ICT and Law in Sri Lanka

Kalinga Dissanayake

Introduction

Introduction

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Agenda

- Introduction to Sri Lankan Legal System
  - Three pillars
  - Sources of Law
- ICT Related Acts
  - Intellectual Property Act, No 36 of 2003
  - Evidence (Special Provisions) Act, No 14 of 1995
  - Electronic Transactions Act, No 19 of 2006
  - Payment Devices Frauds Act, No. 30 of 2006
  - Computer Crimes Act, No 24 of 2007
- Recap

Introduction to SL Legal Systems

Three pillars

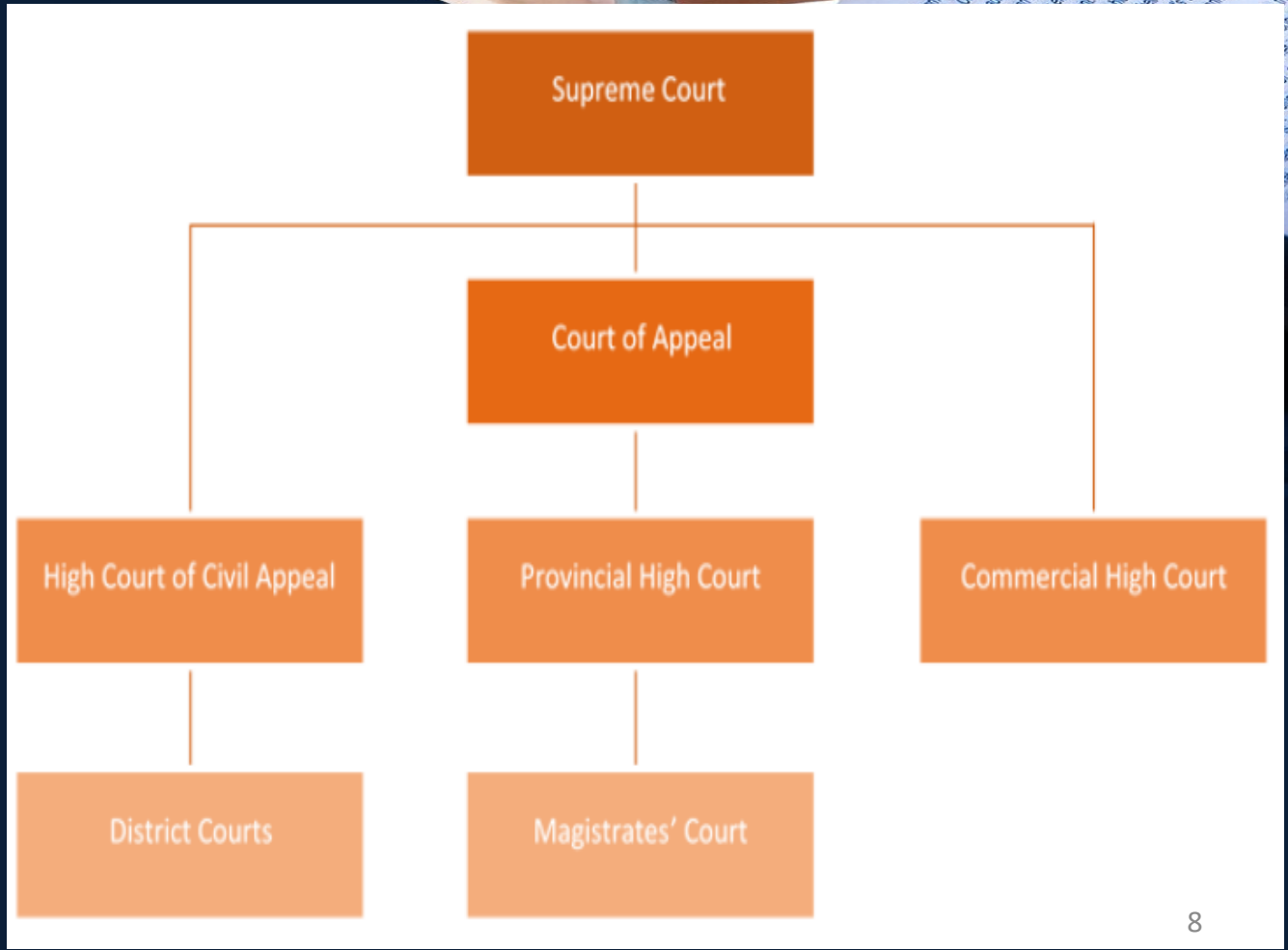
- Executive
- Judiciary
- Legislature

Three pillars

- Executive
  - President
  - Cabinet of Ministers
  - Public Service
- Legislature
  - Parliament
  - Provincial Councils
- Judiciary

