

Scenario 266

TOSHA-KHANA CASES AGAINST KHAN

In the year 2021, the Pakistan Information Commission [PIC] accepted an application of Islamabad-based journalist Rana Abrar Khalid and directed the Cabinet Division to provide the requested information about the gifts received by [then] prime minister Imran from foreign head of states, head of governments and other foreign dignitaries ... description / specification of each gift, information about the gifts taken by the PM and the Rules under which gifts thus received could be retained by him. The Cabinet Division was told to share the required information within 10 working days and upload it on the official web-site as well.

Subsequently, the Cabinet Division had challenged the PIC order in the Islamabad High Court [IHC], claiming that: ***'...it was illegal, (&) without lawful authority'***; on the stance that the disclosure of any information related to Tosha-khana would jeopardise the international ties. In April 2022, the IHC had directed Deputy Attorney General Arshad Kayani to ensure the implementation of the PIC order to publicize details of gifts presented to former premier Imran Khan by heads of states since he assumed office.

ECP's VERDICT – MR KHAN DISQUALIFIED

The case was filed in August 2022 by members of the Lawmakers from the Pakistan Democratic Movement [PDM] — the ruling alliance — had submitted the reference to National Assembly Speaker Raja Pervaiz Ashraf, who subsequently forwarded it to Chief Election Commissioner (CEC) Sikander Sultan Raja for further action. The reference was for Mr Khan's failure to report the details of *Tosha-khana* gifts in declarations of annual assets submitted to the ECP.

On 21st October 2022; the Election Commission of Pakistan [ECP] decided that ***'Imran Khan stands disqualified from holding office as Member of National Assembly and ordered to initiate legal proceedings against Imran Khan'***. It was a landmark decision by the ECP that disqualified Imran Khan, former prime minister of Pakistan, from holding public office for five years. The detailed judgment was announced on 6th December 2023.

On that day, the Commission concluded the inquiry and announced its final verdict in which Khan was disqualified from holding public for offences involving dishonest behaviour, fabricated information, and inaccurate declarations in the reference under Article 63(1)(p). It also ordered the reference to be sent to the trial court for the commencement of criminal proceedings. Mr Khan challenged this verdict, arguing that he obtained the gifts legally from the *Tosha-khana* and used the proceeds from their sale for public investment and development works and not for his person or family.

[The ***Tosha-khana (Pakistan)*** is a department attached to the Cabinet Division for administrative supervision. Established in 1974, it keeps gifts offered to the rulers, lawmakers, bureaucrats, military personnel and other officials by the heads of other states, governments, and international dignitaries. The *Tosha-khana's* rules state that the people to whom the rules apply must report gifts or presents to the Cabinet Division.]

When the news about the decision broke against PTI Chief Imran Khan in the said reference under Article 63(1)(p) for making ***'false statements and incorrect declaration'***, it triggered heavy protests in various cities of the country.

On 22nd October 2022; on the very next day Mr Khan challenged the verdict in the Islamabad High Court [IHC], arguing that he obtained the gifts legally from the *Toshakhana* and had used the revenue from the sale to repair a road leading to his house, which he said also benefited his neighbours. *He also pleaded that previous leaders such as Nawaz Sharif, Yousaf Reza Gillani, and Asif Ali Zardari had purchased expensive gifts from the Toshakhana (including vehicles, the purchase of which is not allowed) for ridiculously low prices: on occasions, less than 20% of the assessed price, with some gifts even being bought for between 5% and 7% of the assessed price.* In contrast, while Mr Khan himself had raised the retention rate to 50% of the

assessed value – the same rate at which he then purchased the gifts. Khan announced the Azadi March II to protest the verdict.

The verdict against the PTI chief came as a big blow to the party (PTI) which, **on 17th October 2022**'s by-elections managed to secure six out of eight National Assembly seats in the crucial by-elections, the victory brought bittersweet moments for the party as the PPP could clinch two — NA-157 Multan and NA-237 Karachi — which were bagged by the PTI in the 2018 general elections. Following up on its resounding victory in the July 2022 by-elections in Punjab — both seen as indicators of public support for the ousted former premier.

[The Pakistan Tehreek-i-Insaf [PTI] on 18th July 2022 had also routed out the PMLN by winning at least 15 seats in the crucial by-elections on 20 seats that got vacated after the disqualification of PTI members who had voted for Hamza Shahbaz for Punjab chief minister's office. Imran Khan called for general election (once more) testing the credibility of the ECP; Maryam Nawaz accepted her party's defeat – as 15 seats went to PTI, four to PMLN.]

Referring to **Iftikhar A. Khan's** essay published in Pakistani media pages on 8th September 2022: The PTI Chairman and former Prime Minister Imran Khan submitted a day earlier, reply to the ECP in the *Tosha-khana* case against him wherein he maintained that the sale of the gifts that he had procured from the state treasury after paying Rs: 21.56 million fetched about Rs: 58 million. The gifts included a highly costly wristwatch, a pair of cuff links, an expensive pen and a ring while the other three gifts included four Rolex watches.

[From July 2018 to June 2019, Imran Khan received a total of 31 gifts and paid for four as under the rules any gift below the assessed value of Rs:30,000 could be retained without any payment.

From July 2019 to June 2020, he received nine gifts and paid an amount of Rs:1.71 million for three of them. He claimed to have gifted these presents to some undisclosed individuals. One of the gifts included a box containing a gold and diamond locket, a pair of ear tops (gold and diamond) and a diamond ring. He deposited Rs:0.544 million to purchase that jewellery.

From July 2020 to June 2021, he received 12 gifts and paid an amount of Rs:12.90 million for five of these. From July 2021 to June 2022, he received six gifts and paid Rs:3.10 million for two of the presents.]

