

**Naming the benami deals and assets**

CHANGING established practices that have served the nexus of power is not easy, especially in Pakistan. Therefore, the success of progressive changes inserted in the legal framework will depend on civil awareness and the public's demand to follow through with them.

The country made a long overdue move last week towards greater transparency, credibility and reliability by enacting the Benami Transaction (Prohibition) Law.

The fact that it took the country a good 16 years, after it decided to shun the benami system (where the real owner of an asset is undisclosed) in 2003, reflects the hold and influence of the beneficiaries on the opaque framework of the state structure.

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The mighty elite have yet to digest the radical change in the legal framework and make adjustments to shield its undeclared assets.

The move, market watchers expect, will spark fear when the full implications of the Benami law are understood. They foresee a fall in property prices going forward as benami holders rush to dump their assets in the market to ward off the risk of confiscation.

"I anticipate a surprisingly rich haul from this move," an expert commented referring to expected action against benami bank accounts.

There is little doubt that if implemented diligently the said law can minimise and, over time, eliminate the abuse of a loophole (benami) in the legislative framework. This has traditionally been used to conceal wealth and its movement, presumably to evade tax and/or obscure illicit purposes.

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The relevant circles in Islamabad declined to quantify the possible impact of the said law in terms of unearthing hidden wealth which has been parked in bank accounts and property.

The hierarchy was not able to offer a convincing response on how the Federal Board of Revenue (FBR), that has failed to perform its basic function (revenue collection), will shoulder the additional responsibility of identifying rogue owners of accounts and properties in the country.

Experts believe the process initiated by the enactment of the law will take about a year before justice is served on owners of benami fixed or liquid assets. "The fate of properties and accounts attached in the initial phase will set the tone and establish the efficacy of the exercise," commented a senior officer in the FBR.

In a written response to a Dawn query on the time required to implement the law, FBR Member Inland Revenue Policy Dr Hamid Ateeq Sarwar said: "The jurisdiction assigning orders are being issued. Investigation and attachment of properties part will become operational from April 2019. The adjudication part will start from July 1, 2019 as the prosecution requires a period of 90 to 120 days before adjudication."

When pressed for the expected worth of property that falls in the category and could be confiscated in the first year to set the ball rolling, a member of the government economic team declined to throw a number in the absence of any study that sheds light on the monetary worth of benami properties and bank accounts in Pakistan.

“It can be anywhere between five to 20 per cent of the total holdings but in absence of verifiable data it is not fair to make projections,” a senior officer commented, adding that the Economic Crime Wing (ECW) of the FIA might have better projections.

Several attempts to reach the director general FIA, ADG ECW or other seniors for comments proved futile. Many officers were on leave or too busy to share their assessment of the law or identify hurdles in its implementation.

The practice of holding and operating a benami bank accounts and properties has been rampant in South Asia. There might be a historical explanation for the trend but in modern times there exists no justification for the practice used and abused by socially irresponsible elements to park and shuffle their wealth around.

The relevant circles are not sure how far the enactment of the new law will strengthen Pakistan’s case at the global monitoring forums such as with the Financial Action Task Force (FATF), but they insist that it’s a move in the right direction.

Shabbar Zaidi, senior partner at AF Ferguson and former provincial minister confirmed the veracity of the law. “It is a very good piece of legislation that addresses a blatant anomaly in the framework,” he said over phone.

Assessing the possible impact of the Benami prohibition law on the property market in Pakistan, Hasan Bakshi chairman ABAD, hoped it will drive shadow owners out making conditions conducive for genuine buyers to enter the market.

“People with undisclosed streams of massive income have flouted the property market, pushing prices beyond the reach of the middle class. If implemented with the right spirit the new law can burst the bubble and broaden the base of participation, along with enhancing the level of activity in the market,” he said.

When reached over phone, officials in the ministries of finance and law in Sindh and Punjab were still in the process of studying the new legislation to comprehend what it would mean to them.

A senior bureaucrat in Sindh expressed apprehensions. “Unless the government invests in capacity building, the criminal elements will continue to game the system to their advantage despite a new law. What’s the fun in having better laws if they can’t deliver justice?” he asked.

A member of the provincial economic team in Punjab was not particularly excited. “The proof of the pudding is in the eating. If the law succeeds in exposing and penalising people in possession of wealth not justified by their means we will do all in our means to help the federal government,” he told Dawn over phone from Lahore.

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