SRI LANKA-COUNTRY REPORT

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Intellectual property education in Sri Lanka is at an early stage of development. The situation needs to be understood in the context of the structure of education and also the link between education and training and the wider application of the training in the world of work.

Sri Lanka has a population of about 20 million people. Annually, about 20,000 persons are admitted to the various tertiary level education institutions. Although the country has one of the highest literacy level in Asia it also has a high unemployment rate running into two digit figures according to some estimates. Education remains a high valued service and all families aspire their children to be educated and to be employed in the formal sector. All children have access to primary schools. The education infrastructure is well distributed geographically. The state, since independence has had a very liberal policy supported by state funds to run the education system. All citizens of Sri Lanka are provided access to education which is free. Children have free education from primary up to graduation from university. The major crisis faced by the government is its inability to provide university level education to all those who qualify at the admissions examination. In each age cohort less than two percent of those who qualify obtain admission to universities mainly due to the limited opportunities. The competition for the limited opportunities for higher education is extremely high. Thus many seek other opportunities within Sri Lanka as well as overseas.

University level education is provided by the universities of the public sector. These universities that number about 13 are financed through the University Grants Commission of the Ministry of Higher Education. None of the universities charge fees for the undergraduate programmes. The exception is the Open University of Sri Lanka which is also under the UGC, charges fees for all their programmes. All postgraduate programmes charges fees but there is considerable subsidising of the costs by the Universities.

Sri Lanka does not have any private universities. In the past decade, various university level educational programmes have been initiated in Sri Lanka with links with universities in other countries. These institutes provide various combinations of joint programmes, where the degrees are awarded jointly with the overseas partner university. Some programmes offer a few years training in Sri Lanka and the final years in a university elsewhere. These programmes are fee levying programmes of the private sector. This sector is totally unregulated.

State sponsored Universities in Sri Lanka managed by the UGC:

- University of Colombo
- University of Peradeniya
- University of Sri Jayawardenepura
- University of Jaffna
- University of Kelaniya
- University of Moratuwa
- Eastern University
- South Eastern University
- Sabaragamuwa University
- Wayamba University
- University of Ruhuna
- Rajarata University
- Open University of Sri Lanka
- Uva University (Proposed)

Other degree awarding institutions under different government ministries:

- Sir John Kotalawala Defence Academy - Ministry of Defense
- Sri Lanka Institute of Information Technology - Ministry of Trade
- Aquatic Resource and Fisheries University- Ministry of Fisheries

The structure of legal education is different to other professional training programmes. There are three institutions that provide professional training in Law. These are:

i. The Faculty of Law, University of Colombo that offers a LLB degree programme of four years duration. The faculty admits about 200 students annually.

ii. The Faculty of Humanities of the Open University of Sri Lanka which offers a LLB degree programme in the distance mode of learning.

iii. The third is the Law College an institution managed by the Legal Education Council of Sri Lanka. It offers a four year professional programme for attorneys and notaries.

Among the above three institutions Intellectual Property Law is included in the curriculum of only the Faculty of Law, University of Colombo. This subject was introduced recently as an option in the final year of study. The Law College-and the Open University have not included this topic in their curriculum as yet.

The course offered at the Faculty of Law, University of Colombo addresses the following topics:

A. Introduction to intellectual property
B. Different types of intellectual property: Patents, Copyrights, Trademarks, Industrial designs, Geographical indicators, Protection against unfair competition, Franchising, Character merchandising
C. Selected international conventions on intellectual property. Role of international organisations, Concerns of developing countries
D. Current trends

Even though IPL is not in the curriculum of the Open University and the Law College, students have the freedom to chose this subject area for project work. They also have the option of following short term programmes on IPL offered by other institutions.

