

Scenario 204

PANAMA LEAKS UN-DRESSED MANY

In Pakistan, a law titled as ***Protection of Economic Reforms Act of 1992*** was designed to protect the transfer of foreign currency abroad and to avoid scrutiny and it was originally put in place to protect the interests of foreign investors.

In April 2016; after Panama Leaks, argument sessions gripped Pakistan and its media that under the country's legal framework, the disclosures made in the Panama Papers cannot be investigated.

The fact remains that high valued individuals and businessmen routinely use offshore companies, largely to dodge questions about the source of funds as well as taxes. The funds might have been legitimately earned, but in equal measure the money moving through accounts linked to offshore companies could have been accumulated through miss-declarations, under-invoicing or over-invoicing, or misappropriated from bank loans provided for working capital purposes from where they are siphoned abroad and then brought back as '**personal foreign remittances**'.

WORLD MEDIA KNEW SHARIFs' EVILS:

The investigation into Sharifs was originally commissioned in 1993 by an interim government in Pakistan, after Nawaz Sharif's dismissal as prime minister, which asked the FIA to investigate 13 separate allegations of corruption and money laundering through overseas bank accounts.

It was the London-based daily '**Observer**' dated **27th September 1998** that first published a consolidated report on Sharif's corruption. The newspaper maintained that ***it had confirmed the veracity of the charges through its own sources before publishing*** the explosive

story. Other British newspapers followed it. First time the detail of massive wealth that Sharifs had amassed abroad came to the surface in West.

UK's leading newspaper '**The Independent**' dated **19th October 1998** published the "*.....news surrounding the Prime Minister of Pakistan, Nawaz Sharif, over multimillion-pound corruption allegations.*

*[Inquiries by **The Independent** established that bank accounts containing pounds 5m were set up in the names of three members of a British family [Kashif Qazi etc] from Ilford, Essex. These deposits were used to raise millions of pounds in loans which, according to documents detailing Pakistan police inquiries, were channelled into Sharif family-owned businesses.*

*The documents alleged that money was laundered through '**fictitious bank accounts**' and, using family business interests, was siphoned into offshore accounts.*

The allegations against Nawaz Sharif raised by Pakistan's Federal Investigation Agency [FIA] - has produced an unofficial 200-page report into Sharif businesses.

The investigation into Nawaz Sharif and his family was originally commissioned in 1993 by an interim government, after Mr Sharif's dismissal as prime minister, which asked the agency to investigate 13 separate allegations of corruption and money laundering through overseas bank accounts.

The criminal charges against members of the Sharif family were dismissed in the Pakistan High Court after Nawaz Sharif returned to power 18 months ago, in March 1997.

*{How it happened – see '**Judges & Generals in Pakistan**' Volume I & II [2012] GHP Surrey UK at www.inamsehri.com}*

*The Sharif family is understood to control **four luxury apartments in Park Lane, London, worth about pounds 3m. currently studying at King's College London, is living in one of the properties.**]"*

Weekly '**TIME**' of **19th October 1998** had also noted that:

*".....that **Nawaz Sharif and his family have stashed away more than \$70 million in offshore accounts and taken long-term leases on several flats in London's posh Mayfair district.** The claims, later denied by Nawaz Sharif, followed the Prime Minister's decision to freeze foreign currency accounts across the country, wiping out ordinary Pakistanis' dollar savings."*

See another lead by TIM WEINER and STEVE LeVINE published on **21st October 1999 in New York Times:**

"..... Mr. Sharif, the ousted Prime Minister..... was accused in a formal report submitted to Pakistan's President, that in year 1993, Mr Sharif.... paid \$60 in income tax. When his rival, Ms Bhutto, took power, Pakistan's chief investigative agency [FIA] began to look into the charges of corruption against Mr. Sharif.

*The report, which has been reviewed by **The New York Times**, said Mr. Sharif used ill-gotten gains to buy, among other things, **\$5 million worth apartments bought with laundered money siphoned from Pakistani banks.**"*

The NYT had given full details of **dummy companies as repositories** for millions of dollars with specific mention of names of account holders, the banks and transactions. The newspaper especially mentioned that:

*".....When he [Nawaz Sharif] served as a minister under Pakistan's last military dictator, Gen Ziaul Haq, who seized power in 1977, the **[Ittefaq] foundry** became a diversified holding company of nine industrial concerns.*

***By the middle of his first term (1990-1993) as Prime Minister, it had grown to 30 companies.** The growth of Ittefaq was financed in part by at least \$200 million in unsecured loans from Pakistan's banks."*

Irony of fate was that no Pakistani court could get proofs of these charges, though these were part of FIA files & record – Panama Leaks were merely giving credibility to those old alleged crimes.

