LAHORE HIGH COURT

BULLETIN

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FORTNIGHTLY CASE LAW BULLETIN

(01-11-2020 to 15-11-2020)

A Summary of Latest Decisions by the Superior Courts of Local and Foreign Jurisdictions on crucial Legal, Constitutional and Human Right Issues prepared by Research Centre Lahore High Court

DECISIONS OF INTEREST

1. **Supreme Court of Pakistan**
Criminal Petition No.1067/2020
Khair Muhammad v. The State.
https://www.supremecourt.gov.pk/downloads_judgements/crl.p._1067_2020.pdf

Facts: Petitioners are allegedly involved in a murder case. Their pre-arrest bail was dismissed by High Court. They approached the Supreme Court by filing petition for leave to appeal.

Issue: Whether the merits of the case can be touched while deciding the pre-arrest bail?

Analysis: In the salutary judgment of Hon'ble Supreme Court reported as "Meeran Bux Vs, The State and another" (PLD 1989 SC 347), the scope of the pre-arrest bail has been widened and as such while granting pre-arrest bail even the merits of the case can be touched upon..

Conclusion: While granting pre-arrest bail even the merits of the case can be touched upon.

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2. **Supreme Court of Pakistan**
Jail Petition No.14 of 2016 and Criminal Petition No.180 of 2016
Shaukat Ali v. The State.
https://www.supremecourt.gov.pk/downloads_judgements/j.p._14_2016.pdf

Facts: Petitioner was alleged to have fired a single shot on the deceased. However the empty could not be recovered from the spot.

Issue: Whether the absence of empty has any bearing upon case of prosecution when it otherwise stood proved?

Analysis: Absence of empty from the spot in the face of single shot without repetition cannot be viewed as a circumstance intriguing upon the prosecution case.

Conclusion: Appeal dismissed.

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3. **Supreme Court of Pakistan**
Criminal Petition No.907 of 2020 and Civil Petition No.1965 of 2020
Mian Haroon Riaz Lucky v. The State.
https://www.supremecourt.gov.pk/downloads_judgements/crl.p._907_2020.pdf

Facts: Petitioners were allegedly found to have committed theft of natural gas for their ice factory and F.I.R was registered against them under section 462-C of the Pakistan Penal Code, 1860 without any reference or adhering to the procedure provided in the Gas (Theft, Control and Recovery) Act, 2016.

Issue: (i) Whether the Gas (Theft, Control and Recovery) Act, 2016 bars registration of F.I.R, carry out search or arrest an accused suspected for the commission of theft

of gas when it (Act) conditions the taking of cognizance of an offence under the Act ibid by the Court on the complaint of authorized person?

(ii) Whether provisions of section 23 of the Act ibid authorizing the officer not below the BPS-17 to make a search are mandatory or directory?

Analysis: (i) There is a wide variety of offences both under the Pakistan Penal Code, 1860 as well as under various special laws that require prior sanction for prosecution for the purposes of assumption of cognizance by the trial Court, the requirement does not stand in impediment to the registration of First Information Report, arrest of an offender or commencement of investigation thereof as the clog of sanction transiently relates to the steps preparatory thereto by the authority designated under the Statute.

(ii) Restriction placed by section 23 of the Act ibid is merely directory in nature, to be followed having regard to the exigencies of a particular situation, as far as practicable; non-compliance whereof, cannot be interpreted to have vitiated the process of law

Conclusion: The Gas (Theft, Control and Recovery) Act, 2016 does not bar registration of F.I.R, carry out search or arrest an accused suspected for the commission of theft of gas despite the condition of complaint of offence by authorized person.

Restriction placed by section 23 of the Act ibid is merely directory in nature

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4. **Lahore High Court**
Writ Petition No. 13063 of 2020
Fozia Mazhar v. Additional District Judge
https://sys.lhc.gov.pk/appjudgments/2020LHC2499.pdf

Facts: Defendant challenged the decree for dissolution of marriage by filing application u/s 12(2) C.P.C alleging fraud.