It remains a fact that national GIFTS sometimes come with a political price tag, and the change in governments during such transactions carry significant historical value.

In Mr Khan's case, the then new Prime Minister Shahbaz Sharif alleged on 16th April 2022, just after a week Mr Khan was voted out, alleged:

"....his predecessor, Imran Khan, had sold state gifts in Dubai worth Rs: 140m. The items, presented to him by rulers of foreign countries, reportedly included a wrist-watch from the crown prince of Saudi Arabia."

The former information minister Fawad Chaudhry had responded then that ***'selling one's own assets is not a crime'***.

...EXPLOITATION OF STATE GIFTS (?)

In 2022, six members of the National Assembly had filed a reference to NA Speaker Raja Pervaiz Asharf, claiming that the statements of assets and liabilities submitted by Imran and his wife with respect to the years 2018, 2019, 2020 and 2021 were incorrect. The speaker had referred the matter to the ECP under Article 63(2) of the Constitution.

Certainly rulers, parliamentarians and officials did have the right to acquire state gifts stored in the *Tosha-khana* — but misuse of the privilege by undervaluing the items in question was disturbing for the sane countrymen. That was the crux of a reference filed by National Accountability Bureau [NAB] in 2020 against former prime ministers Nawaz Sharif, Yousuf Raza Gilani and former president Asif Ali Zardari. FIA had also started investigating the alleged sale of a necklace, gifted to Mr Khan while he was premier, for Rs: 180m to a jeweller in Lahore in lieu of a token amount paid to the *Tosha-khana*. See the comments of a civil nationalist:

"One fails to understand the (PTI) government's insistence on keeping this information outside the public domain. The gifts have been given to the prime minister not in his personal capacity but as the representative of the people of Pakistan. In fact, according to the Tosha-khana rules, articles likely to depreciate in value if unused are to be disposed of through public auction, with the proceeds deposited in the government account.

That's also not unimportant matter of optics. How does it reflect on the former PM that after acquiring the items at a fraction of the price, he chose to sell them for profit while the nation had been asked to tighten its belts."

The PTI government had been unnecessarily wary when asked to provide details of gifts presented to Mr Khan since 2018, resorting to the implausible argument that such disclosure would jeopardize international ties. Allegedly, the PTI didn't cooperate fully with the investigation, which also included the aspect that how the value of the gifts was determined before their sale to Mr Khan on reduced rates.

As per Mr Khan's statement, as many as 329 gifts were received by different functionaries during his tenure; out of which 58 gifts, including vases, art pieces, lockets, and decorative items, were presented to him and his spouse Bushra Bibi between 1st August 2018, and 31st December 2021. Out of all those gifts, there were only 14 items worth more than Rs:30,000, which he bought by paying money as per the procedure then in vogue.

Barrister Ali Zafar, while representing the PTI Chief, urged the five-member ECP bench to quash the reference against the former premier as he termed it a 'misleading case based on mala fide intentions and political motives'. During the hearing, Mr Zafar told that the disqualification case was to be made under Article 63(2), while in the reference sent to the ECP, Imran Khan's disqualification had been sought under Article 62(1)(f). He emphasised that the ECP was not the forum to hear the case under Article 62(1)(f) in proceedings of Article 63, adding that Article 62(1)(f) could only be applied by a court, not by the (ECP) Commission.

The ECP decided the matter on 21st October 2022, disqualifying Khan under Article 63(1)(p) of the Constitution read with sections 137, 167

& 173 of the Elections Act 2017. From Mr Khan, the reply responded to the earlier narrated allegations was that:

"The four gifts were sold during the 2018-19 financial year and the respondent did not have owned those gifts by 30th June 2019. Therefore, those were not mentioned by name in the statement of assets filed on Dec 31, 2019. The sale amount was received in [a] Bank Alfalah account and that amount was duly mentioned. Moreover, the total cost of gifts standing at Rs:21,226,000 was paid by the respondent and declared in the tax-return for the year 2019.

Also, that the reference is not competent in the first place as no reference under Article 63(2) of the Constitution could be referred to the commission unless one or more of the 'sixteen questions' are involved. Those 'questions' are contained in Article 63(1)(a) to Article 63(1)(p).

Since none of those questions are involved and not even barely referred to in the titled reference; therefore, the reference is utterly baseless and misconceived; the ECP is asked to dismiss the case."

The said reference against Mr Khan was filed by MNA Barrister Mohsin Nawaz Ranjha carrying signatures of lawmakers Agha Hassan Baloch, Salahudin Ayubi, Ali Gohar Khan, Syed Rafiullah Agha and Saad Waseem Sheikh and it was subsequently forwarded to the ECP including documentary evidence to corroborate their claims against Khan seeking his disqualification under Sections 2 and 3 of Article 63 of the Constitution, read with Article 62(1)(f).

[Article 62(1)(f) says: "A person shall not be qualified to be elected or chosen as a member of Majlis-e-Shoora (Parliament) unless [...] he is sagacious, righteous and non-profligate, honest and ameen, there being no declaration to the contrary by a court of law."

Article 63(2) says: "If any question arises whether a member of Majlis-e-Shoora (Parliament) has become disqualified from being a member, the Speaker or, as the case may be, the Chairman shall, unless he decides that no such question has arisen, refer the question to the Election Commission

within thirty days and should he fail to do so within the afore-said period it shall be deemed to have been referred to the Election Commission."

*While, **Article 63(3)** reads: "The Election Commission shall decide the question within ninety days from its receipt or deemed to have been received and if it is of the opinion that the member has become disqualified, he shall cease to be a member and his seat shall become vacant.*

In February 2018, the Supreme Court had ruled that an individual disqualified under Articles 62 and 63 of the Constitution could not serve as head of a political party.