A special report published in '**the guardian**' dated **24th October 1999** contained that:

"The family, whose empire grew hugely while Sharif was in office, was also accused of defaulting on \$120m of state bank loans, a favourite way of milking the public purse. However, the revelations appear to be the tip of an iceberg.

The documents include \$2.74m allegedly deposited in the account of an Essex-based Pakistani family at the Bank of Tokyo in Lahore as security for loans to four Sharif family members.

They also include \$4.6m deposited at the Al Faysal Investment Bank in Islamabad as security for a loan to Hamza Board Mills, a paper and forestry firm in the Sharif family's Ittefaq group.

*Among all his amassed wealth, Sharifsconcealed ownership of a Russian-made Ulan helicopter, which he used during election campaigns. The aircraft, worth more than \$1m, was bought from an Arab prince, Sheikh Abdul Rehman Bin Nasir Al Thani of Qatar, in November 1996 and registered in Sharif's name at the Pakistani Civil Aviation Authority. **'This was a man he could not afford a second-hand Mercedes in early 1980s. How then could he buy a helicopter?'***

Most explosive of all, however, is likely..... laundering of more than \$100m offshore via a network of UK trusts, Swiss accounts and offshore havens including Liechtenstein.

.....investigation has revealed other instances of alleged corruption during Sharif's last administration:

- In 1996 senior figures at Bankers Equity Limited, a finance house, granted a huge loan, believed to be more than £10m, to close associates of Sharif. Last summer the bank collapsed and several senior managers, including a friend of Sharif's, were arrested. The loan is outstanding [still never paid out].*
- After the 1997 elections the Sharif family, and their business concerns, were able to reschedule and renegotiate loans worth nearly £100m from eight banks. When ordered by courts to pay some back they surrendered 33 factories. Only one factory was fully operational, the rest closed, out of order, or both.*

• *In an emergency budget after Pakistan's nuclear tests last year, import duties on luxury cars were cut from 325 per cent to 125 per cent. A week later they were restored. In between a friend of Sharif [**Saif ur Rehman, the Ehtesab Chief**] imported 80 [BMW] cars.*

Sharif, his family and former Ministers have consistently dismissed the allegations as politically inspired.

Sharif's former residence, the 100-acre Raiwind estate, near the city of Lahore in eastern Pakistan, is widely seen as a symbol of the opulent lifestyle the Sharifs have led since their pursuit of power and wealth began to pay off 15 years ago. Brand new roads lead out of Lahore, where the Sharifs have two other houses, to the walled 100-acre estate [ending 1980s].

[In 2013, Raiwind Estate spreaded to 1700 acres; in 2017 it is widely believed that it was circa 2300 acres]

*Raiwind is, to the ousted Prime Minister's critics at least, a symbol of how his administration manipulated government to benefit itself. Sharif has **'used public office for personal economic gain'**. It is corruption even if it is within the letter of the law.'*

Soon after coming to power for a second time in February 1997, Sharif declared the Raiwind site to be the 'Prime Minister's Camp Office' - his home away from the capital. The local municipal authority took on the estate's maintenance at an estimated annual cost of Rs:40 million (£500,000) and built a new road for it, while the state has also supplied gas, electricity and a 200-line telephone exchange [on poor people finance]."

One can compare these statements with that of Hussain Nawaz's interviews on Pakistan's news channels of March 2016 stating that *Al-Hamdulillah* – we got those flats in 2006.

For the PM Nawaz Sharif, the timing of the said **Panama Leaks** could not have been worse. The PTI again roared to launch another wave of protests against the PML[N] government. The PM proved to be an ordinary politician: one who had neither courage nor the political will to provide leadership to the country. Even after coming to power with a heavy mandate, Sharifs were not able to rule successfully.

For the most part, Nawaz Sharif's third tenure as prime minister was being marred by allegations of mass corruption in the garb of metro-links, Orange Train project, Chinese Power projects with coal as fuel and CPEC's selective ventures. As the PM went soft on extremists, the leadership space was soon filled by the Chief of Army Staff, Gen Raheel Sharif, who proved himself tough on extremism.

The Panama revelations further limited the prime minister's say in matters related to national security and foreign policy.

The offshore companies are not charity - so why in Pakistan the politicians were going around in circles while asking for multifarious proof. It required no forensic audit, no Sherlock Holmes sleuthing - the facts as listed in Panama Leaks were so strong that the Sharifs were in no position to deny them – BUT the Supreme Court didn't believe ICJ's proofs.

