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Pakistan: Economy Under Elites – Tax Amnesty Scheme, 2019

By

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Abstract

The Tax Amnesty Scheme, 2019 (TAS 2019), needs to be read as a sequel to the Tax Amnesty Schemes, 2018 (TAS 2018), and so does this article. This article draws significantly on "Pakistan: Economy Under Elites – Tax Amnesty Schemes, 2018" – in title, analytical framework, and even the thrust of argument. Unlike TAS, 2018, which was triggered by the impending bulk inflows of offshore bank account information under the Organization for Economic Cooperation & Development (OECD) – Common Reporting Standard (CRS) framework, the TAS 2019 was prompted by the operationalization of the Benami Transactions (Prohibition) Act, 2017, via framing of the Benami Transactions (Prohibition) Rules, 2019. The granting of the TAS 2019 during PTI government's prime years despite its public opposition to 2018 was evidence of an unbearable amount of pressure that Elites Ltd can exact on ruling coalitions in Pakistan, and successfully. The below par outcomes go to vindicate the existing knowledge on the subject that compliance to tax laws; nay, any laws, is a function of state recoil and deterrence. The analysis in the paper, directly and indirectly, leads one to conclude that economy continues to be under brute shackles of Pakistani elites who can fiddle with policy at will to the ultimate chagrin of the tax administration, society, and the state. The article forebodes that the perverse policy choice of tax amnestization is set to continue in the future.

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Section I
Introduction

"When one repeats a mistake," says Paulo Coelho, "it is not a mistake anymore; it is a decision." Likewise, when one repeats a mistake over and over again, it is not even a decision; it is a policy. This is true of Pakistan's tax policy abnorm – tax amnestization. On February 17, 2017, Pakistan promulgated the Assets Declaration Ordinance, 2017 ("the ADS 2017") to unveil yet another super-scope tax amnestization initiative.[4] The ADO, 2019, for ease of comprehension and consistency, in this article is referred to as Tax Amnesty Scheme 2019 ("the TAS 2019"). At some level, this was reckoned to be an unexpected policy *volte face*, at least, on two counts. Firstly, the amnesty was being extended within only 10 months of the previous one, that is, the Tax Amnesty Scheme 2018 (TAS 2018). Two, Pakistan Tehrik-e-Insaf (PTI), before coming to power by forming a ruling coalition in August, 2018, had aggressively opposed tax amnestizations being unjust and elitist in tone and tenor.[5] Although, the industrial elite and business elite were mounting tremendous amount of pressure on the then fragile government in dying days, it was found exceedingly surprising for the PTI government "to succumb to such demands because it has been criticizing such schemes passionately when in opposition."[6] The TAS 2019 covered all types of assets for whitening – real, liquid, domestic, foreign, whether repatriated or not (self-owned or benami), and sales, and expenditures made both in and outside the country. This article looks to contextualize the TAS 2019 within the overall political economy landscape of Pakistan and lay bare its various facets.

The article is divided into VIII sections. After section I has set the context, section II lays out theoretical scaffolding to enrich the reader's understanding of the amnestization initiative inside larger scheme of statecraft in Pakistan. Section III briefly builds on and surveys the research work on the subject that has recently emerged on the horizon. Section IV takes stock of the inflection point at which the polity is found constrained to decide in favor of launching yet another amnesty. Section V deals with the elitist astroturfing of the public space in order to make the tax amnestization initiative palatable. Section VI deals with design features of the amnestization scheme. Section VII takes a shot at the outcomes of the TAS 2019 and critically examines them vis-à-vis its projections and those of the TAS 2018. Section VIII charts out implications of the tax amnestization and summarizes the debate with forebodings for the future.

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[4] See for an extensive literature survey Muhammad Ashfaq Ahmed, "Pakistan: Economy under Elites - Tax Amnesty Scheme, 2018," *Asian Journal of Law and Economics* 10, no. 2 (2019), https://dx.doi.org/DOI: https://doi.org/10.1515/ajle-2019-0016.

[5] Abdullah Niazi, "Imran to Challenge Tax Amnesty Scheme Despite Being a Beneficiary Himself," *Pakistan Today* (Islamabad), April 9, , 2018.

[6] Khaleeq Kiani, "Halal Tax Amnesty," *Dawn* (Karachi), April 8, 2019, 2019.

Section II
Theoretical Scaffolding

Ahmed argues that tax amnestization in Pakistan, if not always, has mostly been an elitist enterprise.[7] In fact, the elitist framework has long been applied to interpret Pakistan's power and politico-economic structures.[8] However, Ahmed developed the convenient vehicle of Elites Ltd to crystallize the elitist model, and expanded its scope to systematically analyze the monopolization of Pakistan's revenue function, and disaggregated it to comprehend various mutually reinforcing undercurrents and cross-cutting mechanics at work so as to explain its historically embedded below par (and even perverse) performance.[9]

The state's political crust, he argues, is essentially underpinned by Elites Ltd which, in turn, is composed of six effective elite groups i.e. industrial elite, business elite, religious elite, feudal elite, military elite, and sundry (judicial, media, non-profits, and professional) elite; that while elites enter into zero-sum transactions on the political chessboard, they descend down to non-zero-sum transactions in the economic domain; that elites face a rational actor dilemma in that they need a state to govern but they also need to maintain it at the minimum cost to themselves; that in order to get out of this dilemma, the elitist state takes to optimally extract from international sources; and that since an infinite international resource harvest is not possible, it resorts to undertake internal extraction through seven unwholesome and perverse modes by way of the required domestic resource-match, namely, withholdingization, deficit fiscalization, indirectization (of the tax system), maximization on non-tax revenues, extortionization, mendicantization, and **amnestization**.[10] It has been averred that "In theoretical terms, tax amnestization is also to be taken as an elitist shock to the system given to create certain amount of strategic space within which maneuvers are made to protect and promote economic goals."[11]

Ahmed further posits that through these very modes, the overly-elitized state resorts to ad-hoc measures to make short-term revenue gains at the expense of long term systemic losses – a process that is akin to, borrowing on Fried, brute pursuance of *pleasure principle*.[12] It follows that, on the contrary, a functional state would walk up the *reality principle* path implying that it would choose to, instead, strengthening tax policy and enforcement

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[7] Muhammad Ashfaq Ahmed, "Pakistan: Extraction, Elites and State Autonomy: A Theoretical Configuration," *Pakistan Development Review* 56, no. II (2017).