Issue: Whether application under section 12(2) C.P.C can be filed to challenge a decree of a Family Court when (except section 10 & 11) provisions of Code of Civil Procedure are not applicable in proceedings before Family Court?

Analysis: If for the sake of arguments this Court considers that application section 12(2) of the Code of Civil Procedure, 1908 was not maintainable due to non applicability of C.P.C., even then the learned Judge Family Court in a case where a decree or order has been obtained through fraud, deceits, misrepresentation or on any of such grounds, the learned Judge Family Court can competently entertain such an application under the inherent jurisdiction, which is presumed and considered to be vesting in all Courts, Tribunals or authority of even limited jurisdiction, because it is a settled principle of law that fraud vitiates the most solemn

proceedings even and the decrees, orders or the judgments obtained in pursuit of these intentions or actions are to be reviewed, reversed, recalled or upset.

Conclusion: Family Court has inherent jurisdiction to set aside its orders/judgments obtained due to fraud, misrepresentation or suffering from lack of jurisdiction. Wrong mentioning of provision of law is of no consequence provided the court has jurisdiction.

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5. **Lahore High Court**
Writ Petition No.55193/2019
Latif Ahmed v. The Chief Secretary Punjab
https://sys.lhc.gov.pk/appjudgments/2020LHC2594.pdf

Facts: Petitioner a Senior Special Education Teacher (H.I. Field/BS-17), had applied for the post of Headmaster (H.I. Field/BS-18) through proper channel in the same department. He was selected and offer of appointment was duly accepted by him, yet the respondents denied the issuance of his appointment letter inter alia on the premise that he failed to furnish the medical certificate as a pre-requisite for the purpose.

Issue: Whether production of medical certificate is necessary for fresh appointment in respect of another post by a person who is already in service?

Analysis: Petitioner was already in government service when he was declared eligible and recommended by PPSC to be appointed for new assignment as Headmaster. The respondents have overlooked their authority in utter breach of law, in that, the petitioner was not obliged to provide another medical certificate, being already in government service. It is obvious and clear from the bare perusal of SOR.IV(S&GAD)-5-16/84 dated 18th April, 1984, that demand of fresh medical fitness certificate was negligent act on part of the respondents.

Conclusion: The act of the respondents was patently in derogation to the law and, on the face of it, was illegal, unlawful and without any legal justification inasmuch as no fresh medical fitness certificate was required for appointment to another post particularly when the applicant/candidate was already performing the duties and holding a post as civil servant in same department of the Government

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6. **Lahore High Court**
ICA No.530 of 2014
Muhammad Yousaf v. Secretary Finance etc.
https://sys.lhc.gov.pk/appjudgments/2020LHC2581.pdf

Facts: The appellant was retired from service of Government of Punjab on 08-09-2013 and granted pensionary benefits. Later on, the Federal Government amended

Revised Leave Rules 1980 and the period for leave preparatory to retirement was extended from 180 days to 365 days w.e.f. 01.07.2012 and the same notification was adopted by Secretary Finance Punjab on 09-09-2013 and made it applicable w.e.f. 01-09-2013. The appellant filed a constitutional petition after he failed to get redressal from Ombudsman, which directed respondent to review its rules, but to no avail and sought declaration that if the Provincial Government has adopted the notification of Federal Government then it must have given it effect from the date when Federal Government did so and not from a different date of its choice His petition was, however, dismissed by Single Judge in Chamber.

Issue: (i) Whether it is obligatory upon the Provincial Government while adopting a policy notification of the Federal Government regarding a matter, which is within its competence and domain after Eighteenth Constitutional Amendment, to follow and give effect the same from the very date as given by the Federal Government?

(ii) Whether the judgment of Ombudsman is binding on the Court?

Analysis: (i) After the 18th Amendment made to the Constitution in the year 2010, the concept of Provincial Autonomy stands heightened and accentuated in the context of the Federation of Pakistan and what was previously not within the domain of the federating units and was not do-able for the Provinces now falls within the ambit and purview of their executive authority and legislative competence.