The PM Nawaz Sharif protested his innocence while appearing pious in his TV address – and throwing a blanket of confusion over the entire issue. He spoke of a judicial commission to look into the allegations against them.

PML[N]'s entire team of ministers virtually knocked at doors of each retired judge but no one agreed to be dragged into the sand grave of Sharif's affairs.

[Till 12th April 2016, two former CJs of the Supreme Courts, Nasirul Mulk and Tassadiq Hussain Jilani, and five retired judges, in their individual capacity, had straightway refused to become part of the said proposed Judicial Commission.

CJP [rtd] Iftikhar M Chaudhry was ready to bear that bundle of filth on his shoulders but the PML[N]'s big-wigs were not ready to believe him anymore.]

Ashraf J Qazi, in the '**Dawn**' dated **12th April 2016** summarized:

'Pakistan has long been rated as one of the most corrupt countries of the world especially if its corruption is measured as a proportion of its economy size. The financial probity of the leadership of the country's two major national parties is reputed to be very dubious.

But what else is new? Pakistan's norm has long embraced criminal and self-serving political leadership.'

Instead of coming clean on the money trail of his family's huge alleged offshore and foreign assets, PM Nawaz Sharif wanted the media to believe that all was owed to some divine help and the business acumen of his exceptionally talented sons.

As per his televised speech, the intelligentsia worried what exactly was this commission supposed to do? Could it impartially probe the other mega financial scandals in the country spanning more than two decades?

With no clarity about its mandate, the credibility of the proposed commission remained questionable since the first day. Most of the opposition parties out rightly rejected the proposal and, as stated above, not surprisingly, several reputed former judges had declined to head the probe. Going by past experience, one could hardly hope for any impartial inquiry into the scandal.

While the focus was entirely on the Panama Leaks, the real issue that was to be investigated was the money trail – but disclosures about the family's alleged offshore accounts - assets had already been published in world's leading newspapers and as earlier as in 1990s. Then, Sharifs were quick to term those published reports as 'malicious' and threatened to sue the papers – but could never.

Referring to the daily '**Dawn**' dated **29th January 2015**; the value of assets of Sharifs in Pakistan and abroad were:

*"According to the statement of assets and liabilities submitted by **Punjab Chief Minister Shahbaz Sharif** to the Election Commission, the total value of his two properties in London is over Rs:153 million. On the other hand, he has assets worth Rs:108.24m in the country – a 553-kanal agricultural plot (Rs:3.6m), two properties in Murree (Rs:16.60m), investments in the industrial sector (Rs:720,000), a gifted Land Cruiser (Rs:20.82m) and cash as bank balance (Rs:66.59m).*

The total value of his assets in the United Kingdom and Pakistan stands at Rs:262.29m, but he has a liability of Rs:130.22m and, therefore, his net wealth amounts to Rs:132.06m.

Interestingly, his first wife Nusrat Shahbaz is wealthier than him. She has net wealth of Rs:276.03m — three houses (Rs:186.58m) and over 810 kanals of agricultural land (Rs:51.53m). Nusrat Shahbaz's investments in spinning mills, textile mills, poultry farms,

sugar mills, dairy farms, an energy company and plastic industry stand at Rs:8.78m. Her bank balance stands at Rs:20.96m.

The second wife of the Punjab chief minister, Tehmina Durrani, has assets worth Rs:9.23m, two cars and Rs:24,380 in cash and bank balance with liabilities of Rs:600,000 in total.

*The total wealth of **Shahbaz Sharif** and his two wives stands at Rs:417.32m. Hamza Shahbaz was wealthier than his father with net assets of Rs:250.46m in January 2014. His two wives owned wealth of Rs:2.45m and Rs:9.88m respectively.*

***Nawaz Sharif** had no asset abroad on papers - he receives huge sums from his son Hussain Nawaz living in UK. Nawaz Sharif's assets witnessed a steady growth after he assumed the office of prime minister in 2013 and the total worth of his assets increased 12-fold – as per estimation.*

*Starting with just over Rs:166m in 2011 and growing to Rs:261m in 2012, Nawaz Sharif suddenly became a billionaire in 2013 and the declared value of his assets **in 2014 reached Rs:2.36 billion**. He owns no house and lives in a house owned by his mother.*

In January 2014, Kalsoom Nawaz, the wife of Nawaz Sharif, had net wealth of Rs:235.85m. She owned land and a house in Changa Gali, Abbottabad, worth Rs:63.75m, a bungalow on Mall Road in Murree worth Rs:100m, 88 kanal of land in Sheikhpura worth Rs:70m, jewellery of Rs:1.5m and shares in family businesses. She had Rs:67,555 cash in hand and Rs:55,765 in banks.

