioned State Regulators to obtain first-hand information.

Results

Sri Lankan law has many loopholes. It was identified that the Act has not provided sufficient safeguards to the individual consumers at every level which includes the level of purchasing and until granting of suitable redress. Though there are many laws in force, those are not compatible with international standards. The statutes have not reached the end results due to practical problems in enforcement of various provisions. Lawlessness prevails mainly in quality and in other areas including pricing. Existing law has not done justice to the poor consumer who should feel like a king. Errant manufacturers and traders who simply ignore the legal requirement go scot-free without any fear. Reshaping the law is therefore essential.

It was also discovered that the role of Consumer Organisations in helping consumers with their grievances is very minimal. The existing consumer groups are either inactive or not encouraged to carry out their goals.

Conclusions

Author suggests that relevant provisions from prevailing statutes those are good and retainable should be drawn and codified as a single “**FOOD ACT**” for Sri Lanka. It is also recommended that the 7 guidelines identified by the UN (mentioned above) should be incorporated into the new Sri Lankan Food Law that has a balance between consumer rights and manufacturers/traders’ freedom while encouraging fair competition.

It is submitted that the following salient features should form part of the new Food Law:

1. Authorities should conduct consumer education in both cities and urban areas to educate consumers of their rights.
2. Methodical inspection should be carried out to ensure compliance of the law. Effective spot-fine system should be adopted which will serve two purposes.
 - i. It will save time of the parties that may be otherwise spent on inquiries and/or litigation.
 - ii. Revenue will be collected that will help to carry out suggestion No.1 stated above.
3. Formulation of Consumer Redressal Agencies at district level and Consumer Court at provincial level, based on Indian Law to give easy redress to the aggrieved consumer.
4. Media and consumer organizations should be encouraged to emphasize “right to safety, right to be informed, right to choose, right to be heard, right to redress, right to consumer education, and right for a healthy environment”

Protecting indigenous knowledge in Sri Lanka: Legal issues and challenges¹

Background:

Of the various types of intellectual property, the one occupying central focus in the Asian region in general, as well as Sri Lanka in particular, is the protection of indigenous knowledge, such as folklore and traditional knowledge. These items are essentially owned by communities, many of them traditional. As such, they find difficulty in obtaining protection in a regime that is geared almost exclusively towards protecting individual rights. Further, the groups to whom they belong are generally unaware of their great commercial value, as well as of the legal rights they possess with regard to them. This results in two unfortunate consequences: either this knowledge will be unscrupulously stolen from them with little or no reimbursement, or the vast store of knowledge, culture and healing will be confined to the indigenous community, with little chance of being used for the greater good of the larger community.

It is submitted that TRIPS has not fully appreciated the problem of placing an essentially group-owned resource within a framework of individual-type protection. This has led to

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