The apex court's verdict was in response to petitions challenging the Elections Act 2017, which had been bulldozed through parliament to pave the way for Nawaz Sharif's return to the PMLN's helm as party president after he had been deemed unfit to hold public office in the Panama Papers judgment for not being 'honest' and 'truthful' in discharging his obligations as a lawmaker — both necessary conditions to hold public office under Article 62(1)(f).]

CASE SENT FOR CRIMINAL TRIAL:

In the light of its findings, Khan's admission and the petitioner's evidence, the ECP saved the decision in the **Tosha-khana Reference**. Next day, the ECP announced its saved decision applying to the present term of the National Assembly and disqualified Khan for allegedly engaging in unethical behaviour, making false assertions, and making erroneous declarations in the reference under Article 63(1)(p). It also ordered the reference to be sent to the trial court to initiate criminal proceedings.

A four-member bench, headed by Chief Election Commissioner (CEC) Sikander Sultan Raja, announced the verdict at the ECP Secretariat in Islamabad. The decision was taken by the five-member bench. However, the member from Punjab was not present for today's announcement.

On 21st November 2022; the ECP sent the trial court a reference regarding the *Tosha-khana case* for the commencement of criminal proceedings against Mr Khan. In accordance with Sections 137, 170, and 167 of the Election Act, the District and Sessions Judge received the reference. The written decision stated that Khan had intentionally and deliberately broken the laws outlined in sections 137, 167, and 173 of the Elections Act of 2017 by providing a false statement and incorrect declaration to the ECP in the details of his assets and liabilities filed by him for the financial year 2020–21.

The ECP alleged Khan engaged in corrupt acts, as described in Sections 167 and 173 of the Elections Act of 2017, which is criminal under Section 174 of the same law, by making false statements and erroneous declarations. In accordance with Section 190(2) of the Elections Act, the Commission had ordered criminal charges be brought against Khan for making a false declaration.

On 27th December 2022: On a petition from the PTI, the *Islamabad High Court [IHC]* instructed the Cabinet Division to report the specifics of gifts obtained from *Tosha-khana* since 1947. Khawaja Haris was hired by Khan's party, the PTI, as its lawyer for the said case.

[Fact remains that the Cabinet Division NEVER bothered to submit that report till today – and would NEVER come up in future.]

Hearing conducted **on 10th May 2023;** *in fact a mockery of 250 years old judicial system still prevailing in Pakistan*, the questions discussed were whether the complaint was filed on behalf of the ECP by a duly authorised person, whether the ECP's decision was a valid authorisation to any officer of ECP to file a complaint, and whether the question of authorisation was a question of fact and evidence and could be ratified subsequently during the course of proceedings.

On the other hand, the criminal proceedings in the Session Courts had taken start on the reference against Imran Khan sent by the ECP. Hearings resumed **on 8th June 2023**. Mr Khan was indicted by Additional Sessions Judge Humayun Dilawar, who did not agree to objections on the case's sensibility.

On 4th July 2023, the IHC Chief Justice Aamer Farooq presiding, asked Judge Dilawar to re-evaluate Khan's application to dismiss the criminal proceedings in seven days. The Islamabad High Court (IHC)

accepted PTI Chairman Imran Khan's petition, seeking dismissal of a criminal complaint filed against him in a trial court by the Election Commission of Pakistan (ECP) with regard to the Tosha-khana Case.

Remanding the matter back to the court of Islamabad's additional Session's judge, the IHC directed the judge to decide the matter afresh within seven days. An eight-page order authored by IHC Chief Justice Aamer Farooq said:

"It is reiterated that [the] learned trial court has left the issues undecided and has dismissed the application of the petitioner with scanty reasons which left the main legal issues undecided or unresolved.

It would be only proper for the learned trial court to decide the application afresh after hearing the parties with detailed reasons keeping in view the provisions of Article 10-A of the Constitution as the foremost consideration."

The ECP also initiated proceedings against Imran Khan under Section 190(2) of the Elections Act, 2017 and filed a criminal complaint in the Islamabad Sessions court against the PTI chief on 7th November 2022 for allegedly making a false declaration about his assets and liabilities.

The court, after recording cursory statements and examination of the documents, issued summons / notices to the PTI chief. Imran Khan on 13th March 2023 moved an application in the court for dismissal of the complaint. The former premier took the stance that the ECP had filed the criminal complaint without due authorisation and that the same was also barred by limitation in the light of law—Section 137(4) of the Elections Act, 2017, which says such criminal proceedings can only be started within 120-days on the submission of statement of assets and liabilities.

On 5th May 2023; Imran Khan filed another application for rejection of the complaint as being in violation of Section 193 of the Code of Criminal Procedure (CrPC). However, the court rejected both the applications through a consolidated order on the same day. Imran later approached the IHC, assailing the trial court's order to the extent of dismissal of the ECP complaint on the basis of '*limitation and authorisation*' pleas.

On 23rd May 2023; Mr Khan's arrest warrants were cancelled after Khan officially marked his appearance at the court. Khan's car reached the gate of the court building during confrontations between police and supporters of his party PTI. Allegedly the police had used brutal force against the PTI supporters. There were clashes between police and PTI supporters when former PM Khan arrived at the Judicial Complex in Islamabad because the PTI workers had thrown stones at police without any provocation; the police responded with tear gas. One senior police officer commented:

"PTI chief Imran Khan's journey so far was peaceful and pleasant. Police continued to show restraint, but as soon as his convoy came close to the court, stones were pelted at the police and other security personnel."