The Judiciary

- Civil cases are handled by District courts cover almost all other disputes, and typically aim for some sort of recovery or compensation
- Criminal offences are handled by Magistrate courts and High Courts (Laid out on CPC)



Other Administrative Tribunals and Special Courts

- Rent Board
- Ceiling on Housing Property Board
- Land Acquisition Board
- Quazis and Boards of Quazis
- Labour Tribunals

The decisions of these bodies are capable of revision by the Appellate Courts by way of writs or appeals, as provided by the various enactments by which they had been established.

Sources of Law

- Statutes
- Case Law
- Roman Dutch Law
- English Law
- Customs

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Intellectual Property Act, No 36 of 2003

Intellectual Property Act No 36 of 2003

- Intangible property that is the result of creativity, such as patents, copyrights, trademarks, trade secrets etc..
- Created by human intellect, can have a monetary value.
- Can be owned, transferred, sold or licensed for any another person to use
- Governed by IPA No 36 of 2003

Intellectual Property Act No 36 of 2003

- Patent Rights
- Copy Rights
- Trademarks and Service Marks

Intellectual Property Act No 36 of 2003

- Computer Programs are protected under Intellectual works protected under the act
- Under the economic rights: “owner of copyright of a work shall have the exclusive right to carry out or to authorize the following acts in relation to the work”


Roxana
MEN
BODY ACTIVE
SURF
50ml
SQNY
AA
SQNY
PUMA

Intellectual Property Act No 36 of 2003

- Any person has access to a computer program infringing the rights of another person, and willfully makes use of such program for commercial gain, shall be guilty of an offence and shall be liable on conviction by a Magistrate for a fine not exceeding rupees **five hundred thousand** or to imprisonment for a period of **six months** or to both such fine and imprisonment.

Evidence (Special Provisions) Act No. 14 of 1995

Evidence (Special Provisions) Act No. 14 of 1995

- Provides for
  - (a)the admissibility of any contemporaneous recording made by electronic means and
  - (b)facts and information contained in a statement produced by a computer
- Admissibility under this Act is subject to several conditions – that the computer producing the statement was operating properly, Information supplied to the Computer was accurate etc

Electronic Transactions Act, No 19 of 2006

Electronic Transactions Act, No 19 of 2006

- An Act to;
  - Recognize and facilitate the formation of;
    - Contracts
    - Creation and exchange of data messages
    - Electronic documents
    - Electronic Records
    - And other communications in electronic form in Sri Lanka

Electronic Transactions Act, No 19 of 2006

- Section 3 - No data message, electronic document, electronic record or other communication **shall be denied legal recognition, effect, validity or enforceability on the ground** that it is in electronic form.

Electronic Transactions Act, No 19 of 2006

- All transactions and business done in “electronic” form would be recognized under the Act, **except those specifically excluded** under Section 23 (Last Wills, Power of Attorney, Transfer of immovable Property etc)

Electronic Transactions Act, No 19 of 2006

- Section 4 -Electronic equivalent of “Writing” - “Functional equivalence” principle
- Section 5 & 6: Recognizes the fact information can be retained in electronic form
- Section 8: Facilitates e-Government
- Section 11 to 17: Electronic Contracts

Electronic Transactions Act, No 19 of 2006

- Section 7: Legal Validity of Electronic Signatures
  - Method used is proven in fact to have **fulfilled the functions of identifying the party** and proving the **party's intention in respect of the information contained in the message**, by itself or together with further evidence
  - Any technology is acceptable - PIN No, QR Codes, Biometrics, Scanned signature etc.
  - Digital Certificates issued by "Certificate Service Provider" ensures Legal validity

