Pakistan Tehreek-e-Insaf
Central Secretariat

April 20, 2024

The Honorable Chief Justice of Pakistan
Supreme Court of Pakistan Building
Islamabad

Subject: **State of the Rule of Law and Supremacy of the Constitution in Pakistan**

Dear Mr. Chief Justice:

I am constrained to submit to you, with great regret, that the new lows to which the state of the rule of law and supremacy of the Constitution has fallen in Pakistan have caused the gradual emergence of the law of the jungle and the enactment of the primitive doctrine that might is right.

I have no doubt that if our Superior Judiciary, with your good-self at its helm, would not meaningfully intervene as the custodian of the Constitution and the ultimate arbiter of justice, and if the foregoing situation were to prevail, it would be fatal to any civilized order in the world.

In this regard, the following seven matters are brought to your attention, some of which form subject matter of petitions already pending in the Supreme Court of Pakistan, while others involve facts and circumstances that glaringly call for prompt intervention at the Judiciary's own motion, but, in each case, it has so far been in vain.

(1) About five years ago, the National Accountability Bureau (NAB) had instituted proceedings against Mian Nawaz Sharif for having procured a luxury vehicle from the *Toshakhana* "through dishonest and illegal means for personal benefit and interest." But now, all of a sudden, after having pursued it as an open and shut case for all those years, with statements of 15 out of 25 witnesses already recorded, NAB prosecutors are proposing to the Accountability Court to exonerate Main Nawaz Sharif, making a mockery of our justice system by clearly siding with thieves. The dishonesty, discrimination and double standards employed by NAB at the behest of its puppet Chairman Nazir Ahmed Butt, call for a thorough inquiry into Nazir Ahmed Butt's conduct, and for his removal from office.

(2) The violent subjugation of the police by our armed forces in Bahawalnagar during the Eid-ul-Fitr holidays last week should serve as an eye opener on the lop-sided state of uniformed vigilante justice in Pakistan. Sadly, an entire nation has been put on notice on the retaliation that can ensue if the police were to raid the home of someone who is backed by guns, tanks, artillery and soldiers – we are all given a message that there is a line the police cannot cross in the performance of its duties involving someone who stands above them in the pecking order. Yet, for months on end, when the police

repeatedly crosses every single line known to a civilized society by raiding, vandalizing and looting the homes of our unarmed citizens, no one comes to the rescue of these defenseless men, women and children. Disappointingly, our Judiciary, instead of stepping in, has remained a bystander in the face of all these excesses. Not only that, it has even acted as a facilitator when women, both young and old (as well as infirm) – with Aliya Hamza, Sanam Javed and Dr. Yasmin Rashid being cases in point – have been implicated in one case after another: when freed on bail from a case involving one locale in Lahore to be arrested for an alleged crime simultaneously committed in another locale several kilometers away, and when freed from that, to be arrested yet again for a crime allegedly committed several hundred kilometers away in Mainwali. The select few judicial officers who act responsibly and conscientiously, in granting relief to the innocents, are promptly subjected to references for removal by powerful quarters. This begs the question: are the fundamental rights of human dignity and privacy of the home left to be enforced solely by the barrel of the gun, or does the Judiciary retain any semblance of authority to enforce them across the board? The lines drawn by our Constitution between the various pillars of the State are getting blurred into non-existence, and this has to be stopped before it is too late.

(3) Alarmingly, six Judges of the Islamabad High Court, representing almost that Court's entire strength, have complained in writing to you and your senior colleagues, about being subjected to blackmail, harassment and coercion by "members of the executive, including operatives of intelligence agencies." A Judge's bedroom was allegedly spied on with a hidden camera, while another's relative was reportedly picked up and tortured into giving a statement against them. Two judges felt pressured to reconsider their position on the maintainability of a high-profile case because intelligence operatives began harassing their friends and family. A district and sessions judge reported that a 'cracker' was thrown into his home in a bid to intimidate him. It could not be more ironical that, in this day and age, those who are supposed to provide justice to our citizens, those who are dutybound to secure justice for others, are themselves seeking justice. The Judges who co-signed the letter framed their demand for a judicial convention to look into the matter – this would surely have exposed the scale of this meddling and demonstrated the extent to which, institutionally, those armed with weapons continue to overpower those armed with the pen. The aggrieved Judges have also sought guidance on how to act in the face of such adversity, suggesting that the Judiciary must take unified and decisive action to secure its independence and to hold accountable those who consistently undermine it by use of force or the threat of use of force. To date, however, the action taken by the Supreme Court on the subject has been meek and indecisive. I believe, to the contrary, that this calls for strict action on part of the Supreme Court towards speedily setting the system right, by coming to its own aid, by coming to the aid of all the High Courts, and by coming to the aid of all Subordinate Courts under their respective supervisory jurisdictions. This calls for assembling and putting in place a robust mechanism of enforcement and accountability that resurrects the Judiciary's independence. And this calls for punishing those who have subverted the Constitution by unconstitutional means as aforesaid. Failing that,

the people's confidence in the justice system of Pakistan, which is undergoing significant erosion already, will stand dismantled and demolished.