However, the party wrote on its Twitter account in Urdu: *'Islamabad Police are shelling the vehicle and caravan of Tehreek-e-Insaf Chairman Imran Khan unprovoked. The aim is to create chaos and prevent Imran Khan from appearing in court.'* In an audio message shared by his team later was:

"Khan said he was not allowed to enter the court. I've been outside the court for 15 minutes. I'm trying my best to enter, but the police have fired tear gas, placed obstacles and containers. It seems they don't want me to enter the court."

Quite difficult to sort out the truth in the above given situation. More importantly, Pakistan's Electronic Media Regulatory Authority [PEMRA] issued orders to restrict live coverage of events outside the Islamabad Judicial Complex, where Khan's court hearing had taken place.

On the same day, during earlier hours, police in Lahore had stormed Mr Khan's residence using heavy machinery and water cannon, breaking down the entrance gate to gain access as officers clashed with PTI supporters; 60 of them were arrested. Concerned state authorities completed a search and allegedly recovered weapons, including Kalashnikovs and rifles etc.

Finally, **on 9th July 2023**, ADSJ Dilawar while ruling that the reference was maintainable, revived the stalled proceedings and summoned the witnesses for testimony. The decision was subsequently challenged in the IHC.

On 2nd August 2023, Judge Dilawar had ruled that Imran's legal team failed to prove the relevance of his witnesses. He had warned the defence counsel to conclude the arguments, or else the court would reserve an order. The IHC then gave a short breather to Imran, asking the judge to re-examine the jurisdiction and any procedural lapse in the filing of the complaint by the ECP.

However, just a day later, the trial court convicted the ex-premier.

IMRAN KHAN SENTENCED 3 YEARS+...

On 5th August 2023, the Islamabad trial court of the Additional Sessions Judge declared Imran Khan guilty of corrupt practices under Section 174 of the Election Act in the said *Tosha-khana* Case and sentenced him to three years in prison along with a fine of Rs.100,000. Additional District and Sessions Judge (ADSJ) Humayun Dilawar said in his short order:

"The court finds it's more than convincing that the complainant (ECP) had provided confidence-inspiring, well-knitted and corroborated evidence, and so the charge against the accused as successfully been proven that the accused has committed offence of corrupt practices by making and publishing false statements / declaration in respect of assets acquired by way of gifts from Tosha-khana and disposed of during years 2018-2019 and 2019-2020.

Khan also provided an 'incorrect declaration' in the Form-B — the statement of assets and liabilities — submitted to the ECP for the year 2020-2021. He has been found guilty of corrupt practices by hiding the benefits he accrued from the national exchequer wilfully and intentionally. He cheated while providing information of gifts he obtained from Toshakhana which later proved to be false and inaccurate. His dishonesty has been established beyond doubt."

During the hearing that day — which commenced at 8:30am — the judge repeatedly expressed displeasure over the absence of Khan's lawyers. He gave multiple chances to the defence counsel to appear

in court but reserved the verdict at noon due to the lawyers' continued absence. The key points remained:

- Islamabad Session Court ruled ***'Imran Khan's dishonesty has been established beyond doubt'***
- PTI chief's lawyer took the verdict as ***'a murder of justice'***, party announced country-wide protests
- Imran Khan urged supporters to continue peaceful protests; arrests reported from Lahore, Karachi and most parts of the Khyber PK
- Imran Khan technically stood disqualified from holding any public office for five years under Article 63(1)(h) of the Constitution of Pakistan.

Mr Khan was taken into custody and jailed the same day, while his legal team filed an appeal against the conviction **on 8th August 2023**.

Next day, **on 9th August**, a two-member bench of the IHC suspended Khan's conviction and three-year prison sentence. The bench also ordered his release on bail. However, a special court, then established to hear cases under the **Official Secrets Act**, directed Attock Jail authorities — where the former premier was imprisoned — to keep Imran Khan in judicial lockup and produce him next day in connection with the **Cypher Case** (*details are cited elsewhere in this book*).

Later, a notification issued by the law ministry said the interior ministry had conveyed security concerns to it in a letter. The Law and Justice Division had "no objection" to Imran Khan's trial in the cypher case being held at Attock jail tomorrow. Some media reports held that the ex-premier was arrested [in the cypher case] prior to today's court ruling. The exact date of his arrest remained unclear. Khan's legal team was intentionally left uninformed and kept in the dark; some termed it as manipulation of justice.

Later, the much-anticipated order in the *Tosha-khana* Case was announced by an IHC division bench comprising Chief Justice Aamer Farooq and Justice Tariq Mehmood Jahangiri on the former prime minister's appeal against his prison term. In the order issued in the evening, the court noted that:

"....the three-year jail term awarded to Imran Khan 'qualifies as a short sentence'.

The arguments raised by both sides as to the jurisdiction and other issues involve a deeper appreciation of the matter which at the stage is not warranted, especially, where the sentence is a short one [...]. Even though long arguments were presented by both sides, such questions were left to be decided at the stage when the appeal was taken up for adjudication.

*For the above reasons, the instant application is allowed and the sentence awarded by the trial court dated **5th August 2023** is suspended; consequently, the applicant is ordered to be released on bail in the instant matter subject to furnishing bail bonds in the sum of Rs: 100,000 with one surety in the like amount to the satisfaction of the deputy registrar (judicial) of this court."*

Pending with a trial court all set to reserve its order in the *Tosha-khana* Case, the Islamabad High Court (IHC) gave a short breather to PTI Chairman Imran Khan, asking the judge to re-examine the jurisdiction and any procedural lapse in the filing of the complaint by the Election Commission of Pakistan [ECP]. A day earlier, CJ IHC Aamer Farooq decided four petitions of Mr Khan against jurisdiction, alleged defective filing of the complaint, and transfer of the case from the court of Additional Sessions Judge Humayun Dilawar and the controversial Facebook posts of the trial court judge.