Capt Safdar's wealth was worth Rs:14.23m in January 2014.

However, the fact remained that PML[N] leadership was alleged of money-laundering and the people wanted answers - if they had not done any such thing, it was the best time for them to clear themselves.

PM's FAMILY DRAGGED IN WEB:

It was Pakistan's die-heart opponent daily '**the Indian Express**' dated **3rd April 2016**; which made its headlines on front page titled as:

**Nawaz Sharif family owned,
mortgaged 6 London properties via
British Virgin Islands**

The Sharif family mortgaged four properties to the Deutsche Bank (Suisse) SA for a loan of GBP 7 million.

The said newspaper on its website [*indianexpress.com*] divulged that Hussain and Hassan Nawaz Sharif, and Mariam Safdar, the sons and daughter of Pakistan Prime Minister Nawaz Sharif, set up at least four offshore companies in British Virgin Islands [BVI]. These companies owned at least six upmarket properties overlooking London's Hyde Park.

Thousands of Mossack Fonseca [MF] documents reviewed by The Indian Express and subsequent enquiries revealed that the Sharif family mortgaged four of these properties to the Deutsche Bank (Suisse) SA for a loan of GBP 7 million and the Bank of Scotland part financed the purchase of two other apartments.

While the Pakistani media had connected some of these BVI companies and London properties to the Sharif family in the past, Nawaz Sharif has denied ownership of any such property.

*[Hussain and Hassan Nawaz Sharif, and Mariam Safdar, did not respond to queries emailed to them by **The Indian Express**; however, **it was the newspaper which first time placed copies of necessary documents, duly signed by the Sharif family members, on its website.**]*

In nut-shell, the Indian Express detailed all the information held by Panama's **Mossack Fonseca** [MF] and investigations done by the ICIJ including of Nescol Limited and Nielson Holdings Limited, Mariam Safdar's role through Minerva Trust which described her as the beneficial owner of both companies.

The Indian Express also gave details of Hussain and Mariam's mortgage agreement for Coomber Group Inc, BVI law firm Farara Kerins's two legal opinions which had identified "**properties / flats at Park Lane, London W1K 7AH and car parking space 9 and box room 6... registered... with Title Numbers NGL342976 and NGL342977 respectively**".

The Indian Express also mentioned Hussain and Mariam's dealing with Deutsche Bank through three BVI companies which were used to raise loan of £7m in cash and in "**liquid assets**". Deutsche Bank said:

"We fully recognise the importance of this issue. We have enhanced our procedures for bringing clients on board and verifying with whom we are doing business, and our policies, procedures and systems are designed to ensure that we comply with all applicable rules and regulations."

[Note: Deutsche Bank's record held that the flats in question were at Avenfield House overlooking Park Lane, where Sharif was once photographed at a press conference with his political rival Benazir Bhutto. They were held by two BVI entities on the books of Mossack Fonseca, Nielsen Enterprises and Nescoll Limited.

Using her married name, Mariam Safdar, Sharif's daughter declared herself as the sole shareholder of Nescoll in 2006 in a letter filed with Mossack Fonseca.]

The Indian Express also told that MF invoked the *Anti-Money Laundering and Terrorist Financing Code of Practice (2008)* to grill Minerva Trust & Corporate Services Ltd which revealed that both companies "**were owned by the same beneficial owner Mariam Safdar. Neither property is rented and only occupied by the owner and her family.**"

Meanwhile, MF passed on the details to FIA but assured by Minerva that they were aware of the client's Politically Exposed Person [PEP] status, MF ordered compliance monitoring every six months and decided not to provide nominee [proxy] directors or shareholders for Mariam's companies.

In August 2007, MF was told that Hassan had purchased the issued share capital in Hangan from Cascon Holdings (Liberia). Asked to take a call by MF's compliance department in October 2007, Jurgen Mossack wrote: "*Si, correcto. NO aceptar el cliente en forma directa, por mi parte (Yes, correct. As far as I'm concerned, DON'T accept client directly).*"

On 4th April 2016; just after few hours PM Nawaz Sharif and his family was named in the Panama Leaks – one of the biggest leaks in history – Hussain Nawaz Sharif told **Geo TV** that:

"....his family had done nothing wrong. Those apartments are ours and those offshore companies are also ours.

There is nothing wrong with it and I have never concealed them, nor do I need to do that.