[8] See, for a concise history of evolution of the theory of elitism and its application in Pakistan, Ahmed, "Pakistan: Extraction, Elites and State Autonomy: A Theoretical Configuration."

[9] Ahmed, "Pakistan: Extraction, Elites and State Autonomy: A Theoretical Configuration."

[10] Muhammad Ashfaq Ahmed, "Pakistan: Economy under Elites - Tax Amnesty Schemes, 2018," *Asian Journal of Law and Economics* 10, no. 2 (2019), https://dx.doi.org/DOI: https://doi.org/10.1515/ajle-2019-0016.

[11] Ahmed, "Pakistan: Economy under Elites - Tax Amnesty Schemes, 2018."

[12] See, for an elaborate analysis Ahmed, "Pakistan: Economy under Elites - Tax Amnesty Schemes, 2018."

handles. This paper is, in fact, yet another effort to operationalize the amnestization prong of the theoretical framework.

Theoretical Argument – Portrayal
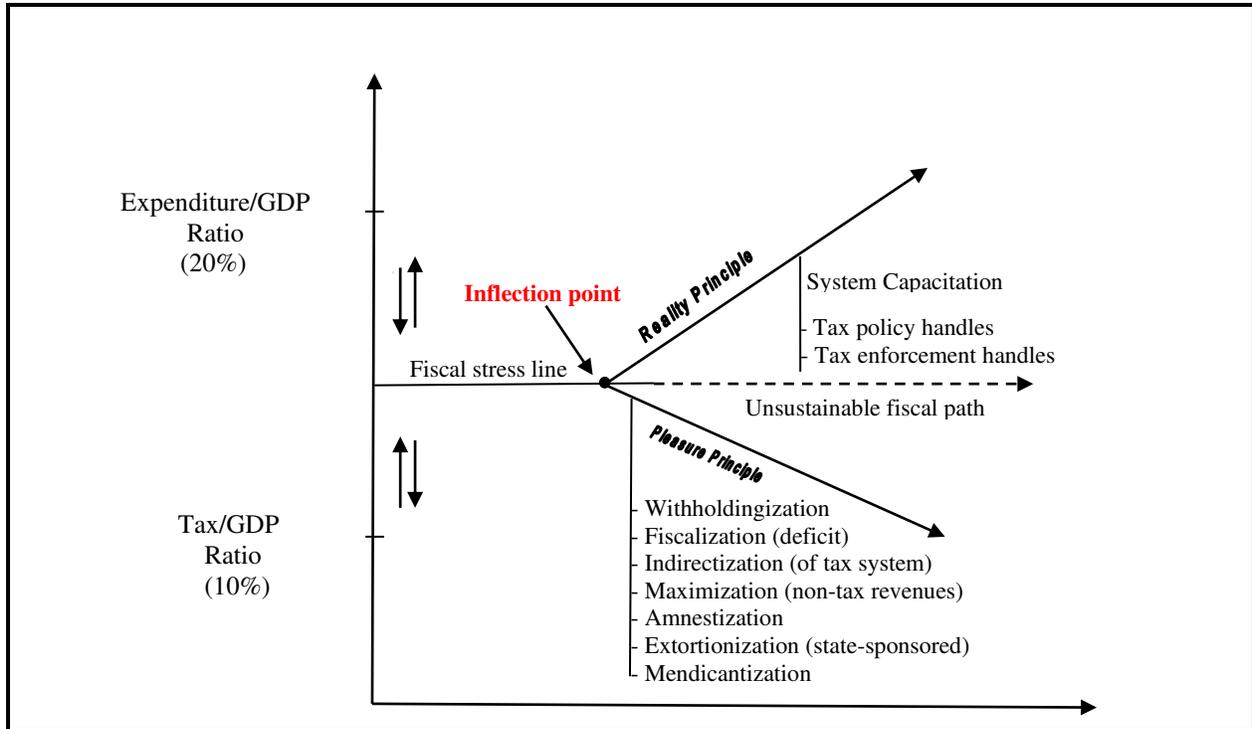
The picture is a graphic representation of the above-narrated theoretical proposition. What it depicts is that at any point in time, the polity is found operating under significant amount of fiscal stress, namely, its expenditure far exceeds its revenues.[13] This implies that Pakistani state every now and then finds itself at the inflection point – the crossroads of sorts – at which it has two choices: one, to capacitate its revenue system enough to exact par taxation like all functional states, which is also good enough to finance its expenditures; two, to resort to convenient yet perverse extraction through the aforementioned six domestic resource-match ploys. The analysis inducts the competing Freudian analytical concepts of the *reality principle* and the *pleasure principle* to amplify both the options, respectively. The article looks to operationalize the above theoretical framework by juxtaposing amnestization therein and critically analyzing it from all essential perspectives. The effort is to operationalize the elitist model by taking stock of the TAS 2019.[14]

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[13] At some level, the increase in fiscla stress is an indication of deterioration of overall economic health of a country, which causes a likelihood as well as failure of an amnesty. During a recession, production falls, which causes the unemployment rate to rise, due to which amnesty is not able to generate higher revenues as compared to a scenario where there was an economic boom, more production and more employment. As the fiscal health continues to remain poor after an amnesty failure, it increases the likelihood of another amnesty program to be introduced by the government in near future.

