

Right to Food Security in Sri Lanka

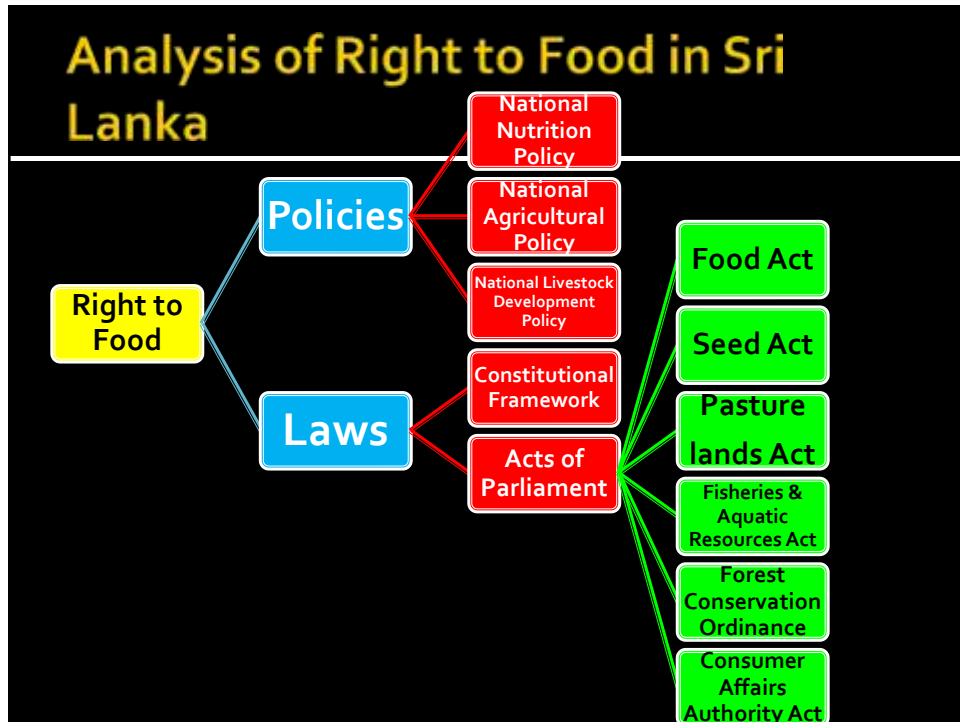
Law and Society Trust

Report Compiled for LST by: **Mr. Jagath Gunawardhana (Chief Researcher)**,
Ms. D.S. Medawatte (Co-researcher) and **Upendra Gunasekara (Research Assistant)**

Presented by: D.S. Medawatte,
Lecturer – University of Colombo,
Attorney – at – Law, LL.B (Hons),
DIRIL (IPM), DIR (BCIS)

Definition of food in Sri Lanka





National Nutritional Policy – October 2010

- *to ensure that every Sri Lankan has access to appropriate and adequate food and nutrition irrespective of their geographical location and socio-economical status. The goal of the policy is to "achieve and maintain the nutritional well-being of all Sri Lankans enabling them to contribute effectively towards national socio-economic growth and development throughout the life cycle*

Objectives of the policy

To ensure optimal nutrition throughout the life cycle

To ensure effective management of adequate nutrition to vulnerable populations

To ensure food and nutritional security for all citizens

The policy statements that are intended to show the means of reaching these objectives include

National Livestock Developmental Policy

Preservation of genetic merits

Land reserves for livestock farming

Developing the livestock sector

Developing local feed resource base

National Agricultural Policy

1. Increase domestic agricultural production to ensure agricultural and nutritional security of the country.
2. Enhance agricultural productivity and ensure sustainable growth
3. Adopt productive systems to reduce cost of production and increase profits
4. Enhancing the income and living standards of farming communities

What is 'food' in Sri Lanka?

- Section 33 of the Food Act No 26 of 1980:
" *any article* ¹ *manufactured,* ² *sold or*
³ *represented for use as food or drink for*
human beings and includes any article
which ⁴ *ordinarily enters into or is*
⁵ *used in the composition or preparation of*
food".

Additional guarantees provided by Section 2 of the Act

- Items which are injurious to health, *unfit for human consumption; unclean, putrid, repugnant, decayed, decomposed or diseased animal substance or decayed vegetable substance or is insect infested; adulterated items; added substance in contravention of the law; food prepared in insanitary conditions shall not be sold*

The Seed Act No 22 of 2003

- Section 22 – Seed means:
- The mature fertilized part of the plant, containing an embryo ready for germination and transformation into a seedling.
- Seed potatoes, bulbs rhizomes, and
- Planting materials

This definition is broad and includes not only the seeds but also any planting material that can be made use of to grow new plants.

Protection of New Plant Varieties Act

- Basically similar to the Plant Variety Protection and Farmers Rights Act of India
- The draft has been amended many times and the this is currently a work in progress

Pasture lands (Reservation and Development) Act, no 04 of 1983.