It is according to British law and laws of other countries that it is a legal way to avoid unnecessary tax via offshore companies."

Hussain Nawaz also told that he left Pakistan in 1992 and was therefore not resident; adding that:

"Pakistani tax law says that if you are not staying in Pakistan for more than 138 days, then you are not required to declare your assets".

On the same day Pakistan *Tehreek-i-Insaf* [PTI] chief Imran Khan claimed that the revelations in the Panama Papers vindicated his party's stance and reiterated his call for fresh elections and probes by the National Accountability Bureau [NAB], Federal Board of Revenue [FBR] and the Election Commission of Pakistan [ECP]. On Imran's call for NAB to investigate the matter, Hussain Nawaz said:

"We voluntarily present ourselves before it or any other judicial and investigative institution in Pakistan. Khan has to provide proof that the prime minister has not declared his assets.

If he [Imran Khan] is successful in that then we are ready to accept our fault and undergo punishment."

Meanwhile, speaking to the press on the same day, Federal Information Minister Pervaiz Rashid strongly rejected revelations of the Panama Papers while arguing that:

"Two children of [Nawaz] Sharif used to live abroad. They did not do any illegal work, all their assets are white money, and there is nothing wrong in it. Can Imran Khan or other politicians claim none of their kith or kin reside abroad or do business offshore?"

In 1970, Sharifs' companies were nationalised without due compensation, their homes were snatched, was that not injustice? They decided their father is in politics and so they'll stay away from

politics. They were forced to take these decisions by authoritarian rulers of the past."

On 5th April 2016; the prime minister of Pakistan, Iraq's former interim prime minister and the president of the Nigerian senate were among those whose links to London property were detailed by the MF files.

Also named in the files was Mariam Safdar, the daughter of the Pakistani PM Nawaz Sharif. A 2012's email identified her, usually known as Mariam Nawaz Sharif, as having been the beneficial owner of two offshore companies that each owned flats in Avenfield House on Park Lane London.

The Sharif family has previously denied any impropriety in relation to the property, saying they were bought because the Sharif children were studying in London.

[BUT see some scripts condensed from a special report published in UK's daily 'the guardian' dated **10th April 2000** titled as ***Sharif set for grilling on wealth*** wherein it is said that the prime minister NS had bought Park Lane apartments with stolen money. The said report was written by paper's correspondents **Luke Harding & Rory McCarthy**.

*"Pakistan's jailed former Prime Minister, Nawaz Sharif, received two life sentences for hijacking and terrorism, is asked how he was able to purchase four Park Lane apartments. Investigators have discovered that **the Mayfair properties are registered to two offshore companies in the British Virgin Islands**.*

....the officials accused Sharif of concealing ownership of the properties and formally registered a corruption case against him; he faces four other corruption charges, with at least seven more cases pending. Farouk Adam Khan, the Chief Prosecutor, said:

"Sharif was involved in evasion of taxes, money laundering, circumventing procedures and railroading legislation specifically to benefit family concerns. We would like to confront him with information we have collected."

Sharif's six co-defendants, who were last week acquitted in the hijacking case, have been arrested again. His brother Shahbaz, a former chief minister of Punjab, has been moved to the Attock Fort jail, pending a corruption trial.

*Investigators have been attempting to trace his assets; they claim that he siphoned off "**hundreds of millions of pounds**" from Pakistan throughout his political career, hiding the money in Jersey, Guernsey and Switzerland.*

Sources at Pakistan's national accountability bureau [NAB] say that Mr Sharif concealed ownership of his Park Lane apartments by registering them in the name of two British Virgin Island offshore companies. The flats are managed by a firm of British solicitors. The companies have two Swiss bankers as nominees. Mr Khan added that:

"We believe the money used to buy these apartments was stolen from the people of Pakistan."

*Sharif, who is 50, allegedly bought the properties with money borrowed from state-run Pakistani banks, and failed to repay it. **Although technically bankrupt, he is one of Pakistan's richest men.** He owns an estate, several townhouses and a lucrative steel, sugar, textile and paper empire. All these are **registered to his wife Kulsoom, daughter Mariam** and other relatives. They deny impropriety.*

*"Having property is not illegal. The Sharif family is not at all corrupt and insha'Allah (God willing) we will prove it one day," Mrs Sharif said recently. **"The Park Lane flats were bought because the children were studying in London."***

For the past six months investigators have been piecing together how Sharif's wealth increased by 800% since his appointment as Punjab chief minister in 1985, and between 1990-1993, when he first became prime minister. He is accused of failing to pay tax on a Russian Mi-8 helicopter, not declaring income tax and defaulting on two loans worth £24m.

