

Code eliminate forced or compulsory labour in Sri Lanka. The Conventions provide for equal remuneration for men and women workers for work of equal value, and equality of opportunity and treatment in respect of employment and occupation. The Constitution has provisions with regard to right to equality. The provisions of the Wages Boards Ordinance and the Industrial Disputes Act could be used to promote non-discrimination in employment in the private sector. The Shop and Employees' Act and the Maternity Benefits Ordinance provide job security to female employees against termination of employment for pregnancy or confinement related matters. The Penal Code provides punishment for sexual harassment. It is suggested to amend labour legislation and cast statutory obligations on employers to provide safe environment to female employees. The Protection of the Rights of Persons with Disabilities Act prohibits discrimination on the ground of disability in recruitment for any employment or office. The Conventions provide for minimum age for employment, and elimination of the worst forms of child labour. The Shop and Office Employees (Regulation of Employment and Remuneration) Act, Minimum Wages (Indian Labour) Ordinance and Employment of Women, Young Persons, and Children Act prohibit employment of children who are under age of fourteen years. The Penal Code and the Employment of Workmen, Young Persons and Children Act prohibit employment of persons under the age of eighteen years in hazardous occupations. It is suggested that hazardous occupations shall be prescribed with appropriate guidelines under the Act to give effect to the provisions of the Act.

## **Conclusion**

The plethora of labour legislation and other legislation in Sri Lanka expressly or implicitly embody most of the principles embodied in the core Conventions of the ILO. An evaluation of the labour standards of Sri Lanka in the light of the core Conventions of the ILO illustrate that the Sri Lankan labour standards are very much compatible with the principles embodied in the core Conventions of the ILO and the amendments suggested will enhance the protection of the rights and interests of the employees in Sri Lanka without compromising the wider interests of investors, society and the state.

## **The Applicability of Delictual Liability against Pure Economic Loss caused by Negligent Acts: A Sri Lankan Approach**

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### **Background of the study:**

Patrimonial loss occurred due to physical injury has been redressed by law. In delict, damage or loss is assessed in monetary means and damages are ordered by the court to compensate someone who suffered a legally compensable loss. It requires showing damage done to plaintiff's patrimony (*damnum*) or diminution in it caused by defendant's unlawful and negligent conduct. It does not mean a mere injury to patrimony but includes the actual loss suffered by the plaintiff. In this, it involves actual losses and future or prospective losses that are consequential to patrimonial loss. Accordingly, it is essential to show that the loss is occurred due to any physical damage done by the defendant.

However, economic loss caused independently of any physical damage has not been established as such in many legal systems. This damage is known as ‘pure economic loss’ because it operates independently of physical damage to the person or property. The use of the term ‘pure’ is significant in this sense. It connects to any physical interference by no means, and therefore it may be a loss of a chance or any profit that strikes victim’s wallet. The main reason for the passive attitude of the law is that this liability would unnecessarily extend the liability of defendants who are involved in the fields of financial matters and other professions. However, compensating these losses have been rationalised by several jurisdictions on policy considerations, which they believe in. Cases on pure economic loss are evolving in this background, where such a loss takes no notice of whether the loss incurred is dependent on any physical injury. On the other hand, this evolvement has raised criticisms in other jurisdictions on attractive policy reasons. The jurisdictions in which pure economic loss is recoverable, justify the loss on the basis of ‘reasonableness’, whereas the others argue that it is an unwanted extension of the duty of care, even if violation of economic rights of the people is on the increase.

Interference with individuals’ personal integrity and property rights are the primary concerns of law-making process in all jurisdictions. This concern is rationalised on the basis that these fundamental rights of the people should be protected. However, economic stability of a person is essential to uplift the livelihood of the people in the modern context. In fact, it has become one of the primary factors that guarantee the establishment of livelihood and economic stability as accepted by the Constitution of Sri Lanka of 1978. People invest money in different projects in order to increase the profit which can be earned from these projects. This right cannot be ignored in an open economy such as Sri Lanka, as far as the investment is lawful. Nevertheless, no general law is applicable for controlling these activities here, unless those are managed by different financial institutions under its’ specific laws. As a result of this gap, several incidents of financial losses are been reported in Sri Lanka due to unlawful acts of individuals, private companies and also local authorities. These institutions have abused the financial capacity of the people knowingly or negligently misusing the goodwill of the business. Many of the depositors have lost their expectations as a result of these losses incurred by them. It causes social injustice as it paves the way to unjust enrichment of the parties who jeopardise the confidence of the people on the one hand and affects social security resulting in public unrest on the other. Negligent misstatements given by professionals, defective designs approved or designed by architects and/or engineers or local authorities can be shown as examples in this nature. Apart from criminal liability, these concerns must be looked at in view of public conviction of the community, because it is rather essential to redress the damage/loss that public suffered as against vengeance.

It is unclear whether the common law regime of Sri Lanka positively responds the establishment of pure economic loss as a possible action in delict, firstly because it has not been properly discussed in the courts up to date. Secondly, Sri Lanka also has doubts on imposing liability against this damage as argued by other jurisdictions due to so-called fear of unlimited liability (opening of the floodgate) and matters pertaining to policy-making.

### **Methodology:**

This study intends to analyse delictual liability of these persons/institutions in addressing the issue of pure economic loss caused by negligent acts in comparison with the international law, English law and the law of delict as in South Africa. This is based on a

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.**

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**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