The counsel for Mr Khan, Kh Haris, contended that the IHC had remanded the matter to the trial court by framing different questions about the legal issues involved and granted a seven-day time. But even before the lapse of seven days, the matter was decided without providing an opportunity of hearing to the petitioner and dismissed the application. CJ Aamer Farooq observed that:

"The matter needs to be probed further and inquiry is to be made by involving all those persons who without verifying the authenticity of the posts used the same to malign a senior judicial officer of Islamabad judiciary, especially, when there is a categorical denial on his part that the referred posts are not from his account."

The IHC chief justice also ruled that:

"The case from a court could only be transferred in exceptional circumstances where the ground urged or is based on strong

reasons or evidence. If the transfer is made in routine or casual manner that would destroy the dignity of the court and would be a ploy by a party to drag the matter and malign the Judiciary."

Separately, the Supreme Court of Pakistan (SCP) disposed of Mr Khan's plea, after he withdrew the petition moved to seek delaying the trial proceedings in the *Tosha-khana* reference. At the last hearing **on 2nd August 2023**, the SC had turned down the applicant's plea to stay the trial in the said reference proceeding at the court of ASJ Humayun Dilawar. **On 4th August 2023**, the ECP counsel Amjed Pervez conceded before the SC that under Section 526(8) of the Criminal Procedure Code [CrPC], *'the trial court cannot announce its verdict on the Tosha-khana reference until it decides the application regarding the transfer of the case first'*.

[On 5th August 2023, Imran Khan filed an appeal in the high court against his conviction. He had also approached the Supreme Court (SC) against the IHC's decision to remand the case back to the trial court judge who had convicted him. Earlier, in the last week, however, the SC had acknowledged 'procedural defects in Imran's conviction' but had opted to wait for the IHC decision on Imran's plea.]

Speaking to *Geo News*, PTI Barrister Ali Zafar said:

"The high court has fulfilled the requirements of justice. I'll tell you why: Aside from the merits of the Tosha-khana Case — which are baseless — the trial judge did not allow Imran to submit witnesses in his defense. If witnesses in one's defense are not allowed, there is no greater [example of a] mistrial."

In a post on X a night before, former interior minister Rana Sanaullah said: *"He [Imran] will not come outside [of the jail] — release is not possible, [he] will have to face the prosecution in other cases!"*

IMRAN KHAN'S FRESH CALL FOR MARCH:

PTI Chairman Imran Khan, shortly after an Islamabad trial court declared him **'guilty of corrupt practices'** in the Toshakhana case and

sentenced him to three years in prison; but the court sentenced Imran Khan — who was NOT present in the court. He was arrested by Punjab police on the same afternoon from his Zaman Park residence in Lahore and transferred to the capital – for onward dispatch to Attock jail.

In a pre-recorded message shared on his Twitter page a few hours after arrest, Imran said:

"By the time this message reaches you, I will be in jail. In the wake of my arrest, I want you to continue peaceful protests and not to sit quietly inside your houses. My movement is not for myself, but for you, for the future of your children - recalling that Pakistan too was found on the concept of freedom.

If you will not stand up for your rights, you will live a life that is of slaves and slaves have no life. Slaves are similar to how ants are — on the ground — they do not fly high.

This is a battle for your rights and freedom ... you have to continue peaceful protests until you get your rights, which is seeing a government elected by you and not a qabza mafia."

In a handout issued after its emergency core committee meeting, the party said it discussed the future plan of action and legal measures to secure Imran's release. The party called for peaceful protests across the country within the ambit of law and the Constitution and also appealed to the Supreme Court to hear its review petition — filed earlier in the day against the maintainability of the Tosha-khana case. The party also shared a video, saying its supporters had started gathering outside Pakistan High Commission in London to protest Khan's arrest.

Television footage showed PTI supporters, including lawyers, protesting Imran's arrest outside his Zaman park residence in Lahore. Protesters also came out in Khyber PK with party flags. 20 PTI supporters were arrested when they tried to protest outside Zaman Park. He said 48 more were arrested in Civil Lines. There were reports of multiple arrests in Karachi as well including PTI's Sindh chapter, Rizwan Khanzada. PTI tehsil chairman Abdul Maula Khan was arrested by Shangla police during a protest in Aloch (an area in Shangla).

Following the verdict, Khan's lawyer Barrister Gohar Khan PTI Lawyer Shoaib Shaheen expressed their disappointment and said:

"I was very disappointed and disheartened - Justice was murdered. We weren't even given a chance. We weren't even allowed to cross [question], to say anything in defence or conduct our arguments. I haven't seen this kind of injustice in my life before.

.....their witnesses were not allowed in the court. Presenting witnesses was a fundamental right and the PTI was not given a fair trial. Justice is being bulldozed and buried."

Separately, the Supreme Court Bar Association (SCBA) expressed '**serious reservations in relation to the legality**' of the judgment leading to Imran Khan's arrest. SCBA President Barrister Abid S. Zuberi and Secretary Muqtedir Akhtar Shabbir said in a statement:

"....the judgment was issued in a blatant violation of the Islamabad High Court's order, in which the trial court judge was asked to re-examine the jurisdiction of the ECP's complaint. It is truly unfortunate that the Court has decided the case in absolute haste and without affording the accused a fair opportunity of hearing and in the absence of the counsel for the accused, which is in blatant violation of the accused's fundamental rights as enshrined under Articles 4, 9, 10, 10A and 25 of the Constitution of Islamic Republic of Pakistan.