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Payment Devices Frauds Act, No. 30 of 2006

Payment Devices Frauds Act, No. 30 of 2006

- An Act to;
  - **Prevent the possession** of **unauthorized** OR **counterfeit** payment devices;
  - **Create offences** connected with the possession or use of **unauthorized** payment devices.
  - Protect persons lawfully issuing and using such payment device
  - Make provision for the **investigation, prosecution and punishment of such offenders**

Payment Devices Frauds Act, No. 30 of 2006

- Offences under this Act include;
  - Possessing equipment for the making or altering of payment devices (without proper approval or permission)
  - Using without lawful authority a phone listening device or other similar device, including any voice or data recording device, for the purpose of capturing authorization data passing through the acquirer's point of sale networks or automated teller machine network
  - Possessing of any unauthorized or counterfeit payment device
  - Abetting any such offence

- All such offences should be investigated under the Criminal Procedure Act

Payment Devices Frauds Act, No. 30 of 2006

- A person guilty of an offence under this Act shall, on conviction after trial before the High Court:
  - In severe cases (as mentioned in item a. to j.) be liable to a term of imprisonment not exceeding ten years or to a fine not exceeding rupees five hundred thousand or to both such imprisonment and fine
  - In not so severe cases (item m. to p.) be liable to a term of imprisonment not exceeding three years or to a fine not exceeding one hundred thousand rupees or to a fine which may extend to five times the value of the money obtained by the commission of the act

Computer Crime Act No 24 of 2007

Computer Crime Act No 24 of 2007

- Identification of Computer Crime
- Provide procedures for *investigation* of such crimes
- Provide procedures for *prevention* of such crimes

Computer Crime Act No 24 of 2007

PART I

COMPUTER CRIME

Securing unauthorised access to a computer an offence.

3. Any person who intentionally does any act, in order to secure for himself or for any other person, access to—

(*a*) any computer ; or

(*b*) any information held in any computer,

knowing or having reason to believe that he has no lawful authority to secure such access, shall be guilty of an offence and shall on conviction be liable to a fine not exceeding one hundred thousand rupees, or to imprisonment of either description for a term which may extend to five years, or both such fine and imprisonment.

Computer Crime Act No 24 of 2007

Doing any act to secure unauthorised access in order to commit an offence

4. Any person who intentionally does any act, in order to secure for himself or for any other person, access to—

(*a*) any computer ; or

(*b*) any information held in any computer,

knowing or having reason to believe that he has no lawful authority to secure such access and with the intention of committing an offence under this Act or any other law for the time being in force, shall be guilty of an offence and shall on conviction be liable to a fine not exceeding two hundred thousand rupees or to imprisonment of either description for a term which may extend to five years or to both such fine and imprisonment.

Computer Crime Act No 24 of 2007

5. Any person who, intentionally and without lawful authority causes a computer to perform any function knowing or having reason to believe that such function will result in unauthorised modification or damage or potential damage to any computer or computer system or computer programme shall be guilty of an offence and shall on conviction be liable to a fine not exceeding three hundred thousand rupees or to imprisonment of either description for as term which may extend to five years or to both such fine and imprisonment.

Causing a computer to perform a function without lawful authority an offence.

COMPUTER CRIMES

- Computer-Related Offences
- Content-Related Offences
- Computer-Integrity Offences

Computer-related Crimes..

Computer Related Frauds

Theft of Information

Forgery

Computer-related Crimes..