[14] In fact, this Paper comes as a sequel to Ahmed, "Pakistan: Economy under Elites - Tax Amnesty Schemes, 2018."

Section III
Literature Review

A substantial amount of knowledge has so far been generated on amnestization, in general, and tax amnestization, in particular. Ahmed parsimoniously surveyed much of the relevant literature produced on tax amnestization, while taking stock of TAS 2018.[15] In addition to that some knowledge that has surfaced since then is taken account of here. Herman B. Leonard, and Richard J. Zeckhauser aspire to theorise as to when a tax amnestization occures. They argue that a tax amnesty is likely to go on offer when a substantial number of "ordinary citizens participated in illicit activity," when the "offense did not directly harm identified individuals," when the "offense is not chronic or linked to a pattern of other offenses," and when the state institutions had a realization that "Enforcement will be nearly impossible anyway."[16]

Guttman, primarily from a practitioner's perspective, argues that "Tax administrators generally believe that using an amnesty is unwise because the short-term benefits of the amnesty, collecting some additional revenue, will be outweighed by long lasting adverse effects on future compliance."[17] To him tax amnestization is like using fire "to control a forest's growth," and "is a potentially dangerous tool for revitalizing the tax system."[18] Guttman believes that an "amnesty must be tailored to the needs of a particular country and its current tax circumstances," as it can potentially "act as a tonic to revitalize the tax system."[19] "Otherwise," he goes on to caution, "the tax system and administrative machinery may be in worse shape after the amnesty."[20]

"While exploring into the inter-linkages between tax amnestization and money laundering," Attiya Waris and Layla Abdul Latif, premise that, in fact, governments "actively facilitate money laundering through legal provision of whitening black money."[21] They go on to argue that "even though only a small proportion of the black money of a person is whitened through payment of 10% tax, the process allows the entire black money to circulate in the formal economy as well as in the black economy, if the owner of that black money chooses to do so."[22] Ramazan Bicer, exploring into the nature and outcomes

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[15] See, for an extensive literature review on the matter Ahmed, "Pakistan: Economy under Elites - Tax Amnesty Schemes, 2018."

[16] Herman B. Leonard, and Richard J. Zeckhauser, "Amnesty, Enforcement, and Tax Policy," in *Tax Policy and the Economy*, ed. Lawrence H. Summers, vol. I (Boston, Massacheutes MIT Press, 1987).

[17] Geoge Guttman, "Tax Indulgences: The Scope and Effect of Tax Amnesty," *Tax Administration Review* 11, no. September (1992).

[18] Guttman.

[19] Guttman.

[20] Guttman.

[21] A. Waris, and L. Abdul Latif, "The Effect of Tax Amnesty on Anti-Money Laundering in Bangladesh," *Journal of Money Laundering Control* 17, no. 2 (2014).

[22] Waris, and Latif.

of tax amnestization in Turkey draws interesting outcomes.[23] It mainly discusses tax related provisions of a new law on public receivables. The Law enables, from the point of public receivables, public debtors to pay their debts either by cash or instalments by restructuring public claims, which have difficulty in collection.

Bayer, Ralph-C., Harald Oberhofer, and Hannes Winner (2015) treat amnesties as endogenous, resulting from a strategic game between many taxpayers discounting future payments from punishment and a government that balances costs and benefits of amnesty programs. From the model, they derive hypotheses about the factors that should influence the occurrence of tax amnesties. Their empirical findings suggest that the likelihood of amnesties is mainly driven by a government's fiscal requirements and the taxpayers' expectations on future amnesties.[24]

Nur Sayidah and Aminullah Assagaf look "to analyze the views on tax amnesty from various parties, namely state officials, tax officials, taxpayers, and tax consultants."[25] By using their analysis they prove that a tax amnesty can be used to trigger and incentivize repatriation of funds from foreign jurisdictions; to increase revenue for budgetary purposes; to create a bulwark against future illegal parking of funds in offshore havens; to wheedle good taxpayers into compliance with tax laws in future; and to build infrastructure to strengthen the confidence of taxpayers.[26] Lopez-Laborda and Rodrigo, on the basis of the study conducted in the context of Spanish tax amnesty granted in 1991, through a rigorous econometric modeling work, found that it "had no effect on tax collection in either the short or the long term."[27] Now except Nur Sayidah et al, almost all of the researchers, and in almost all of the areas they inquired into, have found that tax administrations have hardly any positive correlation with the statecraft, revenues, tax administration or taxpayers' perception, but tax amnesties continue to be given – particularly in Pakistan and in abundance.

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Section IV
Inflection Point

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Although, the Benami Transactions (Prohibition) Act, 2017 ("the BTA, 2017") had been promulgated for a couple of years, it could not be operationalized unless the Benami Transactions (Prohibition) Rules, 2019, (hereinafter "the BTR, 2019") were issued.[28] The BTA, 2017 had been pre-ambled *"to provide for prohibition of holding property in benami*

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[23] Ramazan Biçer, "Turkey: A New Tax Amnesty," *INTERTAX* 43, no. 3 (2015).

[24] Bayer, Ralph-C., Harald Oberhofer, and Hannes Winner. "The occurrence of tax amnesties: Theory and evidence." Journal of Public Economics 125 (2015): 70-82.

[25] Nur Sayidah, and Aminullah Assagaf, "Tax Amnesty from the Perspective of Tax Official," *Cogent Business & Management* 6, no. 01 (2019).

[26] Sayidah, and Assagaf.

[27] Julio López-Laborda, and Fernando Rodrigo, "Tax Amnesties and Income Tax Compliance: The Case of Spain," *Fiscal Studies* 24, no. 1 (February, 2003).