Sharif's younger brother Abbas and son Hussain have been in prison for several months. So far they have not been chargedSharif's family insist that he still runs the party from jail.

*[Meanwhile]...the Sharif family issued a statement declaring that **"Safdar is not a beneficiary or owner of any of these companies"**.*

Separately Sharif's son, Hussain, said that:

"...the family had done nothing wrong. It is according to British law and laws of other countries that it is a legal way to avoid unnecessary tax via offshore companies."

ICIJ's report, referring to Sharif's family, Maryam Safdar, Hussain Sharif and Hassan Sharif, was supported by certain documents which included:

- 1. Two letters both dated 22nd June 2012 containing a response by Mossack Fonseca to queries apparently raised by the Director Financial Investigation Agency of the British Virgin Islands.*
- 2. A share transfer form in respect of the transfer of ten shares of Hangon Property Holdings Ltd to Hassan Sharif.*
- 3. An agreement executed by Coomber Group Inc as pledger signed by Maryam Safdar and Hussain Sharif.*

On the same day of **5th April 2016**, UK's daily '**the guardian**' wrote more details about PM Nawaz Sharif's family affairs and noted that:

*"In April 2000, after Sharif had been toppled from his second term as prime minister and put in prison by Pakistan's then military leader [Gen] Musharraf, the country's Chief Prosecutor repeated the allegations, saying: **We believe the money used to buy these apartments was stolen from the people of Pakistan.**"*

A day before, the Sharif's family responded to the furore in Pakistan with a statement on a full page of Twitter saying the Panama Papers *"have made no allegations of wrongdoing against the Sharif family and that all of the corporations owned by the Sharif family are legal and financially sound"*.

In their statement, the family said the companies in question belonged to Hussain Nawaz Sharif and not his sister, and that he had filed all relevant tax returns. *"Ms Mariam Sharif is merely a trustee of the corporations owned by Mr Hussain Nawaz."*

The newspaper daily '**the guardian**' of **5th April 2016** also said that investments in sugar and iron businesses in the 1980s had made the Sharifs one of the wealthiest families in south Asia and the Park Lane flats were bought between 1993 and 1996.

Leaked data showed that Mossack Fonseca until 2012 didn't realise that it was acting as agent for the companies. Sharif returned to power for a third term as prime minister in 2013. The firm was concerned enough to place the companies on a watch list, ordering their checks every six months.

[A note on the files warned not to offer Mossack Fonseca's own staff as nominee directors or shareholders. The BVI authorities were alerted, in a letter that mentioned Mariam Safdar was the owner of Nielsen and that the company had a loan with Deutsche Bank in Geneva.

But the firm appears to have carried on processing paperwork, including the appointment of new directors, and acted for the Sharifs until their companies were transferred to another representative two years later.]

Till ending April 2016, Pakistan *Tehreek e Insaf* [PTI] Chairman Imran Khan had taken a firm stand against Prime Minister Nawaz Sharif's claim that the International Consortium for Investigative Journalists [ICIJ] had issued an apology for including the premier's name in Panama Papers.

TERMS OF REFERENCE [TsOR] COINED:

On 21st April 2016; PM Nawaz S, while holding a special *darbar-like* sitting of senior members of the cabinet, advisers and party leaders, warned that those who tried to create instability in the country had failed in the past and would not succeed in the future either. Resolving to hasten the process of setting up a commission to investigate the allegations thrown up by the Panama Leak could be non-productive. The PM held:

"...opponents are worried that if the present government completes its five-year term, they will be left far behind politically. Our hands are clean, and we have emerged successfully from even the most stringent of accountability".

In the aftermath of the Panama Leaks and the publicising of GHQ decision to dismiss their twelve officers, the PM's rather direct remarks were viewed with great interest by all the media and civil society.

In a detailed press statement released after the meeting, the PM highlighted his government's economic progress over the past three years,

and explained how he intended to spend his remaining couple of years in office. **"By 2018, there will be no load-shedding in the country,"** he vowed once again.

In that meeting all sorts of suggestions were made: some argued in favour of a parliamentary committee, others said let's go ahead with the option of retired judge-headed commission. However, there was a broad agreement to resolve the issue as soon as possible, because a delay would only provide opposition parties more ammunition against the government.

Albeit; the PM was trying to avoid setting up a judicial commission then and wanted the investigations to satisfy the opposition. At last, the PM said:

"I want to settle this issue once and for all; therefore, the investigations need to be constitutionally, technically and legally airtight."