In relation to the service matters, the employees of Federal Government are regulated under the Civil Servants Act, 1973 while the employees of Provincial Government are regulated under the Punjab Civil Servants Act, 1974. For the service of Pakistan, the Federal Government can make laws under Article 240(a) of the Constitution while sub-section (b) of Article 240 empowers the Provincial Government to make laws for the service of the province. Furthermore, after 18th Amendment, in set up of service matters, the Constitution has drawn a line between the services of Pakistan with Federation and Provinces hence they are distinguished from each other in respect of making laws.
(ii) The findings of Mohtasib/Ombudsman are of recommendatory nature and not a judgment/decision and such performance of quasi-judicial functions by itself does not convert an Authority into Court.

Conclusion: (i) It is therefore within the exclusive domain of Provincial Government to adopt a policy/Notification of the Federal Government, which falls within its legislative competence and made its applicability within the Province from that date, which it finds appropriate and mere adopting such Notification of the Federal Government does not made the same *ipso facto* applicable in entirety unless directed so by the Provincial Government as it is within its competence to limit or extend such applicability and it is not obligated upon provincial government to adopt a policy on the same date as made applicable by the Federal Government.

(ii) In order to constitute a Court in stricto senso, it should have power to give a decision or a definitive judgment, which has authoritative finality, therefore, office of Wafaqi Mohtasib is neither a Court nor Judicial Tribunal within the scope of Article 175 of the Constitution. Intra Court appeal dismissed.

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7. **Lahore High Court**
Khatoon Bibi v. The State
2020 LHC 2463
Crl.Misc.No.2231-H of 2020
https://sys.lhc.gov.pk/appjudgments/2020LHC2463.pdf

Facts: The petition u/s 491 CrPC was moved for the recovery of three detenus allegedly picked up by the police and locked up in the police station. The bailiff deputed by the court recovered all the three detenus and reported that the detenus were in custody for the last four days without being produced in any court. No Daily Diary/Rozenamcha was maintained at the police station and the police were making requisite entries in the computer on the front desk.

Issue: (i) Can police dispensed with the responsibility of maintaining a Daily Diary/Roznamcha by making requisite entries in a computer?
(ii) What are the parameters within which the fate of a petition under Section 491 Cr.P.C is to be decided and how a victim of unlawful detention is to be consoled?

Analysis: (i) The language of rule 22.48 of Police Rules 1934 is explicit in its contents, hardly leaving any ambiguity as to how, in what manner, by whom and for what purpose Station Diary/Rozenamcha is to be maintained. A wade through the afore-quoted Rule unveils that the Daily Diary/Rozenamcha is to be maintained through a carbon copying process and one of its copy is to be forwarded to the Superintendent of Police at fixed hour of every day. Likewise, each entry in the Register of Daily Diary/Rozenamcha is to be made either by the Station Clerk/Moharrar or by the Station House Officer. Movements and activities of all officials posted in the police station along with the visits of outsiders are incumbently required to be incorporated in Daily Diary/Rozenamcha. Last but not the least, the opening entry of each day must give the name of every person in police custody, the detail of offence with which he is charged along with date and hour of his arrest. Rule 22.49 elaborates further, the matters which are required to be entered in Daily Diary/Rozenamcha…….The delinquency to maintain Daily Diary in terms of Article 167 of Police Order entails consequences of initiation of proceedings under Article 155 of Police Order, 2002 and punishment of three years is provided therein.

(ii) While deciding the fate of a habeas petition, the High Court has to carefully scan the record so as to ascertain that the victim is deprived of his liberty in accordance with law or otherwise. For achieving this objective, the Court can examine the facts of case, information forming basis of detention and the counter

defence put forth against such plea……If sufficient material is discernible from the facts and record of the case that an individual is kept in captivity unlawfully by a police official, the Courts have to come forward with a pragmatic approach for the protection of fundamental rights guaranteed under Articles 9,10 & 14 of the Constitution and must not hesitate in awarding even cost/compensation to the victim, to be paid by the delinquent police officials and in appropriate cases, Court may pass an order for registration of criminal case as well as initiation of departmental proceedings against the delinquents.