[28] The Benami Transactions (Prohibition) Rules, 2019, were notified vide SRO No. 326 dated March 11, 2019.

and restrict right to recover or transfer property held benami, and provide mechanism and procedure for confiscation of property held benami." The BTA, 2017, was brought in to checkmate a wide-going perverse process of the economy. It was believed that benami was a significant issue of the polity as a large number of economic assets created over time were not kept in the title of beneficial owners. Therefore, this was not only a problem for the tax system but also for the entire governance system. The promulgation of BTA, 2017 had bred significant amount of anxiety and nervousness in the Pakistani elites who were well-known to hold benami assets and bank accounts and even undertake benami business transactions. This had led to concerted efforts by and on behalf of Elites Ltd to block the BTA, 2017's operationalization, and they successfully did it for good two years.

The operationalization of the BTA, 2017, on March 11, 2019, turned out to be the inflection point and trigger of the TAS 2019. In all fairness, the BTA, 2017, had neither been legislated nor operationalized out of Pakistan's own will and volition; it was, instead, coerced and bulldozed by the outside world – international multilateral frameworks like FATF, IMF, World Bank and OECD – pressurizing directly and indirectly. Once the BTA, 2017 was enforced, the Pakistani elites who had skeletons up their cupboards, felt cornered, nervy, and threatened. A plausible specter of getting caught for cheating and amassing assets way beyond the ostensible means declared and offered for taxation looming large. The state also found itself on the inflection point – it had the option to resort to *the reality principle*, pitch up its recoil, capacitate the tax system and go after the delinquents who had been taking it for a ride at will or capitulate under Elites Ltd's pressure yet another time – *the pleasure principle*. The elites sensing danger choreographed an outmaneuver, clamored, and lobbied for and got away with yet another amnestization – the TAS 2019.

The shaping of the environment gets underway quick and fast. It was argued that after "enactment of Benami law and making it operational through issuance of rules…**the tax amnesty scheme is essential for giving last chance to businessmen for declaring their assets and income by making adjustments in their books because currently they are making business deals out of their books.**"[29] Government also considered it advisable "to give them chance to bring all assets and income on their balance sheets as without improving their balance sheets they cannot undergo joint ventures."[30] Such arguments were being advanced without any conscience or qualms. Ahmed writes of the ability of the Pakistani elites to promote their economic agenda: -

> In order to pursue their economic agenda they do not form any permanent alliances nor do they enter into any ideological battle-grounds. They quickly shuffle and change their positions from moment to moment and on issue to issue frantically looking to optimize their economic gains ruthlessly—at all costs, and at all times. In Pakistan, economic group-interest is the only permanent and defining factor in the formation and deformation of elite alliances—including ruling coalitions. They

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[29] Mehtab Haider, "Amnesty Scheme Should Focus on Broadening Tax Net," *The News* (Islamabad), April 22, , 2019.
[30] Haider.

want, neither to rule nor be ruled, if it could in any manner, potentially jeopardize the economic status quo. But Pakistani elites are effective to the kill, go-getters of the highest order, and top performers when it comes to achievement of their own agenda. They have, over time, exhibited tremendous efficacy to put together ruling alliances which could under-write the economico-political status quo; which would not pose taxing questions; which would guarantee provision of subsidies, exemptions, and a dysfunctional extractive system.[31]

The above assertions were at the verge of becoming true even in the wake of PTI having come to power that had publicly opposed TAS 2018. The PTI government was so massively impelled that it went ahead with the amnestization initiative despite express disapproval by IMF. Teresa Daban Sanchez, IMF Resident Representative, Pakistan, stated that "IMF position against tax amnesties is well known," and that "Cross country experience shows these schemes usually are not successful in mobilizing revenues and are quite damaging to the moral of obliging taxpayers."[32] Likewise, the FATF publicly opposed the impending amnestization but to no avail.[33] It was found exceedingly surprising for the PTI government "to succumb to such demands because it has been criticizing such schemes passionately when in opposition."[34] It has been remarked that "Crises involve sharp confrontations among political elites, and they often produce changes in elite composition and functioning that are manifested by new or significantly altered regimes," and that "in moments of crisis, political leaders and elites possess significant autonomy and latitude for maneuver," and further that the "choices that they make at such moments are frequently decisive for the outcomes of crises and for the regimes that follow."[35]

In all fairness, however, PTI government's capitulation to Elites Ltd's pressure on this count ought to be taken as an aberration. In 2019, on a number of counts, it took measures to strengthen the tax system on long term basis. An ongoing amnesty on account of real estate assets denoting difference of FBR's value and actual purchase value at the rate of 3 percent was discontinued w.e.f. July 1, 2019. An implied amnesty extended on foreign remittances by *even* tax resident Pakistanis was reduced from Rs.10 to Rs.5 million per annum. A large number of incomes that had been kept in presumptive regime with a corresponding waiver from finalization of financial accounts and declaration of normal incomes, were withdrawn despite being unpopular. Likewise, a significant number of exemptions were withdrawn and an attempt was made to document the retail sector through point of sale (POS) integration with tax administration's IT system for real time reporting of transactions. The whitening was also targeted by SBP when it decided to terminate bearer prize bonds denominating Rs.40,000. It was reported in September 2019 that

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[31] Ahmed, "Pakistan: Extraction, Elites and State Autonomy: A Theoretical Configuration."

[32] Tahir Amin, "I.M.F. Not in Favour of Tax Amnesty Scheme," *Business Recorder* (Karachi), April 22, , 2019.

[33] Khaleeq Kiani, "Imf Opposes Extension of Amnesty Scheme Deadline," *Dawn* (Karachi), June 29, , 2019.

[34] Kiani, "Halal Tax Amnesty."

[35] M. Dogan, and J. Higley, *Elites, Crises, and the Origins of Regimes* (Rowman & Littlefield Publishers, 1998), 3. https://books.google.com.pk/books?id=8qZMFmK_KicC.