PML[N]'s Law Minister, while explaining the different options available to the government, quipped ***"Prime Minister Sir, you always have the option of fresh elections to satisfy the opposition."***

A mixed feeling of smiles – and then a deep silence was seen.

On 22nd April 2016; PM N Sharif, in his address to the nation, announced to write a letter to the CJP Anwer Zaheer Jamali, ***requesting to form a commission over Panama leaks.***

Addressing to the nation amidst immense pressure of opposition parties and Army's self-accountability, the PM, in an exceptional move presented himself for accountability along with all his family.

In the address, he added that the allegations placed through Panama Leaks were 22 years old and that the urge of certain people to attain authority was leading the country towards destabilisation. He stated that his family had been paying taxes for a long period of time. He said:

"People of Pakistan have awareness, the media of the country is independent and needs to take into account the reality of the matter. He will relinquish his designation if the allegations

levelled against him are proven true.

By God's grace, our hands are clean; we have faced ruthless accountability in the past too, with success.

The nation is focused on economic progress and prosperity, and will not let anyone create any obstacle in the way. The Pakistan of today is far better than the one three years back. The whole world acknowledges this.

He will write a letter to the CJP Anwar Zaheer Jamali to form a commission to investigate the allegations levelled through the Panama Leaks."

The same day the Ministry of Law and Justice wrote a letter to Chief Justice Jamali for making out an inquiry commission to probe alleged allegations.

The letter written to Arbab Arif Registrar SC stated that as pursuant to reports in the national and international media regarding involvement of Pakistani citizens, persons of Pakistan origin and legal entities in offshore companies, the federal government wishes to appoint a commission of inquiry under Pakistan Commission of Inquiry Act 1956 to inquire into this matter and related matters, to determine, inter-alia whether in any such case, any law in force in Pakistan has been infringed.

For this purpose, it is requested that the Chief Justices of Pakistan may kindly nominate appropriate number of judges of the Supreme Court as members of the Commission, preferable with the CJP himself as its head.

The Commission of Inquiry, to be constituted by Chief Justice of the Supreme Court, had to examine the information relating to involvement of Pakistani citizens, persons of Pakistan origin and legal entities in offshore companies in Panama or in any other country. According to a law ministry document issued by the PM's media office:

1. The Commission of Inquiry shall have the following Terms of Reference:-

(1) to examine information relating to:-

(a) involvement of Pakistani citizens, persons of Pakistan origin and legal entities in offshore companies in Panama or in any other country; and,

(b) involvement of former and present holders of public office in:-

(i) writing off their own bank loans or those of their immediate family members through political influence; and,

(ii) transfer from Pakistan of funds which have originated from corruption, commissions or kickbacks;

(2) to determine whether, in any case referred to in (1) (a) and (b) above, any law for the time being in force in Pakistan has been infringed;

(3) in case the answer to (2) above is affirmative, to determine responsibility for such infringement; and,

2. *To make such recommendations as may be deemed appropriate.*

3. *The Commission shall, in addition to the powers under section 4 of the Act, have all the additional powers under section 5 *ibid*, including the powers mentioned in sub-paragraphs (1) to (4) below: -*

(1) The Commission shall have powers under the Code of Civil Procedure, 1908 for:

(a) summoning and enforcing the attendance of any person, including a tax expert or accountant, and examining him on oath;

(b) requiring the discovery and production of any documents;

(c) receiving evidence on affidavits;

(d) issuing commissions for the examination of witnesses on documents; and,

(e) requisitioning any public record or copy thereof from any Court or office.

(2) The Commission shall have the powers to require any person, subject to any privilege which may be claimed by that person under any law for the time being in force, to furnish information on such point or matters as, in the opinion of the Commission, may be useful for, or relevant to, the subject matter of the inquiry.

(3) Any officer not below the rank of a gazetted officer, specially authorized in this behalf by the President of the

Commission may enter any building or place where the Commission has reason to believe that any books of account or other documents relating to the subject matter of the inquiry may be found, and may seize any such books of account or documents or take extracts or copies therefrom subject to the provisions of section 102 and section 103 of the Code of Criminal Procedure, 1898, insofar as they may be applicable.

(4) Any proceeding before the Commission shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 of the Pakistan Penal Code, 1860.