Conclusion: The Court set the detenus at liberty and burdened the SHO and the police official—who had illegally arrested and confined the detenus—to pay them compensation of Rs.20,000/- and 40,000/- respectively.

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8. **Lahore High Court**
2020 LHC 2509
Civil Revision No.4782 of 2015
Muhammad Riaz v. Province of Punjab through Collector & others.
https://sys.lhc.gov.pk/appjudgments/2020LHC2509.pdf

Facts: Plaintiff, after the death of his first wife, married Fatima Bibi. Through a mutation the plaintiff gifted land to his wife. Ten years later, Fatima Bibi sold a portion of gifted land to defendant No.5. Plaintiff brought a suit for the revocation of gift and cancellation of sale deed on the ground that gift was result of collusion and essential ingredients of gift were missing. These two transactions were found to be valid by two courts below. Plaintiff filed revision against the concurrent findings.

Issue: (i) When burden to prove a gift shifts on beneficiary in case where collusion is alleged by donor/plaintiff?
(ii) What presumption arises regarding dealing with property by donor-husband after a gift in favour of wife?
(iii) When a gift stands proved, then whether a husband can revoke a gift in favour of wife?

Analysis: **(i).** When collusion is alleged by plaintiff in respect of a gift, he as per Article 117 of the Qanun-e-Shahadat, 1984 had the burden to prove it; and until such burden was discharged, the Court could not proceed on the basis of weaknesses of the defendants……It is to be noted that initial burden to prove the said negative fact was to be discharged the moment the plaintiff would have substantiated his allegation prima facie by making a statement on oath before the Trial Court.

(ii). It is now well settled that once mutation of names has been proved, the natural presumption arising from the relation of husband and wife existing between them is that the husband's subsequent acts with reference to the property were done on his wife's behalf and not on his own . This principle indicates that

the theory of constructive possession is very well applicable to gifts between husband and wife.

(iii). When a gift has been made in favour of wife to make more congeniality in view of her love, care and services, then the law does not give the plaintiff (husband) any right to revoke the gift.

Conclusion: (i). Plaintiff has the burden to prove collusion…when plaintiff makes his statement on oath, he discharges this burden this burden then onus shifts on the beneficiary to prove the gift.

(ii). Husband's subsequent acts after gift with reference to the property were done on his wife's behalf and not on his own.

(iii). Such a gift cannot be revoked

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9. **Sindh High Court**
M/S. U & I Garments Private Limited v. Federation of Pakistan & Others
2020 SHC 848
Const. P. 1079, 1080/2020
https://eastlaw.pk/cases/M-s.-UVSFederation-of-Pakistan.Mzk2MzQw

Facts: Petitioner assailed Show Cause Notices issued in terms of section 11 of the Customs Act, 1969 by contending that no audit was conducted; that until and unless an audit is conducted under Section 25 of the Sales Tax Act 1990 ("Act") no Show Cause Notice can be issued under Section 11(2) of the Act.

Issue: Whether a Show Cause Notice could be challenged directly before the High Court in constitutional jurisdiction?

Analysis: The Court observed that the Special Law provides a complete mechanism of appeals up to the level of Special Tribunals and then by way of a reference before the High Courts, and therefore, ultimately such question of law has to come before the High Court for its final adjudication. Ordinarily a tax payer must respond to such Show Cause Notice and contest the matter before the departmental hierarchy inasmuch firstly. The very purpose of creating a special forum is that disputes should reach expeditious resolution headed by quasi-judicial or judicial officers who with their specific knowledge, expertise and experience are well equipped to decide controversies relating to a particular subject in a shortest possible time

Conclusion: No case for indulgence is made out to exercise constitutional jurisdiction; hence dismissed.