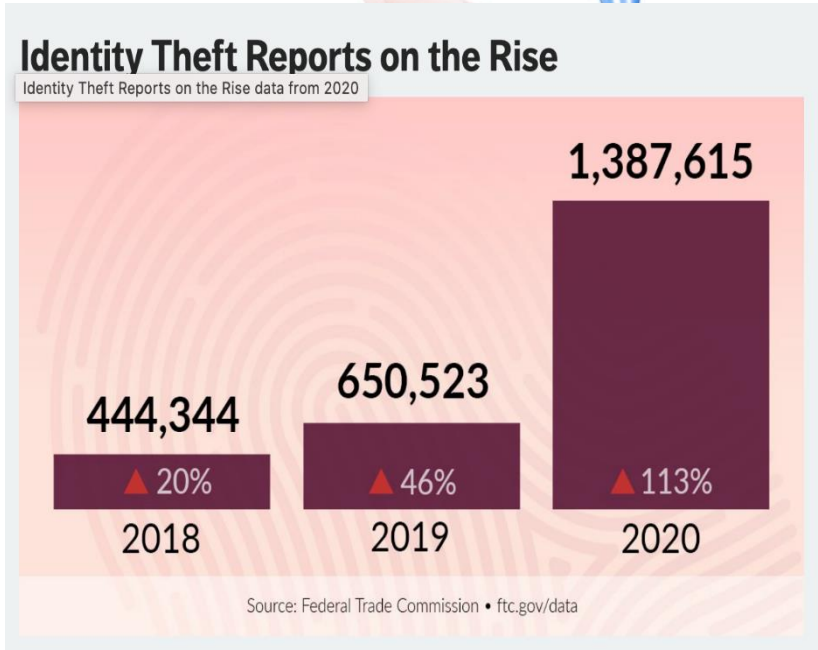
Identity Theft

Phishing

Cyber Squatting

Examples

- 2014, Kim Kardashian was a victim of **identity theft**. 19-year-old Luis Flores, Jr. called the credit card company American Express claiming to be Kim Kardashian and changed her social security number and address to his own, so that he could receive new cards



Examples

- 2019, Florida- ordered the shutdown of seven websites that the owner was using to sell forgeries of Marc Jacobs, Celine and many other brands…
- 2021 - dettolhandsanitizer.com, tokyo2021.org

Content-Related Crimes..

Illegal Content

Infringement of Right to Privacy

Infringement of Freedom of expression

Computer-Integrity Offences..

Unauthorized Access

Unauthorized Acts

Unlawful Devices

Examples

- 2021, Afghanistan - Chinese state-linked hackers targeted Afghan telecom provider ***Roshan*** and stole gigabytes of data from their corporate mail server over the past year.
- 2013, USA - Target confirmed that credit and debit card information about 40 million customers had been stolen
- 2020: Multiple DDoS attacks forced **New Zealand's** stock market to temporarily shut down

Computer Crimes Act

Section 17 – Appointment of a Panel of Experts

Minister of Science and Technology can appoint *any public officer* having the *required qualification and experience in electronic engineering or software technology* to assist any police officer….

The person appointed in considered as an "*expert*"..

Computer Crimes Act

Search and Seizure

- On application made, for the purpose of investigation, a magistrate would grant an expert or a police officer the authority to search and seizure with warrant

Section 18

- Any Police Officer may in the course of investigating, exercise power of arrest, search or seizure of any information accessible within any premises.

Section 21

Confidentiality of information obtained

- Every person engaged in an investigation under this act shall maintain strict confidentiality with regard to all information obtained in the course of an investigation

Section 24

Summary

- All these Laws have been enacted to have safe environment for computer use by general public to various activities in day today life without fear
- These laws comprise of clauses to identify illegal activities and punish those who commit them
- Law is continuously evolving
- Professionals in ICT area must have a good understanding of these laws

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Questions?

https://docs.google.com/spreadsheets/d/1a4smdqcwOvltXnlVFWRsLqsdaD3CkR6OSkrxNEv-hfc/edit?usp=sharing

Constitution of Sri Lanka

https://www.parliament.lk/files/pdf/constitution.pdf

13th amendment to the constitution

http://www.paffrel.com/posters/1312021012231Sri%20Lankawe%20Palathsabha%20-%20English.pdf

Judiciary

http://www.jsc.gov.lk/web/index.php?option=com_content&view=article&id=51&Itemid=64&lang=en#The%20High%20Court

Intellectual Property

https://www.nipo.gov.lk/web/index.php?option=com_content&view=article&id=37&Itemid=156&lang=en

ETA Act

https://nca.gov.lk/files/ETA-E.pdf

Contact Details

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Assignment

- Task 1: Find out four cases reported in media that come under the purview of these Acts of Law. Write short description (200 words max) about each.
- Task 2: Reflect on impact of above Laws on your professional career. Write down your own rules for your professional life.
- Submit PDF of your assignment on or before 16th October, 2021 mid night.