The main institution that provides short term training programmes for specific target groups on various aspects of Intellectual Property is the Sri Lanka Foundation Institute (SLFI) of the Sri Lanka Foundation, Colombo. The SLFI is a training and research organisation that is managed under the Presidential Secretariat. It was established in 1974. Its core mandate is to promote a democratic way of life and nurture human rights education in the country. The SLFI designs programmes under three strategic areas within a human rights framework:

i. Human rights and gender justice
ii. Peace democracy and national integration
iii. Institutional development and industrial relations

The institute has worked closely with the Intellectual Property Office of the Ministry of Trade to carry out various programmes for specific target groups. These programmes are designed as continuing education for learner groups such as,

i. Law enforcement officers - namely police
ii. Customs and immigration officers
iii. Artists
iv. Writers
v. Teachers
vi. Plant and animal breeders
vii. Agricultural researchers
viii. The Judiciary

The SLFI also hosts the Asia Pacific Training Programme on Intellectual Property offered by the WIPO. This programme has been going on for the last 17 years.

Participants from Asia Pacific countries from the Asia Pacific region as well as Sri Lanka attend the programme.

The content of the WIPO Regional Training Course on Intellectual Property for Developing Countries of Asia and the Pacific is of ten days duration. The topics addressed in the programme includes the following:

i. Patents - Introduction: Basic notions and international regime
ii. Copyrights - Introduction: Basic notions and international regime
iii. Patents: Application procedures and grant with special reference to the Patent Cooperation Treaty (PCT)
iv. Impact of new technologies on the protection of copyright and related rights. The WIPO Copyright Treaty (WCT) and the WIPO Performance and Phonograms Treaty (WPPT)
v. Infringement of copyrights: Selected specific aspects
vi. Trademarks - Introduction: Basic notions and international regime
vii. Protection of industrial designs and integrated circuits
viii. An introduction to collective management of copyrights and related rights
ix. Protection of geographical indication and undisclosed information. Protection against unfair competition.
x. Enforcement: Dispute prevention and settlement provisions of the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement)
xi. Trademarks: (a) Procedure for the conditions of registration (b) Protection of well-known marks and trade marks on the internet
xii. Enforcement of intellectual property rights: Litigation and remedies including alternative dispute resolution (Part I)
xiii. Opposition and invalidation procedures and infringement and passing off actions
xiv. Enforcement of intellectual property rights: Litigation and remedies (Part II)
xv. The legislative framework and judicial trends for the protection of intellectual property in Sri Lanka
xvi. Visit to the National Intellectual Property Office
xvii. Intellectual property systems and the promotion of inventive and innovative activity
xviii. WIPO Digital agenda - WIPO's response to the opportunities and challenges in the digital are:
xix. Valuation and commercialisation of industrial property assets
xx. Licensing and transfer of technology (Part I)
xxi. Licensing and transfer of technology (Part II)
xxii. Utilisation of patent information as an innovation too, and its databases, the content and assess conditions

xxiii. Intellectual property issues and genetic resources. Traditional knowledge and folklore
xxiv. Patent documentation on CD-ROM. State of the art search. Practical demonstration
xxv. WIPO cooperation for development programmes with particular reference to Asia and the Pacific region
xxvi. Programme evaluation

From the above, it is clear that the extent to which Intellectual Property is being addressed as a body of knowledge on the education and training programmes is very limited and there is a need for improvement and expansion. Improving the intellectual property knowledge and related skills will be relevant for the following reasons:

i. Ensuring that intellectual property is treated as a source of wealth and income and this knowledge known and utilised by the individual, institutions and the country at large.

ii. To develop and strengthen the institutional and human resources required to optimise benefits from intellectual property regimes.

iii. Seeking redress for the violations and infringement of intellectual property of individuals, institutions, communities as well as the country.

The training will have to be designed for different target groups. The content will also have to be appropriate and have the correct balance and emphasis depending on the needs of the learners. Use of appropriate teaching methods should be identified to ensure effective learning and use of available resources.