10. **Sindh High Court**
Hakim Ali VS The State
2020 SHC 904
Cr. Misc. Appln. No. S-25 of 2019
https://eastlaw.pk/cases/Hakim-AliVSThe-State.Mzk2NDEw

Facts: Licensed Repeater gun of the applicant was involved in a criminal case. Trial Court while recording acquittal of the accused involved in that case ordered for destruction of his Repeater gun without providing him a chance of hearing. On coming to know of such fact, the applicant filed an application u/s 517 Cr.P.C but it was dismissed. Such order was impugned by way of filing a revision application but it too was dismissed without assigning cogent reasons.

Issue: Whether after lapse of period provided for appeal any order for destruction of the weapon of offence passed without hearing the acquitted person is justified?

Analysis: Admittedly, the applicant was not heard by trial court when the subject Repeater gun was ordered to be destroyed. In that situation, the dismissal of the application of the applicant for restoration of his Repeater gun only for the reason that appeal period has expired was not justified and even against the principle of natural justice.

Conclusion: Orders passed by courts below were set-aside with direction to trial Court to pass fresh order on merits on application of the applicant for restoration of his Repeater gun.

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11. **Sindh High Court**
Gas & Oil Ltd. Pakistan v. Collector, Model Customs Collectorate of Preventive & Others
2020 SHC 808
C.P No. D-1650 OF 2020
https://eastlaw.pk/cases/Gas-OilVSCollector-Model.Mzk2Mjcz

Facts: Petitioner imported a consignment of Motor Spirit, which was allowed into Bonding in the warehouse by the Customs as per practice against various Goods Declarations ("GDs") and thereafter, Ex-bond Bills of Entries were filed and till the date of filing of the Petition, was released, whereas, the remaining quantity was withheld and the Customs Department started to demand certain additional amount of petroleum levy pursuant to Notification dated 01.03.2020. Petitioner inter alia requested for release of his goods on payment of the duty that was applicable prior to the issuance of disputed notification.

Issue: Whether the petroleum levy can be equated or termed as a customs duty specified under the First Schedule to Act so as to attract application of s.30 read with s.104 of the Act.

Analysis: Customs duty is a duty under the First Schedule of the Act, whereas, Petroleum levy per se is not a customs duty and merely for the reason that it is being collected in the same manner as a customs duty pursuant to Section 3A(2) (a) 3 & (3) of the 1961 Ordinance, would not make it a customs duty by itself. Law in this regard is now well settled pursuant to various judgments of this Court in the context of collection of sales tax and income tax chargeable under the Sales Tax Act and the Income Tax Ordinance, by the Customs Authorities under the Act. Delegation conferred through section 37(2)(i) of the Central Excises Act on the Central Board of Revenue is only with regard to 'assessment' and collection and not imposition or 'charge' of the duty. Section 31-A of the Customs Act introduces a new charge and is not merely a machinery provision. The use of the word 'charge' in the fifth proviso to Rule 9 of the Central Excise Rules is thus ultra vires the power conferred on the C.B.R. under section 37(2)(1) of the Central Excises Act, even if the subject or items of rulemaking mentioned in section 37(2) are not exhaustive, the general rulemaking power has to be read as ejusdem generis with the items or subject listed in section 37(2)……..the general rule-making power delegated under section 37 cannot be extended to creation of a charge. Even if section 37 had delegated to the F.C.B.R., the power to introduce a charge or a levy, the said delegation would be bad since it is pretty much settled that the power to impose or introduce a tax, levy or a fee is only legislative function which cannot be delegated. In this manner the term 'charge' used in the fifth proviso of rule 9 of the Central Excise Rules is read down and found to be unenforceable. Merely by providing the manner and time of collection of tax under any tax enactment, the nature of the tax shall not be changed, meaning thereby that if the advance tax under section 50(5) of the Ordinance can be collected as customs duty and can be recovered by the customs officials under section 202 of the Customs Act, it will not change the nature of tax and the income-tax shall not become the customs duty. Likewise when the income-tax shall not be changed into customs duty, the applicability, of section 156 of the Customs Act, shall be excluded as a logical conclusion.”..... Although it is provided in section 6 of the Sales Tax Act, that the tax in respect of goods imported into Pakistan shall be charged and paid in the same manner and at the same time as if it were a duty of customs payable under the Customs Act, 1969, but this provision shall not change the nature of tax and therefore, except the provisions pertaining to the collection of sales tax no other provision in the Customs Act, is attracted and particularly the provisions pertaining to the assessment or exemption of sales tax shall still be dealt with under the provisions of the Sales Tax Act....”