Such a hasty decision is against all settled principles of fairness, natural justice and due process of law and the timing of such a decision appears to be aimed at excluding political leaders from participating in upcoming elections. (Also) that the historical trend of disqualification and ban of popular political leaders by the judiciary is against the principles of democracy and fair trial as enshrined under the Constitution."

However, addressing a press conference on the matter in Islamabad, PDM's Information Minister Marriyum Aurangzeb said the PTI chief refused to respond to the charges against him and resisted at various points whenever there were attempts to retrieve him for interrogation. There was no political motive of the government involved behind his arrest – (and) that the events also did not have anything to do with the upcoming general elections. Further that out of 40 hearings in the case Imran appeared in only three - he attempted to use every legal platform to escape from the proceedings.

Unlike previous instances, where Zaman Park was usually guarded by party supporters, Imran was taken into custody that day without any major resistance. The PTI also confirmed this in a tweet, saying that the party chief didn't resist the arrest. The PTI chairman's arrest that day came approximately three months after his first arrest on 9th May 2023 when he was detained in Islamabad from the high court's premises in the Al-Qadir Trust case. Imran's arrest that day had resulted in widespread violence and saw important military installations come under attack, on the basis of which the state had launched a severe crackdown against his party.

[While the mass exodus as well as a near-complete blackout of Imran Khan on local media had left the PTI's future uncertain in the upcoming polls, it also gave birth to a new home for most PTI deserters, Istehkam-i-Pakistan Party (IPP), hosted by Jahangir Khan Tareen.]

Going little earlier; after announcement of the judgment from the CEC, a pre-recorded message from the PTI chief had surfaced on social media wherein he urged people to '**come out**' for their rights. The message said:

*"By the time my message reaches you, I might have been put behind the bars in an unfair case; fundamental rights and democracy had been **buried** in Pakistan. It is possible that I might not be able to address you again. I've been in the public for 50 years. I have neither flouted the law of Pakistan nor have I violated the Constitution. Whatever is being done today is aimed at barring me from leading the **Haqeeqi Azadi movement**."*

There were reports of protests in Islamabad, Lahore, Peshawar and Karachi. Footage broadcast on *media* showed tyres ablaze in Peshawar, while in Islamabad, police was seen trying to rein in protesters. White mist, which appeared to be tear gas, was also seen in the city. PTI workers also blocked Murree Road with burning tyres. In Rawalpindi, PTI workers demonstrated at *Bakra Mandi Chowk* and raised slogans against the ECP's decision. However, on media news, PPP Chairman Bilawal Zardari In a tweet said:

"The ECP found Imran Khan guilty of corrupt practices. He now stands disqualified. He who would spread lies about alleged corruption of his political opponents has been caught red-handed. This is just the beginning and many such decisions will come. Imran Khan should now retire and spend the rest of his days in Bani-gala."

Strict security measures were in place at the ECP's office ahead of the ruling on that Day of Judgment; with police, Rangers and Frontier Corps personnel deployed on site in large numbers. A day earlier, the ECP sent a letter to Islamabad police, requesting fool proof security inside and outside the watchdog's premises for the full day in order to avoid any untoward incident. The ECP stressed that all necessary security arrangements be completed, particularly inside the ECP secretariat's building.

Ahead of the verdict, PTI leaders intensified their criticism of the ECP, repeating their allegations of the ECP being partial against them. Hours before the ruling, Imran's lawyer, Barrister Ali Zafar addressed a press conference in Islamabad and outlined legal points in favour of the PTI chief. He referred to a then-observation by Chief Justice of Pakistan [CJP], wherein the top judge said handing down disqualification to a lawmaker for life under Article 62(1)(f) of the Constitution could only be done through a declaration by a court of law. **"Since the ECP is not a court, it cannot issue the declaration."**

PTI Senator Ejaz Chaudhry, PTI-leader Shah Mahmood Qureshi and Barrister Ali Zafar, Imran's counsel in *Tosha-khana* reference addressed a press conference, too. Barrister Ali pointed out, if the ECP had to take any action against Imran Khan in the matter, it should have been within the set timeframe of 120 days after the PTI chief submitted the details of his assets in 2018; the ECP was bound to take action within 120 days. Alongside him, PTI leader Shah Mahmood Qureshi cited multiple instances from the past — including the ***Sindh House saga*** and the ECP's proceedings in the prohibited funding case against the PTI — as he built his case of the electoral watchdog allegedly being partial against the PTI. Moreover, referring to the PTI's win in 17th July 2022 by-polls in Punjab and then held by-elections on NA seats, Qureshi said:

"When the PTI chief's rivals failed to beat him in political battlegrounds, they were attempting to politically eliminate him through law fare. He expected the institution to issue

a verdict in line with its constitutional obligations and responsibilities..... (it's) about ***pushing forward the minus-one formula.***"

Earlier, PTI leader Shireen Mazari also alleged in a tweet on the same day that the reference was all about ***'political vendetta by [the] biased ECP, led by [a] quisling CEC. What [the] ECP should be pursuing is about high-price cars Asif Zardari and absconder Nawaz Sharif whisked away!'***

Meanwhile, a hashtag in Urdu, translating to ***'Imran Khan our red line'*** was the top trend on Twitter in Pakistan on the day the judgment was announced, with PTI leaders and followers expressing their support for Mr Khan.

What followed those high-voices was a large number of party leaders holding press conferences, condemning the 9th May riots — some also called out Imran and his politics — and disassociating themselves with the PTI. The party's dismantlement continued since then, barring some senior PTI leaders, most of whom are still behind bars.

