



Constitutional and Procedural Challenges in Money Laundering  
Prosecutions under Pakistan's Anti-Money Laundering Act 2010: A  
Critical Analysis of Non-Cognizable Offence Classification

<sup>1</sup>Syed Arif Hussain

<sup>1</sup>PhD Scholar, Department of Criminology, University of Karachi.

[syedarif.cri@gmail.com](mailto:syedarif.cri@gmail.com)

Abstract

Money laundering poses significant threats to global financial systems, with developing economies particularly vulnerable to its destabilizing effects. Pakistan faces mounting international pressure to strengthen its anti-money laundering framework, evidenced by repeated Financial Action Task Force grey-listing due to strategic prosecution deficiencies. Despite substantial legislative reforms including the Anti-Money Laundering Act 2010 and subsequent amendments, Pakistan continues struggling with ineffective prosecutions. This study examines constitutional and procedural challenges impeding effective money laundering prosecutions, focusing on non-cognizable offence classification. The research employs qualitative doctrinal legal analysis combined with critical institutional framework examination, utilizing primary sources including statutory provisions and judicial decisions, supplemented by international reports and academic literature. Analysis reveals that money laundering's non-cognizable classification creates substantial procedural delays, while institutional fragmentation among investigating agencies generates coordination failures and enforcement gaps. Findings demonstrate that legislative amendments alone cannot address systematic deficiencies without corresponding institutional reforms and international cooperation enhancement. The study concludes that comprehensive reform encompassing legal framework revision, institutional restructuring, and capacity building is essential for effective anti-money laundering enforcement aligned with international standards.

**Keywords:** Money Laundering; Non-Cognizable Offence; Anti-Money Laundering Act 2010; FATF Compliance

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Corresponding Authors\*:

## INTRODUCTION

Money laundering is one of the most intimidating factor to the financial integrity and economic stability of Pakistan as the country is already under increasing pressure to tighten up its anti-money laundering (AML) system. In June 2018, Pakistan was listed on the greylist by the Financial Action Task Force (FATF) and is facing strategic deficiencies in its AML/CFT regime, the second time the country has been subjected to international scrutiny following an initial listing in 2012-2015 (Zia et al., 2022; Zaib, 2022). This classification has far-reaching consequences to the Pakistani economy as the financial institutions around the globe hesitate to do business with Pakistani organizations thus worsening the balance of payment and discouraging foreign investment in the country (SAHSOL, 2024).

Money laundering has an international scope, and it is estimated that every year between US\$500 billion and US\$1 trillion is laundered around the world, which is about 2-5 percent of world GDP (Imran et al., 2024). In the case of developing economies such as that of Pakistan, the effect is especially catastrophic, with money laundering compromising financial system integrity, promoting corruption, and channeling resources out of the legitimate economic process. The Anti-Money Laundering Index of the Basel Institute on Governance regularly lists Pakistan as one of the worst-performing countries, the country is 46th out of 146 countries in 2017, and this highlights serious gaps in AML practices in the country (SAHSOL, 2024).

The process of developing a complete regime of AML in Pakistan has been slow and was characterized by multiple legislative revisions. First, money laundering was pursued by the Anti-terrorism Act 1997 and the Control of Narcotics Substances Act 1997 which only contained limited coverage as they were mainly concerned with the financing of terrorism and drug related crimes (Daudpota, 2013). Anti-Money laundering Act 2010 (AMLA) is the main law to regulate the current legal framework and it was significantly revised in 2015 and 2020 in response to international issues and the FATF recommendations (Anwar et al., 2022; Satti et al., 2025). With these amendments, the Act still has a lot of implementation issues that seriously cripple the effectiveness of prosecution. One of the most critical challenges lies in the institutional framework for prosecution. The AMLA designates four primary investigating and prosecuting agencies: the National Accountability Bureau (NAB), Federal Investigation Agency (FIA), Anti-Narcotics Force (ANF), and the Federal Board of Revenue's Intelligence and Investigation directorates (Ghauri et al., 2024). However, each agency operates within narrow jurisdictional confines, creating coordination failures and leaving significant enforcement gaps. Notably, NAB lacks authority to investigate terrorist financing cases despite this being a core objective of the AMLA, while the FIA's federal mandate limits its effectiveness in addressing provincial-level offences (SAHSOL, 2024).