Conclusion: Petition was dismissed as being meritless.

12. **Peshawar High Court**
W.P No.4636-P/2019
Bahramand Khan v. Government of Khyber Pakhtunkhwa etc.
https://peshawarhighcourt.gov.pk/PHCCMS/judgments/WP-4636-2019-Bahramand-Khan-Dismissed.pdf

Facts: The petitioner prayed that notification of Board of Revenue be declared illegal and void whereby a particular village council was detached from Tehsil Mardan and included in a newly created Tehsil within District Mardan on the plea that it has caused inconvenience to the residents.

Issue: Whether Writ is maintainable against creation of new tehsil within the same district by Board of Revenue on the ground of inconvenice to residents?

Analysis: According to section 6 of the Land Revenue Act, 1967, each district may be divided into Tehsils or Sub-Tehsils with such limits and areas, as the government may by Notification specify and it has conferred authority to carve out new districts, Tehsils and Sub-Tehsils through a notification.

Conclusion: The Court cannot determine in its constitutional jurisdiction that inclusion of an area into newly created tehsil caused inconvenience to residents or not as such is a policy decision of the government legality or otherwise of which cannot be questioned before High Court in limited scope of Article 199. Petition dismissed.

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13. **Supreme Court of India**
Civil Appeal No. 3441 of 2020
C. Bright v. The district collector & Ors.
https://main.sci.gov.in/supremecourt/2019/46087/46087_2019_35_1501_24580_Judgement_05-Nov-2020.pdf

Facts: Whether Section 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 mandating the District Magistrate to deliver possession of a secured asset within 30 days, extendable to an aggregate of 60 days upon reasons recorded in writing, is a mandatory or a directory provision.

Issue: Whether, a time limit fixed for a public officer to perform a public duty will be directory or mandatory?

Analysis: When the provisions of a statute relate to the performance of a public duty and the case is such that to hold acts done in neglect of this duty as null and void would cause serious general inconvenience or injustice to persons who have no control over those entrusted with the duty, the practice of the courts should be to hold such provisions as directory.

The Court distinguished between failure of an individual to act in a given time frame and the time frame provided to a public authority, for the purposes of determining whether a provision was mandatory or directory. It is a well settled principle that if an act is required to be performed by a private person within a specified time, the same would ordinarily be mandatory but when a public functionary is required to perform a public function within a time-frame, the same will be held to be directory unless the consequences therefor are specified.

Conclusion: Supreme Court upheld the decision of Kerala High Court to declare the said provision as directory.

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14. **Supreme Court of Canada**
1688782 Ontario Inc. v. Maple Leaf Foods Inc., 2020 SCC 35 (CanLII)
https://www.canlii.org/en/ca/scc/doc/2020/2020scc35/2020scc35.html

Facts: Mr. Sub **(appellant)** is a chain of restaurants and Maple leaf **(respondent)** is a supplier of ready-to-eat meat on all the franchisees of Mr. Sub through an exclusive supply agreement. Maple Leaf had to recall meat products that had been processed in one of its factories in which a listeria outbreak had occurred. The franchisees brought an action and claimed to have suffered economic loss and reputational injury due to their association with contaminated meat products and advanced claims in tort law, seeking compensation for lost past and future sales, past and future profits, capital value of the franchises and goodwill. The trial court accepted the action while holding that Maple Leaf owed the franchisees a duty to supply a product fit for human consumption, and that the contaminated meat products posed a real and substantial danger, so as to ground a duty of care. The Court of Appeal reversed the decision, and found that no duty of care was owed to the franchisees.