Rs.177.41 billion were documented since denomination of Rs.40,000 bonds – in about a year's time.[36]

Section V
Astroturfing

The enforcement of the BTA, 2017 had opened a new specter. The Elites Ltd realizing that they were caught on the wrong foot and that there loomed a possibility of state recoil to their past felonious economic conduct, got down to astroturfing the public perception domain for another massive tax amnestization. An extensive electronic and print media campaign was launched to make the tax amnestization a reality. The Elites Ltd sponsored prime time talk shows to neutralize public opposition to amnestization. Economists, professionals and other opinion-makers were unleashed to shape the environment by arguing in favor of the tax amnestization. The argument advanced was that people had a lot of black money piled up and if they could be given one last time chance to whiten and mainstream it, it would do a lot of good to the economy through expansion of aggregate demand and job creation. This time astroturfing was undertaken across a wider spectrum involving quite a few newer options than – seminars, social media, and roadshows.

Even private financial institutions were coaxed into writing to the their clients to create a fear factor and wheedle them into filing the amnesty scheme.[37] Illustratively, the advice of a private bank to its clients harangued "that national and international compliance requirements are increasingly focusing on the monetary transactions carried out through banking and other formal and informal channels," and suggesting them innuendos to avail the amnesty.[38] Prime Minister, Imran Khan, went public and addressed the nation three times urging them into availing the amnesty scheme. He stated in his televised address to the nation on June 21, 2019:

> We are stuck in a debt trap. The problem now is tax theft. To end tax theft, I need your help. Until the people do not resolve along with the government, to extricate itself from these loans, they will not be able to get out of the debt trap. I have initiated this scheme under which you can declare your assets until June 30. This scheme is a golden opportunity for you to declare money you have kept at home, dollars, jewelry, benami accounts and foreign assets that you possess.[39]

The government's eagerness to make the amnestization initiative succeed, turned it into a referendum of its own popularity. "The reason this has turned into a referendum is because if the response to the appeals for the amnesty scheme is weak, the credibility of the entire

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[36] Shahnawaz Akhter, "Rs.177.41 Billion Documented since Termination of Rs. 40,000 Bonds," *The News* (Islamabad), September 07, 2019.

[37] Tariq Butt, "Availing Tax Amnesty Scheme: Private Banks Start Persuading Their Account Holders," *The News* (Islamabad), June 23, , 2019.

[38] Butt.

[39] Butt.

tax effort to follow will be challenged at the very outset," and that a "weak response will basically mean that people have called the government's bluff."[40] To top up the fear-factor in the hearts of the citizenry, the government strategically timed the creation of the Adjudicating Authority under the BTA, 2017.[41] The Adjudicating Authority's establishment was given a media hype and portrayed as panacea to all economic ills of the country. It is generally believed that the Adjudicating Authority's creation did, to a certain degree, influence the perception of the delinquent – the potential tax-filers. The government went overboard to publicize and popularize the amnesty. International roadshows were planned in about half a dozen countries to convince and lure Pakistani diaspora into availing the amnesty – being a last chance. However, due to bureaucratic rigmarole and constraints only one roadshow in the UAE could be arranged.[42] FBR's Facilitation and Taxpayers' Education Wing ended up spending over Rs.200 million on electronic and print media campaigns.[43] Understandably, the media elite lent full support and this time around, the media across the board, took a positive view of the reform package.[44]

The eventuality of the amnesty's getting challenged in the court of law was strategically preempted in the public domain, deliberated upon and neutralized. It was stated that the previous "amnesty was launched only a year ago," which "had the backing of judiciary, too."[45] It was feared that "it might be challenged on several grounds," as it was the "time to make hard decisions, not by further burdening the poor but by taxing the rich and landed classes and by holding them accountable without exception."[46] Expectedly, none in the entire country challenged the amnestization initiative in a court of law including the civil society – even at the peak of hyper judicial activism. To garner greater public support, an exaggerated revenue figure was put on the amnesty scheme as it was projected that "tax authorities have now estimated around Rs. 250-300 billion in revenue from the new scheme."[47] How exaggerated the figure was, time would tell?

[40] Khurram Husain, "Amnesty or Referendum?," *Dawn* (Karachi), June 27, , 2019.
[41] The Adjudicating Authority under the Benami Transactions (Prohibition) Act, 2017, was established vide Notification No.1591-IR-I/2019, dated June 29, 2019. The composition of the Authority was Jamil Ahmad, Chairman, Muhammad Tanvir Malik, Member, and Khaqan Murtaza, Member.
[42] Waheed Abbas, "Pakistan Amnesty: Uae Expats to Lead Asset Declaration," *Khaleej Times* (Dubai), June 26, , 2019.It may be added that it was the author himself who gave the only roadshow in UAE.
[43] Administration & Finance Wing, Federal Board of Revenue, Islamabad.
[44] See, for instance, Sohail Ahmed, and Junaid Saleem, "Hasb-E-Haal," *Dunya TV* (Lahore), August 4, , 2019, https://www.youtube.com/watch?v=5YOOMGJvDwY.
[45] Muhammad Waqar Rana, "Tax Amnesties," *Business Recorder* (Karachi), April 24, , 2019.
[46] Rana.
[47] Shahnawaz Akhter, "F.B.R Expects up to Rs. 300 Billion in Revenue from New Tax Amnesty Scheme," *The News* (Islamabad), April 4, , 2019.