The procedural challenges are equally daunting. Money laundering remains classified as a non-cognizable offence under the AMLA, requiring investigating officers to obtain court permission before making arrests, thereby providing suspects with opportunities to destroy evidence or flee jurisdiction (RSIL, 2024; Zaib et al., 2025). This categorization is especially troublesome in contrast to regional norms, where money laundering is sentenced to a minimum of three years in India, and the minimum of one year in Pakistan, which is not considered by the rest of the international community as a serious financial offense (Qadar, 2024).

There are also shortcomings in international cooperation that exacerbate the situation with prosecution. Pakistan does not have any specific treaties on mutual legal assistance

(MLATs) with any country that specifically refers to money laundering, which substantially inhibits the cross-border collection and recovery of evidence (Sultan and Mohamed, 2023). Also, because the Financial Monitoring Unit is not a member of the Egmont Group of Financial Intelligence Units, critical money laundering cases across borders cannot be successfully prosecuted due to a lack of access to key international financial intelligence sharing mechanisms (SAHSOL, 2024).

This paper explores these complex issues in order to see why money laundering cases in Pakistan have yet to be prosecuted successfully despite the legislative changes. By thoroughly examining the legal frameworks, institutional settings, and obstacles to the effective prosecution, the proposed research will help outline certain obstacles to effective AML enforcement in Pakistan and suggest evidence-based recommendations on how to enhance the country's AML enforcement capacity and align with the global standards and FATF principles.

## **LITERATURE REVIEW**

### **LEGAL AND INSTITUTIONAL FRAMEWORK CHALLENGES**

According to the academic analysis on the problem of money laundering prosecution in Pakistan, it is evident that there is a complex system of legal, institutional, and procedural barriers all of which are employed to frustrate the effectiveness of the enforcement. Zia et al. (2022) conducted an intricate analytical study on the risks of money laundering and terrorist financing to the existing legal frameworks in Pakistan. It was concluded by the authors that there are critical legal and procedural obstacles, non-cooperation issues among the enforcement bodies and political influence within the chain of terrorist financing and the anti-money laundering systems. In their analysis of the effectiveness of the Anti-Money laundering Act 2010 (AMLA) and National Action Plan (NAP), it was established that the enforcement agents are moderate in their performance, and mild in their political support and create significant obstacles to successful prosecutions.

Research Society of International Law (2021) provides valuable data to the systemic issues that have befallen the prosecution outcomes, whereby the fact that the system of criminal justice in Pakistan is typified by the isolation of provincial and federal investigation, prosecution and adjudication institutions must be supplemented by capacity building and procedural and evidence legislative reforms to have the potential to respond to predicate offence jurisprudence. They assess that the anti-money laundering and anti-terrorism financing actions target primarily the natural persons and not the legal persons, and this is quite a distinction of prosecution scope. The paper discusses the problem of double criminality in international cooperation that, on the one hand, Pakistan uses the broad characterization of predicate offences to extend the investigating and prosecuting scope on the other hand, restitution of assets and prosecuting white-collar offenders across the borders is difficult.

During the in-depth examination of combating policies and prevention mechanisms, Imran et al. (2024) characterized the lack of inter-agency coordination, the political aspect of the law enforcement, and the presence of legal loopholes as the key obstacles to the anti-money laundering system in Pakistan. Their methodology entailed legal analysis of the anti-money laundering laws, literature review, expert interviews and consultations with the stakeholders and it was discovered that Pakistan is experiencing various challenges due to the geopolitical positioning, governance problems and structural deficiency of the financial and legal institutions. The same paper emphasizes the need to

use a multi-pronged approach that embraces the best practices that have been applied in other countries to advance the AML activities in Pakistan.