Issue: Franchisees not in contractual privity with supplier but bound to purchase meat products exclusively from it through chain of indirect contracts. Whether supplier owed duty of care to franchisees for the economic losses in tort in the absence of Privity of Contract?

Analysis: Pure economic loss may be recoverable in certain circumstances, but there is no general right in tort protecting against the negligent or intentional infliction of pure economic loss…Pure economic loss is economic loss that is unconnected to a physical or mental injury to the plaintiff's person, or physical damage to property. It is distinct from consequential economic loss, being economic loss that results from damage to the plaintiff's rights, such as wage losses or costs of care incurred by someone injured.

The current categories of pure economic loss between private parties are: (1) negligent misrepresentation or performance of a service; (2) negligent supply of

shoddy goods or structures; and (3) relational economic loss. The distinguishing feature among each of these categories is that they describe how the loss occurred. However, a duty of care cannot be established by showing that a claim fits within one of these categories, as they are but mere analytical tools. Invoking a category offers no substitute for the necessary examination that must take place into whether the parties were at the time of the loss in a sufficiently proximate relationship. Proximity is and remains the controlling concept.

In the present case, proximity cannot be established by reference to a recognized category of proximate relationship, nor by conducting a full proximity analysis. Though the franchise agreement worked a vulnerability upon the franchisees, it did not have the effect of establishing a proximate relationship between them and Maple Leaf. The franchisees were not consumers, but commercial actors whose choice to enter into that arrangement substantially informed the expectations of their relationship with Maple Leaf. As there is no relationship of proximity between Maple Leaf and the franchisees under the Winnipeg Condominium rule, there is also no proximity for the purposes of recognizing a novel duty of care.

Conclusion: Maple Leaf does not owe a duty of care to the franchisees in respect of these matters. The appeal was dismissed.

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15. **Supreme Court of the United States**
Chiafalo v. Washington 591 U.S. _ (2020)
https://www.supremecourt.gov/opinions/19pdf/19-465_i425.pdf

Facts: It is a case on the issue of "faithless electors" in the Electoral College arising from the 2016 United States presidential election. The Party appointed presidential electors voted contrary to Washington state law requiring that they cast their electoral college ballots for the winner of the popular vote. The appellants appealed against the fines imposed arguing that the fines were unconstitutional. On appeal to the Washington Supreme Court, the appellants moved for direct review. The state supreme court affirmed the ruling of the trial court.

Issue: Whether the enforcement of a Washington state law that threatens a fine for presidential electors who vote contrary to how the law directs i.e. to a candidate who won the most popular support in the state is unconstitutional for the following reasons: (1) a state has no power to legally enforce how a presidential elector casts his or her ballot ; (2) a state penalizing an elector for exercising his or her constitutional discretion to vote violates the First Amendment?

Analysis: The US Supreme Court in a unanimous ruling (9-0) observed that a state may enforce an elector's pledge to support their party's nominee and the state voters' choice for President of the United States. It was opined that the Electors'

constitutional claim had neither text nor history on its side and the electors were not free agents.

Conclusion: The US Supreme Court affirmed the Washington Supreme Court's decision.

LIST OF ARTICLES:-

1. **STATUTE LAW REVIEW**
   https://doi.org/10.1093/slr/hmz019
   Why Is There So Much Bad Legislation?
   Lord Lisvane

2. **OXFORD JOURNAL OF LEGAL STUDIES**
   https://doi.org/10.1093/ojls/gqaa024
   The United Kingdom's Statutory Constitution by Athanasios Psygkas

3. **INTERNATIONAL JOURNAL OF CONSTITUTIONAL LAW**
   https://doi.org/10.1093/icon/moaa038
   Constitutional democracy in the time of elected authoritarians
   By Wojciech Sadurski

4. **PUBLIC LAW (**Issue 4 October 2020)

   The dawn of proportionality in Singapore by Marcus Teo