University and College Level

Some topics that may be considered in training depending on the needs of the learners can be listed as follows. This is not an exhaustive list. It attempts to sensitise on the diversity and breadth of the application of intellectual property.

i. Philosophical and historical basis
ii. Legal aspects and jurisprudence
iii. Concepts, principle and theory
iv. Sociology of intellectual property: Distribution of benefits, equity and institutional development.
v. Economics of intellectual property: Macro and micro economic theory and applications.

vi. Political economy of intellectual property: Criticisms and alternatives
vii. Management of technology and innovations and intellectual property: Industry, agriculture, forestry, business.
viii. Information technology
ix. Mass media and advertisement
x. Natural resources management and intellectual property
xi. Training and teaching methods
xii. Traditional knowledge and practices
xiii. International obligations, conventions and national policy
xiv. Case law
xv. Case studies
xvi. Research methods, agenda and information dissemination

Depending on the training needs of the learners or the target groups, the depth and breadth of the topics need to be selected.

An important issue that needs to be addressed is the manner in which the teaching of intellectual property is to be undertaken in Universities, Colleges and training institutions in Sri Lanka. There are several options some of which are:

i. Introduction of separate courses on intellectual property
ii. Including selected topics on intellectual property into other subjects
iii. Integrating relevant aspects of intellectual property into existing or new subjects/courses. This method is also known as mainstreaming
iv. Integrated project approach to teaching also known as the case method of learning. This approach may be used to integrate several subjects and skills and could also be a group approach to learning.

Each of these approaches has merits and limitations and may be selected after careful consideration.

The inclusion of intellectual property in the formal curricula of the Universities, Colleges and training institutions will also require a major intervention in convincing those who are responsible for curriculum development on its relevance. Creating awareness and sensitivity on the need for training the future students on the relevant aspects of intellectual property will be a precondition to developing an intellectual property human resource base for the country.

Continuing Education

There remains a large population of professionals in diverse fields of work that also need training in intellectual property. The efforts of the Intellectual Property Office of the Ministry of trade and the Sri Lanka Foundation Institute has been limited in scope and coverage. The continuous education programmes should also be strengthened with a medium term plan to achieve coverage of a critical mass of trained personnel in each of the groups of professionals whose work relate to intellectual property.

Professional groups that need to be trained on intellectual property:

- Judiciary
- Law enforcement officers
- Customs officers
- Researchers
- Media personnel
- Teachers
- Policy makers
- Administrators
- Industrialists, innovators and entrepreneurs
- Artists
- Writers & poets
- Musicians - composers and singers
- Traditional communities and the public

Public

Sensitising and educating the public is a major requirement, if intellectual property is to be socially accepted and effectively used for the public good. Traditional knowledge, that is emerging as a major concern and a potential area of wealth generation, needs to be managed effectively. Sri Lanka has a very rich and ancient culture and many facets of its traditions are recognised to be in the domain of traditional knowledge which is now defined as intellectual property with tremendous potential for wealth generation.

Research

The impact of intellectual property as a body of knowledge and professional expertise need to be assessed periodically. This is required in order to bring about necessary improvements to the system. Identifying research problems, mobilising resources, developing expert groups for intellectual discourse as well as lobbying for

appropriate changes both at policy, legislative and programme levels need to be undertaken. Strengthening higher level training through use of knowledge generated by appropriate research is necessary. The quality of teaching is closely linked to the information and knowledge generated through research. The research agenda should be developed on a national platform addressing Sri Lankas needs.

HRD - Trained Personnel

The country is in acute short supply of trained persons in intellectual property. The universities, ministries of trade and others related to intellectual property, research institutions etc., continuous education institutions, etc., do not at present have the required trained professional staff to undertake research, training and related activities to develop intellectual property in the country. There is therefore an immediate need to identify appropriate persons and train them in the various areas of intellectual property so that they could provide the professional expertise required. This training would be at both specialised undergraduate as well as post-graduate level training. Medium term training is also required to strengthen the initiatives of organisations. It is necessary to ensure that the country develops a pool of experts in the various fields of intellectual property and not limits this effort to one aspect alone.