library survey. Internet based journals and articles have been used depending on the relevance of each case.

Conclusion:
The scope of duty of care of an individual or a professional body is interpreted in a limited sense in relation to pure economic loss cases in the English law, but it is observed that the approach has not been welcome by other common law jurisdictions due to their own reasons. Meanwhile, the South African court has paved the way to a possible action against pure economic loss in the scope of the modern *Aquilian* Action avoiding the fear of limitless liability. In this, the court has effectively used the concept of 'unlawfulness'.

Therefore, the developments that have been occurred in the Modern *Aquilian* Action in the South Africa can be well considered in Sri Lanka, in order to compensate pure economic loss caused by negligent acts right now. This step will strengthen the economic rights of the people as recognised by the international instruments and the Constitution of Sri Lanka.

Divorce without war; but through mediation

A comparative analysis of 'mediation' as a better alternative divorce procedure for Sri Lanka.

Rose Wijeyesekera

Background
The existing divorce law, based on matrimonial fault, successfully conceals the actual causes for marriage breakdown behind statutory grounds; assisted by the adversarial procedure prescribed in the Civil Procedure Code it has not succeeded in confronting the problem of a failed marriage. The rigours of the fault-based divorce law have prevented neither the breakdown of marriages nor the divorce of married couples. In its failure to identify the actual causes and reasons which motivate a couple to seek a divorce, the law has created a lacuna between 'legality' and reality. Hence there is constant pressure for a law which can identify the reason behind the search for divorce, to be followed by a procedure which ensures distributive justice. The gap between the law and practice has resulted in various undesirable outcomes, including the legal representatives' involvement in conniving to obtain a divorce by distortion of facts so as to fit into one of the legally recognized grounds. In effect the parties either together or individually lie to the court, with the help of counsellors, to get a decree of divorce. There is also a tendency of the economically stronger spouse forcing the weaker by various means, not to contest the petition, so that the former can get the decree. Evidently, there is a gap between the law on paper and what actually happens in court. The gap is not only in the substantive law, but in the procedural law as well. The change-over from matrimonial fault to marital breakdown as the basis for divorce would necessarily require a rationalization of the concept of breakdown in practice i.e. how to assess the failure of a marriage. The adversarial court procedure would continue to maintain the tug-of-war between divorcing couples barring them and the court from assessing the status of marriage. It is highly unlikely that the present District Court procedure would provide the proper forum to determine a marital relationship in the context of marital failure. Evaluation of the status of a marriage

relationship requires entirely new procedures as well as a non-adversarial atmosphere, tolerant attitudes and broadness of vision. The reform of the substantive law would not be constructive unless a change of attitude is generated throughout the whole process.
The Law Commission of Sri Lanka put forth a comprehensive Bill (Matrimonial Causes Bill) on the substantive law of divorce, according to which the divorce law is to be based on the exclusive ground of irretrievable breakdown of marriage. This will undoubtedly serve a long felt social need of the country. The Bill has apparently gained light from the South African Divorce Act of 1979 and the Matrimonial Causes Act (1973) and The Family Law Act (1996) of England. While both these jurisdictions have introduced new non-adversarial procedures side by side with the new substantive law, the Sri Lankan Bill proposes to retain the existing adversarial divorce procedure which is contrary to the principles of the concept of irretrievable breakdown of marriage. It is proposed that unless procedural changes are made, even a divorce law based on irretrievable breakdown will create artificial situations where the Courts may act contrary to the objectives of the Act and it would not be possible to realize these objectives.

Objective

The objective is to examine the possibility of introducing an alternative divorce procedure based on mediation, where the parties can sit together and try to work out their differences, with the help of an independent and qualified mediator and where parties are represented by independent counsellors, instead of adversaries. The aim of the mediation procedure is to help divorcing couples to assess the actual status of their marriage relationship with the help of the mediator, and if both of them agree that the marriage cannot be saved, to settle the real issues, like custody and care of children of the marriage, property matters and maintenance issues. This procedure would avoid or at least minimize court-room battles, parties' lying and out of court conniving to mislead the court. This research analyzes whether 'mediation' is suitable to Sri Lanka, whether it is acceptable to the Sri Lankan public as an alternative family dispute mechanism and how best it can be introduced as a mechanism of dispute resolution into the General Law of Sri Lanka. The analysis examines the obstacles that could arise in adopting alternative out-of-court dispute resolution mechanisms in the Sri Lankan socio-legal context.

Method

Qualitative.

Conclusions

1. Mediation is a better alternative procedure in divorce actions.
   Mediation is not a new concept in Sri Lanka; the Mediation Boards Act No. 72 of 1988 recognizes the concept even though it does not apply to divorce/custody disputes as at present. Both Muslim law and Kandyan divorce procedure advocate an informal out-of-court procedure where acrimony and hatred between parties are minimized. Mediation is a compulsory requirement under the Muslim Marriage and Divorce Act No.13 of 1951, and this includes pre-court mediation, which is done by community leaders, and in-court compulsory mediation, which is carried out by the *Quazi* himself. Mediation take centre stage in Kandyan Law even though the term is not used in the Statute.

2. The court atmosphere should be informal and conducive and the mediator should be trained both in law and mediation.

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'

Shanthi Segarajasingham, Senior Lecturer, Department of Commercial Law, Faculty of Law

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