TOSHA-KHANA TRIAL-II:

On 19th December 2023: NAB filed a fresh reference against PTI founder Imran Khan and his wife Bushra Bibi in an accountability court for retaining a jewelry set received from Saudi crown prince against undervalued assessment. The anti-graft watchdog alleged that during his term as prime minister, Imran Khan and his wife had received a total of 108 gifts from different heads of states and foreign dignitaries.

[Of those gifts, they allegedly retained 58 gifts against an undervalued amount. Out of these 108 gifts, the accused persons retained 58 gift boxes/sets against an undervalued amount of Rs:142.1 million as assessed by appraisers.]

The instant reference was related only with the Graff jewellery set received from Crown Prince of Saudi Arabia Mohammed bin Salman and retained against a highly undervalued assessment by the above-mentioned accused persons. It said the NAB chairman delegated the

powers to authorise an inquiry on the subject matter to director general NAB, Rawalpindi, on 1st August 2022. The DG authorised an inquiry on 5th August 2022. Subsequently, the inquiry was upgraded into the investigation on 14th July 2023.

During the course of inquiry, it transpired that the gift was reported to Tosha-khana of the Cabinet Division by deputy military secretary vide letter dated 24.09.2020 but the same was not deposited in accordance with Procedure for the Acceptance and Disposal of Gifts 2018 for true and transparent assessment. The reference said further:

"As per evidence collected so far, Bushra Bibi, in connivance with Imran Khan, violated the clause-1 of the procedure by not depositing the gift at Tosha-khana prior to its retention. The accused in connivance with each other, unlawfully exerted pressure and undue influence on Sohaib Abbasi, private appraiser (approver) through Syed Inam Ullah Shah (former PS/comptroller to Imran Khan /PM Office) in order to have illegally undervalued assessment of Graff jewellery set of their own choice and illegally retained the same against payment of meager amount of Rs9.031 million (approx.) on the basis of undervalued price assessment of Rs:18, 092,000."

It was established that the assessment conducted by Sohaib Abbasi and government appraiser was highly undervalued. For the purpose of true assessment, an expert from Diamond and Jewellery industry namely Imran Bashir of Rainbow Impex FZE, Dubai, was also engaged to assist the anti-graft watchdog in investigation of the case.]

Coming back...! This was Imran Khan's third conviction, including the one in the Cypher Case a day earlier. He was already out of the race for the 8th February 2024 general elections. **"Why are you in hurry?"** Imran Khan asked the judge during hearing. The verdict came eight days before the 8th February general elections, which the PTI was contesting amid a state crackdown and without an electoral symbol.

According to this verdict, Imran and Bushra were barred from holding any public office for 10 years and slapped with a fine of Rs:787 million each. While the PTI founder was presented during the hearing, his wife did not appear before the court. The judge had already closed the right of cross-examination of the prosecution witnesses and asked Imran and his spouse to record their statements under Section 342 (power to examine the accused) of the Code of Criminal Procedure.

Shahbaz Khosa, PTI lawyer Latif Khosa's son, had been representing Imran Khan and Bushra in the case. However, when the stage of cross-examining the witnesses arrived, lawyer Zaheer Abbas Chaudhry appeared before the court and submitted a Power of Attorney from Imran Khan. He sought more time to prepare for the case, at which the prosecution pointed out that *Chaudhry was the ninth counsel from the defence side and termed it a part of delaying tactics*. During that hearing, Khan's legal team had requested the court to restore the right of cross-examination but was turned down by the judge.

Accountability Judge Mohammad Bashir conducted the hearing at Rawalpindi's Adiala Jail, where the former premier was incarcerated. After his attendance was marked, the court asked him about his statement, to which the former premier replied: ***"My statement is in the [prison] room. I was only called for marking attendance."***

The court said: submit your statement immediately and **not waste the court's time**.

"Why are you in a hurry? Even yesterday, the conviction was announced in haste," the ex-prime minister said, referring to the verdict in the cipher case. *"My lawyers are not here yet. I will submit the statement after showing it to them when they come,"* Khan said, adding that he had appeared before the court only to mark his attendance.

Mr Khan then left the courtroom, after which the court sentenced him and his wife in absentia.

Following the verdict's announcement, Bushra arrived at Adiala Jail, where the NAB team was already present, to surrender to the authorities following the court's directives. She was subsequently taken into custody by the anti-graft watchdog. A later notification by Islamabad Chief Commissioner declared Imran Khan's Bani-gala residence as a sub-jail for Bushra Bibi. The notification was issued following a request by Adiala Jail's superintendent.

Reacting to the conviction, the PTI party held that:

"It is complete destruction of every existing law in Pakistan in two days; Imran and his spouse had faced yet another kangaroo trial in which no right to defence was given to both. Like Cypher, this case has no basis to stand in any higher

court. It's shameful how a complete disregard and mockery of the law is in place.

*Big question marks arise on our judicial system now. How the cypher and Toshakhana cases were conducted exposed a complete disregard of law by trial court - **the judicial system has buried itself** today; the conviction was not only injustice but cruelty".*

ONE point the media had taken that the NAB was withdrawing cases filed against a certain party but at the same time was handing over severe punishments just to make one leader happy".

Meanwhile, the PMLN's official X account said that '**fake sadiq and ameen had been proven to be a certified Tosha-khana thief** in front of the world today'.

MEDIA: 'SCALES BALANCED' (?)

Reacting to Tosha-khana's verdict, senior journalist Mazhar Abbas said that the timing of the conviction would be discussed in political circles. Adding that:

"At the same time, I did not expect PTI workers or leaders to react to the conviction. The reaction to all of this would be important on 8th February (General Elections). Would they be demoralised and stay in their homes or would they come out politically charged?