Section VI
Amnestization Design Features

When viewed from the tax administration lens, the TAS 2019 carried better design features than TAS 2018.[48] The TAS 2019 was based on the assumption that "…there is reportedly a large-scale non-declaration of assets, sales and expenditure;" and that "…it is expedient to make provisions for declaration of such assets, sales and expenditure."[49] The TAS 2019 looked to amnestize assets acquired, expenditures incurred, and sales made in the name of the declarant himself as well as a benamidar on or by June 30, 2019.[50] The coverage under the TAS 2019, was also extended to any assets, sales or expenditures including those held in a benamidar's title and in respect of which tax proceedings under any of the tax laws were pending.[51] The TAS 2019 were to exclude Public Office Holders (POHs) as defined in the Voluntary Declaration of Domestic Assets, 2019, or their benamidars as defined in the BTA, 2017, their spouses and dependent children, as well as a public company.[52] Likewise, any proceeds or assets involved in or derived from the commission of a criminal offense were also excluded from the purview of the amnestization. The assets held in the form of gold, precious stones, bearer prize bonds, bearer securities or any other assets in respect of which proceedings were pending in a High Court or Supreme Court of Pakistan were not covered by the amnesty.[53] It is pointed out that while whitening of benami assets was the very trigger of the amnestization, undisclosed sales made and expenditures incurred were innovations on the previous tax amnestizations.

The scope of the tax amnestization was stretched far and beyond its normal bourns. It was ordained that "nothing contained in any declaration made…shall be admissible in evidence against the declarant for the purpose of any proceedings relating to imposition of penalty or adverse action or for the purposes of prosecution under any law."[54] The statute also took precaution against misrepresentation by stipulating that "where a declaration has been made by misrepresentation or suppression of facts, such declaration shall be void and shall be deemed to have been never made."[55]

While TAS 2018 had built-in confidentiality cover that was unprecedented in scope and strictness, in TAS 2019, it was standard and a diluted one. Although, a decent protection was given to the declarations made under the TAS 2019, yet visibility was allowed to departmental officers through creation of exception to "the provisions of clauses (a) and

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[48] A plausible reason for such an improvement was that ADO, 2019, unlike TAS, 2018, was drafted internally by FBR's team of bright tax policy formulators ably led by Dr. Hamid Attique Sarwar - Member (Inland Revenue Policy).
[49] Pakistan, *The Assets Declaration Ordinance, 2019* (Islamabad: 2019).
[50] Section 3 of Pakistan.
[51] See Explanation to section 3 of Pakistan.
[52] Section 11 of Pakistan.
[53] Pakistan.
[54] Section 12 of Pakistan.
[55] Section 13 of the Pakistan.

(g) of sub-section (3) of section 216 of the Income Tax Ordinance, 2001."[56] While domestic real assets could be whitened at the rate of 1.5 percent, all other domestic assets carried a rate of 4 percent. Foreign liquid assets whitened and not repatriated carried a rate of 6 percent. Likewise, undisclosed expenditure and sales carried a rate of 4 percent and 2 percent, respectively.[57] The TAS 2019 did carry a usual overrider, but it was decent; not as brute as a year ago. One of the main shortcomings of the TAS 2018 that becoming a taxpayer was not even a precondition to avail the amnesty, was adequately made up in the TAS 2019. Yet another marked difference between the TAS 2018 and TAS 2019 was that under the former only Pakistani citizens were eligible, but under the latter, strictly legally speaking, any person could avail it. This aspect was not spotted by the international community during the currency of the TAS 2019.

The amnesty was rolled out as a separate standalone statute, which was never a good ploy. It should have been embedded into the tax laws itself. Standalone separate laws create difficulties in implementation as there is hardly any machinery available to operationalize them. Illustratively, section 17 of the ADO 2019 was overprotective as it was the "Federal Government" which was empowered to intervene to remove any difficulties. This created significant problems for the filers. The provision that a public officeholder (POH) or a politically exposed person (PEP) was not eligible to avail the amnesty, could be determined by the field officers, was an improvement over previous year's amnesty design.

Section VII
Outcomes

To ensure TAS 2019's soft-landing, projected revenue tag associated to it was exaggeratedly put at Rs.250-300 billion.[58] It was also opined that "if the scheme yields anything less than 55,000 declarants,…less than Rs.150 billion in revenue, and less than Rs.1 trillion in foreign assets declared, there are grounds for considering that people have called the government's bluff."[59] Surprisingly, all these plus-size projections were made despite the fact that the previous amnesty was just out less a year ago, and that no significant investments or efforts had been made to quantum improve and enhance deterrence so as to positively influence the delinquent taxpayers' perception. A dissection of TAS 2019's outcomes would empirically prove that the government's bluff was called.

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[56] Section 216(3)(a)&(g) of the I.T.O 2001, reads: "(3) Nothing contained in sub-section (1) sahll preclude the disclosure of any such particulars -- (a) to any person acting in the execution of this Ordinance, where it is necessary to disclose the same to him for the purposes of this Ordinance;" and "(g) to any authority exercising powers under the Federal Excise Act, 2005, the Sales Tax Act, 1990, the Wealth Tax Act, 1963, or the Customs Act, 1969, as may be necessary for the purpose of enabling its duty to exercise such power".

[57] See, the Schedule to Pakistan.

[58] Akhter, "F.B.R Expects up to Rs. 300 Billion in Revenue from New Tax Amnesty Scheme."

[59] Husain.

(A) Domestic Tax Amnesty

Under TAS 2019, as shown in Table I, a total of 125,349 amnesty declarations were filed, which was more than double of the expected figure of 55,000. Out of a total of 81,156 domestic declarations, 42,009 were new ones representing 51.75 percent of the total domestic declarations filed. Likewise, out of the total 2,184 foreign declarations, 241 happened to be new filers – 12.4 percent of the total foreign declarations filed. Thus, TAS 2019 faired slightly better for the system by bringing in a decent number of new taxpayers as compared to TAS 2018 wherein it was not even required to be a filer.

Table I
TAS 2019: Total Declarations – Old & New

#	Declaration Category	New Filers	Existing Filers	% of New Filers	Total
1	Domestic	42,009	81,156	51.76%	123,165
2	Foreign	241	1,943	12.4%	2,184
	Total	**42,250**	**83,099**		**125,349**

(Source: Pakistan Revenue Automation Ltd.)