(4) I also believe in my heart that more than ninety percent of the people who are incarcerated and undergoing trial for the incidents of violence, arson and looting connected with the protests incited by my illegal and unconstitutional arrest from the Islamabad High Court premises on 9th May 2023 were peaceful and unarmed protestors who did not indulge in any violence whatsoever. The State, however, is acting as judge, jury and executioner in all these trials, first, directly through military courts, on the Constitutionality of which the Supreme Court has been dragging its feet for longer than it should, and, secondly, in an indirect manner, by holding guns to the heads of the Subordinate Court Judges who are conducting the trials. A Constitutional Petition calling for an independent, transparent and thorough inquiry into who in fact incited and perpetrated the 9th May violence, and who, by design or by dereliction of duty, allowed the violence to escalate, has been pending in the Supreme Court since 25th May 2023. In the interest of complete justice, this case must be fixed and decided upon on a priority basis.

(5) In a startling press conference on 17th February 2024, the Commissioner Rawalpindi Division resigned from his post after admitting responsibility for the manipulation of election results on 8th February. The five districts of Rawalpindi Division include Attock, Rawalpindi, Jhelum and Chakwal, which have 13 National Assembly and 26 Punjab Assembly seats. "What wrong we committed in this election, was that we converted the losers into winners", he said, adding that, "The independent candidates who were leading in their constituencies with over 70,000 votes were converted to losers with the help of fake seals." He further revealed that even today our people (election staff) are affixing fake stamps (on the ballot papers). He also stated, "I apologize to all my returning officers, who were working as my subordinates, who were crying when I was asking them to do this wrongful act, and they were not willing to do it." His subsequent retraction, whose custody he was in until the point he made it, and to where he has disappeared now from public view, are a mystery to all and sundry. Is the Supreme Court so helpless in this regard that it does not deem this a matter of public importance with reference to the enforcement of fundamental rights conferred by Chapter I of Part II of the Constitution? An entire nation whose mandate has been stolen feels very strongly about this.

(6) A series of Petitions, including one filed by the Pakistan Tehreek-e-Insaf, pressing that, contrary to Constitutional stipulations, the general election of 8th February 2024 was not conducted honestly, justly, fairly and in accordance with law, and that corrupt practices were not guarded against therein, have been pending in the Supreme Court for more than two months now. Upholding the rule of law and supremacy of the Constitution calls for fixing and deciding all those petitions on a priority basis.

(7) The manner in which the subject of allocation of reserved seats in the National and Provincial Assemblies has been handled by the Election Commission of Pakistan, and

by Speakers of several of the Houses concerned, particularly by: (a) forcibly conducting its business of electing key office-holders while each House was incomplete; and (b) by allotting reserved seats to political parties over and above the proportion represented by their general seats, is unknown to and unrecognized by our Constitution. Pending petitions on this subject must also be fixed and decided upon on a priority basis in the interest of justice.

Inaction on your part and that of the Supreme Court in the face of each of the aforementioned matters of grave importance would exacerbate the Constitutional crisis the country is already faced with and push it closer and closer to the abyss.

When, a few years ago, you were faced with the wrath of the State in the form of a reference in the Supreme Judicial Council, you waxed eloquent in various forums about how your late father was a close associate of Quaid-e-Azam Mohammad Ali Jinnah, and how the two historic figures espoused the same principles and values. Similarly, last year, while speaking in the joint sitting of the Parliament on the occasion of the 50th Anniversary of the enactment of the Constitution of Pakistan, you held the Constitution in your hand in full public view, and proclaimed that this book was your guiding light after the Holy Quran and the Sunnah of the Prophet (PBUH).

As, what I believe to be the majority of our populace, faces the wrath of the State, now is the time for you to prove whether your declared belief in the principles and values espoused by Pakistan's founding fathers, and your proclamation of the supremacy of the Constitution, are for real or were mere hollow rhetoric.

"The world is a dangerous place, not because of those who do evil, but because of those who look on and do nothing," (Albert Einstein)

The entire nation is looking at you accordingly.

Yours faithfully,

Imran Khan