*(Commenting on the conduct of the PTI's legal team) there appeared to be **a problem**; how several PTI lawyers had come and go, but this could also be due to professional differences."*

Senior journalist Hamir Mir opined that the verdict was not **unexpected for those in the know**, it was expected for Imran Khan to be convicted in several cases in the run-up to the general elections. The '**scales have been balanced now**' that the same judge who

had convicted PMLN supremo Nawaz Sharif in 2018 had done the same to Imran Khan and the PTI supporters knew it.

One political analyst Mosharraf Zaidi said that: ***'such sentences in such cases against former premiers had been the norm in Pakistani politics. We have seen this in the past that such cases were heard against former premiers and such sentences were given, and then after a while they were released'***.

Jan Achakzai said the court decision proved that ***'no one is above the law and no one can get away with abusing the trust of people'***.

Prior to the former PM's removal from office in April 2022, Imran Riaz Khan was an ardent supporter of the Establishment and its actions against journalists, but his 'that' pro-stance reversed soon after. He was twice arrested by the authorities in July 2022 and February 2023 ***on accusations of sedition***. He was released in both cases in less than a week, and the charges were subsequently dropped. *'Reporters Without Borders'* [RSF], the global body for media freedom, condemned the abduction of Imran Riaz; saying:

"It is up to Prime Minister Shehbaz Sharif's civilian government to ensure respect for the rule of law by producing the journalist in court or ordering his release. Failing this, the Pakistani authorities will be held directly responsible for any harm that may have befallen him."

See one media account, of course, sponsored by the PTI supporters:

"Khan was convicted on flimsy charges following a trial where his defense was not even allowed to produce witnesses. He had previously survived an assassination attempt (in Nov 2022 at Wazirabad), had a journalist aligned with him murdered, and has seen thousands of his supporters imprisoned."

While the Biden administration has said that human rights will be at the forefront of their foreign policy, they are now looking away as Pakistan moves toward becoming a full-fledged military dictatorship. This is ultimately about the Pakistani military using outside forces as a means to preserve their hegemony

over the country. Every time there is a grand geopolitical rivalry, whether it is the Cold War, or the war on terror, they know how to manipulate the US in their favor."

IK's REMOVAL FROM PTI MOVED:

Referring to **the 92News** dated 4th November 2022; the Lahore High Court (LHC), on that day, admitted for hearing a petition seeking the removal of PTI Chairman Imran Khan after his disqualification in the Tosha-khana reference. The LHC had reserved the verdict a day before on the maintainability of the plea, filed by one Advocate Mohammad Afaq. Justice Sajid Mehmood Sethi announced the decision and served notices to the attorney general of Pakistan and advocate general of Punjab. The court also sought replies from the respondents by 11th Nov 2022.

The petition named Imran, the Election Commission of Pakistan (ECP), the government of Pakistan, and others as respondents. The plea argued that according to the Representation of the People Act 1976 and Political Parties Order (PPO) 2002 it was a legal and constitutional requirement for party officeholders to be qualified in accordance with Articles 62 and 63 of the Constitution. The petition said that after Imran Khan's disqualification from the NA-95 constituency it was 'just' for him to be de-notified as the PTI chairman and an order should be issued to that effect.

The petitioner advocate contended that a disqualified person could not head a political party under the Political Parties Order and its rules. He argued that Imran is violating the laws by continuing to head the PTI, which was a registered party with the ECP. The lawyer requested the court to order the ECP to remove Imran as PTI chairman and issue directives for the nomination of a new party head.

A few days earlier, the Election Commission of Pakistan [ECP] had disqualified Imran Khan in the Tosha-khana reference, ruling that the former premier had made **'false statements and incorrect declarations regarding the gifts he had received'**.

According to Toshakhana rules: *'...gifts / presents and other such materials received by persons to whom these rules apply shall be reported*

to the Cabinet Division’. The watchdog’s order had said Imran stood disqualified under Article 63(1)(p) of the Constitution.

Referring to another article on media pages [daily DAWN] dated 6th December 2022, one Iftikhar A. Khan wrote that the PTI claimed ‘... ***no law bars a convict from being an office-bearer***’. However, the ECP itself set into motion the process to remove Imran Khan as chairman of the PTI in light of the its own verdict in the Tosha-khana case. A notice was issued to the former prime minister and the case fixed for hearing on 13th December 2022. According to Section 5 (1) of the (defunct) Political Parties Order (PPO) 2002:

"Every citizen... shall have the right to form or be a member of a political party or be otherwise associated with a political party or take part in political activities or be elected as an office-bearer of a political party: provided that a person shall not be appointed or serve as an office-bearer of a political party if he is not qualified to be, or is disqualified from being, elected or chosen as a member of the Majlis-e-Shoora (Parliament) under Article 63 of the Constitution of the Islamic Republic of Pakistan or under any other law for the time being in force."

However, The Elections Act 2017 did not retain the provision.

But, a three-member bench of the Supreme Court in February 2018, while hearing petitions against the Elections Act, ruled that a person disqualified under articles 62 and 63 of the Constitution could not head a political party. The ruling had earlier paved the way for *the removal of Nawaz Sharif as the head of the PMLN following his disqualification by the apex court under Article 62(1)(f).*

During hearing, Justice Ijazul Ahsan had remarked that:

"...if the head of the party was polluted, the entire stream would be polluted. He had said that a disqualified person should not usurp the right of others to lead the party as qualified persons should not be controlled by a disqualified person."

In the instant case, earlier mentioned petition seeking the removal of Imran Khan as the PTI chairman following his disqualification was already pending before the Lahore High Court. The petition said that according to the Representation of the People Act 1976 and Political Parties Order (PPO) 2002, it was a legal and constitutional requirement

for party officeholders to be qualified in accordance with Articles 62 and 63 of the Constitution.....