When it comes to asset-wise breakdown of declared values whitened and corresponding tax paid in respect of both "self-owned" and "benami-held" assets as depicted in Table II, the outputs are not even closer to projections. Out of the total assets declared at 191,069, an overwhelming 182,961 were self-owned, whereas 8,609 were benami assets. The total value of assets whitened at Rs. 2,268 breaks down into Rs. 2,099 billion for self-owned assets and Rs. 169 billion for benami-held assets which implies that out of the total assets whitened 7.45 percent were held in benami – this is a substantial size. Similarly, out of total tax yield of Rs.53.82 billion at Rs. 3.22 billion, namely 5.98 percent, is on account of whitening of benami assets. The bulk of the assets whitened included bank accounts, motor vehicles, and real estate assets; in fact, maximum benami assets whitened were in open plots and land. In the same vein, the value of undisclosed expenses whitened stands at Rs. 3.447 billion. Likewise, the value of undisclosed sales whitened for sales tax and federal excise purposes at Rs.86.80 and Rs.5.40 billion, respectively, was not insignificant at all. Whitening of cash at Rs.52.70 billion is expectedly indicative of substantial underground economy prevalent in the country.

Table II
TAS 2019: Domestic Assets – Declarations, Value of Assets & Tax Paid

(Rs. in Billion)

#	Asset Description	Tax Rate	Owned Assets			Benami Assets		
			Declarations	Value	Tax	Declarations	Value	Tax
1	Bank Accounts	4	41,782	336.80	13.50	528	5.30	0.21
2	Bank Accounts (FC)	4	2,735	31.90	1.30	33	0.32	0.01
3	Motor Vehicles	4	13,261	29.20	1.20	1,023	3.70	0.15
4	Other Investments[60]	4	3,684	32.80	1.30	139	3.30	0.13
5	Other Assets	4	18,456	228.20	9.10	296	14.90	0.60
6	Open Plots & Land	1.5	46,314	763.40	11.50	3,345	102.50	1.54
7	Superstructure	1.5	13,037	129.80	1.90	627	6.90	0.10
8	Apartments / Flats	1.5	32,629	367.60	5.50	2,617	31.90	0.48
9	Undeclared Expenses	4	3,447	37.50	1.50	-	-	-
10	Cash Available[61]	4	1,832	15.20	0.60	-	-	-
11	Cash Available[62]	4	3,852	34.40	1.40	-	-	-
12	Undeclared Sales – ST	2	1,370	86.80	1.70	-	-	-
13	Undeclared Sales – FE	2	62	5.40	0.11	-	-	-
	Total		**182,461[63]**	**2,099**	**50.6**	**8,608**	**168.82**	**3.22**

(Source: Pakistan Revenue Automation Ltd.)

(A)   Foreign Amnesty

The TAS 2018 had come to a close on July 31, 2028. On October 30, 2018, first packet of bank account information was exchanged under the OECD-CRS framework. It was argued that the main trigger of the TAS 2018 was the expected bank account information exchanges under the OECD-CRS framework.[64] The TAS 2019 was a fresh lease of life for the elites who had either completely or partly missed the TAS 2018 or were skeptical about the efficacy of the impending exchanges under the CRS framework. They were offered to get on board the missed train.

Like also shown in Table III, head-wise breakdown of assets whitened divulges revealing results. A total of 2,620 declarations were filed in respect of foreign assets out of which 2,527 were in connection with self-owned and 93 benami-held assets. Total value whitened comes to Rs.214 billion, which breaks down to Rs.208.7 billion for owned and Rs.5.4 billion for benami assets. Tax collected was Rs.10.84 billion.

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[60] This excludes bearer bonds, certificates, prize bonds, gold & precious stones.
[61] This refers to the cash available as on June 30, 2018, but invested in immovable property post June 30, 2018.
[62] This inclused cash available as on June 30, 2018, but invested in Business post june 30, 2018.
[63] The number of distinct filers was 123,165.
[64] Ahmed, "Pakistan: Economy under Elites - Tax Amnesty Scheme, 2018."

Table III
TAS 2019: Number & Value of Foreign Assets Whitened

(Rs. in Billion)

#	Asset Description	Tax Rate %	Owned Assets			Benami Assets		
			Declarations	Value	Tax	Declarations	Value	Tax
1	Liquid Assets (Not Repatriated)	6	1,329	110.3	6.6	40	1.2	0.07
2	Liquid Assets (Repatriated)	4	82h	1.7	0.07	4	0.08	0.03
3	Immovable Assets	4	1,116	96.7	3.9	49	3.4	0.13
	Total		2,527[65]	208.7	10.6	93	5.4	0.24

(Source: Pakistan Revenue Automation Ltd.)

It is evident that maximum declarations filed in respect of non-repatriated offshore assets at 1,369 were in respect of foreign bank accounts & other liquid assets. Contrarily, liquid assets that were repatriated were Rs.1.7 billion only in 86 declarations yielding an insignificant tax revenue of Rs.0.10 billion. When it comes to non-repatriated benami offshore liquid assets 40 declarations were filed to whiten Rs. 1.2 billion in lieu of tax payment of Rs.0.07 billion. In respect of repatriated benami liquid assets only 4 declarations were filed to clean an amount of Rs.0.80 billion for tax payment of Rs.0.3 billion. A significant amount of Rs.100 billion was whitened vide 1,165 declarations yielding a tax amount of Rs.4.1 billion out of which only Rs.3.4 billion via 49 declarations happened to be on account of offshore benami assets.