- Section 2 empowers the Minister concerned to declare an appropriate land a pastureland.
- The land commissioner can, under the provisions of **Section 3**, in consultation with the Director of Animal production and Health, lease any pasture land to any government body. Private entity or individual engaged in livestock breeding, if he is satisfied that the said person or body has the capacity to manage or develop pasture land.

Fisheries and Aquatic Resources Act No.02 of 1996

- What is 'fish' under Section 66?
- *any aquatic organism, whether piscine or not, and includes any shellfish, crustacean, pearl oyster, mollusce, holothurian, or aquatic mammal and its young, fry, eggs or spawn and includes zooplankton*

The powers and functions of the Fisheries Committee

Formulation &
implementation of
Fisheries
Programmes

Assisting
members to
acquire required
gear

Provision of social
infrastructure and
welfare activities

Any other
required activity

Forest Conservation Ordinance as amended (final amendment: 2009)

- Section 78 of the Act which is on "Forest Produce" refers to food production or provision of food.
- Definition of forest : "any land at the disposal of the state" is wide enough to cover any land that has not been covered under any other law thereby allowing the state to make use of the land, if the need arises, for food production.

Consumer Affairs Authority Act No 9 of 2003

- Accessibility of food and cleanliness, prices and other related matters are governed under the Consumer Affairs Authority Act
- Section 75 of the Act defines 'goods' as "*any food, drink, pharmaceutical, fuel and all other merchandise* thus extending the application of the Act
- The term 'service' has been defined as "*The construction, production, manufacture, supply, storage, maintenance, repair, treatment, cleaning, processing or alteration of goods and services in connection with the import, export or distribution of goods.*"

The impact of the Land Reform Law as amended by Act No 14 of 1986

- To ensure that no person shall own agricultural land in excess of the ceiling; and
- To take over agricultural land owned by any person in excess of the ceiling and to utilize such land in a manner which will result in an increase in its productivity and in the employment generated from such land.

Land Development Ordinance (19 of 1935 as amended)

- Section 3 (1) of the Ordinance in order to lease and grant State Land for the development of a land including the productivity of agriculture, dairy farming and other activities

Land Acquisition Act No 9 of 1950 as amended

Making provisions for the acquisition of lands and servitudes for public purposes and to provide for matters connected with or incidental to such provision

Fertilizer Act No 68 of 1988

- Section 29 defines fertilizer to be *any substance containing one or more recognized plant nutrients which is used for its plant nutrient and which is designed for use, or claimed to have value, in promoting plant growth but does not include unmanipulated animal and vegetable manures.*
- Section 2: every person who wants to import, manufacture and formulation of fertilizer has to do so only upon the authority of a **license issued by the Director of the National Fertilizer Secretariat**. A license should contain the terms and conditions that are provided under the Schedule of this Act.

Control of Pesticides Act

- Section 6: Any person who wants to import, distribute and sell pesticides shall do so only upon the licensing of such pesticides
- Right to information is protected through Section 8 which states that a license shall be issued and the label of the pesticide should contain the common names of the active ingredients, a statement of the composition of the pesticide etc...

Constitutional Provisions

- Directive Principles of State Policy
- Provincial Council List (13th Amendment to the Constitution) - *Food supply and distribution*
- Concurrent List - *rationing of food and maintenance of food stocks and cattle fodder*

Directive Principles of State Policy

- **27(1)** of the Constitution requires the parliament, president and the Cabinet of Ministers to take DPSP into consideration when enacting laws.

Impact of the International Covenants on Right to Food

ICESCR

ICCPR

CRC

CEDAW

Decl. from SA Regional Peoples Convention on FS

Applicability of CRC in Sri Lanka

- CRC - Article 24
- State is the upper guardian of the child and thereby bound to protect the food rights of children.

Declaration from the South Asia Regional Peoples Convention on Food Sovereignty – December 2011

- The threats which were recognized are as follows:
 - non-implementation of state obligations in relation to right to food
 - insensitivity among state parties and lack of knowledge of citizens
 - the issue of not addressing structural imbalances and lack of care given to vulnerable groups
 - Failure of the state to implement genuine reforms in agriculture, forestry and fishery sources
 - Lack of grassroots governance methods
 - Existence of gender discrimination.

Recommendations

- Using Fundamental Rights
- Directive Principles of State Policy
- Accessibility
- Adequacy v Sufficiency
- Grassroot governance mechanisms

Potential Amendments to the Acts of Parliament

CAAA – anti hoarding laws

Fisheries – closed seasons

Pastureland Act – compliance of productivity improvement

Draft of the Plant Breeders Rights Act – protection of traditional plant varieties

Draft Seed and Planting Materials Act - removal of the limitation of commercial intention

Introduction of the justiciability