4. *The Commission shall be assisted by all the concerned authorities of the Federal and Provincial Governments.*

5. *The Commission shall start the inquiry at a place and on a date to be fixed by it and shall submit its report to the Federal Government in accordance with its Terms of Reference.*

6. *The Cabinet Division shall provide secretarial assistance to the Commission.*

The fact remains that PM's counter **speech of 22nd April 2016**, appeared on Pakistan's TV screens, was a response to COAS Gen Raheel Sharif's message of '**across the board accountability**' which he conveyed to the nation a day earlier. The PM's speech contained five indications:

- *'One, no one can give me lessons on morality.*
- *Two, accountability must begin from corrupt rulers of the past; indirectly from 1947.*
- *Three, the masses should hold Imran Khan liable for obstructing the 'progress'.*
- *Four, the army is also culpable because Gen Musharraf had sent him home.*
- *Five, the media is being indifferent and relaxed on PM's program.'*

Referring to the US weekly '**Newsweek**' of **24th April 2016**:

".....Clearly seething at the 'media trial' of his children, Sharif also implored the press to be more circumspect and he derisively brought in several rivals, including former president and Army chief Gen Musharraf and PTI Chief Imran Khan, into the mix.

*..... But the government-framed terms of reference for this commission are seen by the opposition and media as being too broad and so the **prime minister's letter to the chief justice also stands rejected**. CJP Jamali [earlier] made it clear that he would be unwilling to take up any investigation because that "**is the task of the government, not the judiciary.**"*

It was anybody's guess that CJP Jamali would not accept that assignment. Before leaving the country for Turkey on a week long tour, he addressed lawyers in Lahore and complained **that litigation of planned delay to earn illicit money should be avoided as that undermined justice**. Coming days were mostly marked by the chaos to be thickened targeting the PML[N]'s **already flawed governance to a standstill**.

As per the terms of reference [TORs] given in the above given letter, required the Judicial Commission [JC] inquire into "**involvement of former and present office-holders of public office**" in writing off of bank loans, and transfer of funds originating from kickbacks and corruption.

Apparently it needed decades to conclude the said enquiry if the TORs were to be seriously followed. If at all the JC proceeded in a transparent and lawful manner, what would be the result of its findings - would be no more than advisory or persuasive in nature.

Applying the provisions of Article 62 and 63 of the Constitution for the PM's removal, the court would be looking towards the Election Commission of Pakistan [ECP] for assistance – the institution which the general populace and Imran Khan's PTI had openly termed '**disgruntled, corrupt and dishonest**' by all means.

In the whole scenario, for the purpose of PM's disqualification, no one wanted to approach the Speaker of the National Assembly, under Article 63(2) of the Constitution, because it was PML[N]'s buddy Speaker. The ECP would again be involved and it could easily consume two remaining years of PM's term in the office till May 2018.

Five cogent questions [the '**Nation**' dated **24th April 2016** is referred] which surfaced just within few weeks of Panama Leaks: concentrating on the issue what would happen next?

- *"Will the Prime Minister resign?"*
- *Will the judiciary bail out the PM Nawaz S [once again]?"*
- *Does the Army want to see change in Islamabad?"*
- *Will this be another long drawn-out inquiry with no real gain?"*

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- *Would one see results within the incumbency of Gen Raheel's tenure?"*

The fact remained that PM's speeches and the statements issued by his sons in the past required a deeper probe into their financial matters. Might be that family members of the PM Nawaz didn't know about the modalities of family business relating with billions of Pakistan's public money but who could believe it. After all, it was the country that ended up believing that CJP Iftikhar M Chaudhary was unaware of Arsalan Iftikhar's treasure chests.

*[For full details of Arsalan Iftikhar's treat, '**The Living History of Pakistan' Vol-I**, Scenario 100-101, pps 1619-1650, published in UK [2015] is referred]*

There is no rule of law in Pakistan and it has never been there. Ideally, the National Accountability Bureau [NAB], the Federal Investigation Agency [FIA] and the Federal Board of Revenue [FBR] should have acted immediately after the leaks. But these institutions have always been used by the sitting government against political rivals. It never happened in Pakistan's 70 years history that they ever conducted impartial investigations against a sitting PM or its cabinet member.

Despite the outrage and outcry over the scandal the law did not come to force against the corrupt politicians. It was only the public pressure that could force Sharifs or Zardaris to come clean on the money trail about his family's offshore and foreign assets – but the whole populace lost the chance to rebuild their country. The Panama Leaks really depicted the corruption of Pakistan's political system that continued to allow the rich and powerful to gut away with plunder and loot.

Sharifs had already lost the moral authority to govern but the Pakistani people were impotent and preferred to go slaves for another indefinite term while keeping their eyes closed over the piles of open foreign record of corruption – spread of ICIJ's hundreds sheets of investigation.