Table IV
TAS 2019: Foreign Declarations & Values Whitened – Top 10 Jurisdictions

(Rs. in Billion)

#	Foreign Jurisdiction	Declarations	Value of Immovables Whitened	Value of Liquid Assets Whitened		Total Values Whitened
				Repatriated	Un-Repatriated	
1	UAE	1,331	46.81	0.81	23.09	70.70
2	UK	481	33.16	0.11	12.30	45.57
3	Singapore	73	2.57	-	17.92	20.49
4	Switzerland	65	-	0.32	13.37	13.69
5	BVI	33	2.04	-	15.46	17.50
6	USA	182	4.01	0.08	6.96	11.04
7	Jersey	12	0.46	0.01	10.56	11.04
8	Canada	148	5.60	0.04	2.10	7.74
9	Isle of Man	7	3.06	-	0.13	3.19
10	Malaysia	54	0.66	0.07	1.16	1.90
11	Others	244	2.28	1.13	8.49	11.89
	Total	2,630	100.64	2.56	111.55	214.75
	%-age of Total		46.86	1.19	51.94	100

(Source: Pakistan Revenue Automation Ltd.)

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[65] The number of distinct filers was at 2,184.

When foreign declarations are broken down offshore jurisdiction-wise, one finds that out of the total 2,630 declarations filed 2,386 were lodged in respect of assets held in top 10 jurisdictions as listed in Table IV. Likewise, out of the total value whitened at Rs.214.75 billion, a staggering sum of Rs.202.86 billion emanated only from listed top ten jurisdictions. Interestingly, in respect of the real estate assets whitened more than 50 percent declarations and 46% value pertained to UAE only – Pakistanis' favorite destination for money laundering. Next best is the UK wherefrom Pakistanis whitened real properties worth Rs.33 billion in only 481 declarations. Put together more than 50% of the total real estate whitened in more than 50% of the total declarations pertained only to UK and UAE. Liquid assets are rather dispersed across jurisdictions more evenly. Out of total bank deposits whitened valuing Rs. 111.55 billion, a whopping sum of Rs.100 billion was concentrated in seven offshore jurisdictions – UAE, UK, Singapore, Switzerland, BVI, USA, Jersey, and Canada.

Table V
TAS 2018 vs TAS 2019: Declarations, Assets, FE Remitted & Tax Paid

(Rs. in Billion)

TAS	Declarations (Numbers)	Assets Value Whitened	FE Remitted	Tax Paid
TAS 2018	83,120	3,011.4	9.76	121.4
TAS 2019	125,349	2,263	1.19	64.66
Total	**208,469**	**5,274.4**	**10.95**	**186**

(Source: Pakistan Revenue Automation Ltd.)

In overall terms, the TAS 2018 performed better in respect of assets value whitened at Rs.3,011 billion, foreign exchange remitted at Rs. 9.76 billion, and tax paid at Rs. 121.4 billion, as against Rs.2,263 billion, Rs.1.19 billion, and Rs.64.66 billion for TAS 2019, respectively. However, the TAS 2019 produced significantly better results in terms of declarations filed at 125,349 as against 83,120 for the TAS 2018. The differential in outcomes is explainable in term of slightly variable design features of both tax amnestizations, which turns out as the evidence that amnesty design needs to be worked out well for achieving intended objectives. A well-designed amnesty program along with a proper timing of implementation could have brought some gains to public revenues, and other segments of society. If tax amnesty had been accompanied by a strengthened enforcement by the tax administration, there would be a stronger incentive for the tax evaders to opt for amnesty on account of an increased likelihood of being caught and punished. Tax amnesty as a part of an overall tax package might prove to be more fruitful, e.g., an amnesty along with reduced tax rates provides a stronger incentive to tax evaders to opt for amnesty, along with compensating the compliant taxpayers.

Section VIII
Conclusion

There are a few important summations that can be made from the foregoing debate. Firstly, the Pakistani elites with all the economic power that they have amassed overtime – irrespective of the political party, coalition, or regime in power – can influence public policy at will at any juncture. It has been argued that elites cooperation mechanisms are not at all dependent on political propensities as they distinguishably enter into zero-sum transactions on the political chessboard but into non-zero-sum transactions on the economic chessboard.[66] Secondly, it was a failure in many respects; it failed to bring in the tax revenues that it was pitched up to bring in; nor did it mop up black economy that it was supposed to. Thirdly, OECD-CRS framework was effectively neutralized and redundantized as against in a lot of other countries where it was used to exact laws and improve governance. Fourthly, UAE-EOI framework could not be pursued with full national resolve since Pakistan was borrowing safe deposits from them for bolstering its foreign exchange reserves.[67] Fifthly, the government claims that this was the last tax amnesty in Pakistan was just laughed out with a smirk. Industrial elite, right during the currency of the TAS 2019, started to lobby for a first-ever industrial amnesty. The Federation of Pakistan Chamber of Commerce and Industry (FPCCI) "urged the government to announce first ever "Industrial Amnesty" for the establishment of export-oriented industry without seeking source of income to bring undeclared hidden assets in documented economy besides boosting the volume of exports."[68] It was explicated that "trillions of rupees are hidden and undocumented money will be injected in new industries and provide millions of new jobs."[69] This implied that the Elites Ltd were already sowing seeds for yet another amnestization for the near future. There was, of course, no doubt in anyone's mind that they would harvest desired crop at their own will and volition.

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[66] Ahmed, "Pakistan: Extraction, Elites and State Autonomy: A Theoretical Configuration."

[67] Muhammad Ashfaq Ahmed, "United Nations Model Tax Convention Article 6: Seclective Territoriality - the Spectre of Privileged Player in a Rigged Game," *Manchester Journal of International Economic Law* 18, no. 3 (2021).

[68] Sohail Sarfraz, "F.P.C.C.I Urges Government to Announce First-Ever Industrial Amnesty," *Business Recorder* (Karachi), June 27, 2019.

[69] Sarfraz.

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