Recently, Hussain and Aleemi (2024) investigated the application of the anti-money laundering policies, particularly in the year 2020- 2024, and particularly discussed the financial reporting policies, risk management policies, and the Know-Your-Customer (KYC) policies. Their narrative literature review compared findings of global money laundering research studies in which they concluded that though Pakistan has been doing better with its AML policies by ensuring that its KYC practices have been strengthened and financial monitoring has been strengthened, challenges like inconsistent enforcement, poor financial reporting standards and the factor of corruption continue to challenge the success of prosecution. The given observation can be linked to the earlier literature, as Jaffery and Mughal (2020) examined the problem of money laundering risk and prevention control and revealed a structural weakness of financial monitoring systems in Pakistan.

Anwar et al. (2022) provided a valuable contribution to the discussion of money laundering legislation in the aftermath of the amendments of the AMLA of 2020 such as the fact that the law still has problems with its application in the context of legislative changes. In their research, they indicate that even with these extensive revisions, even basic prosecution barriers persist and require legal, institutional and procedural modifications to be effective. The article indicates the lack of connection between the legislative intent and the reality of the operation of the anti-money laundering implementation in Pakistan.

## **ENFORCEMENT AND PROCEDURAL BARRIERS**

The primary impediments to successful money laundering prosecutions in Pakistan are enforcement and procedural. The second edition of their resource on efficient investigation and prosecution of money laundering and terror financing has been published by Research Society of International Law (2024) and shows a significant change to the situation in AML/CFT in Pakistan as of 2020. The latest legislative acts, guidelines, and statutory regulatory orders are also considered by the guide, but some key new additions include the discussion of Designated Non-Financial Businesses and Professions (DNFBPs) and updated National Risk Assessment that provide up-to-date insights about the risks and vulnerabilities to which Pakistan is subjected.

Akhtar et al. (2023) not only reviewed the technological advances but also the legal aspect in the combating of money laundering and provided evidence of the scenario in Pakistan, that the technological solutions cannot resolve the underlying procedural and institutional issues. They indicate in their research that technological aids can expand the detection and monitoring possibilities, yet the success of prosecution depends on the organization of institutions and the adequacy of legal frameworks. This position is supported by Sultan and Mohamed (2023) who conducted a qualitative study based on semi-structured interviews with financial experts who discovered that Pakistan has been facing a number of issues that include mistrust towards the international community, political instabilities, slowness in the implementation process, and inadequacy in law enforcement organizations.

A common motif of the literature is the convolution of the process of defining the predicate offences. One of the landmark cases Muhammad Rafique was reviewed by Research Society of International Law (2022) and was to deal with technical issues in linking money laundering offences to predicate crimes. Through their discussion, it is revealed that the criminal justice system in Pakistan has never lacked a single criminal report per crime as provided in the Code of Criminal Procedure 1898, Section 154, which



lacked uniformity in pursuing money laundering cases, which must be related to predicate offences. This is a technical aspect of the law that causes prosecution to be very challenging, contributing to the low conviction rates.

According to the State Department (2016), the International Narcotics Control Strategy Report found that the Pakistani authorities had systemic gaps in enforcement, in that money laundering and terrorism financing, but not predicate offences generating laundered proceeds, were to be investigated and prosecuted. The report emphasized that lack of consistency and consistency in implementation continues to be an impediment to the AML/CFT regime in Pakistan and that there exist special obstacles in the area of trade-based money laundering and the value transfer systems, particularly in informal hawala/hundi systems.

A second area of concern that is identified to be limited in the literature is deficiencies in international cooperation. Daudpota (2019) has addressed in his analysis the weaknesses of the anti-money laundering laws in Pakistan and has extensively discussed the absence of a Mutual Legal Assistance Treaty (MLAT) with any single country in particular, which significantly limits the possibility of gathering evidence across-country and repatriating resources. He notes that the Financial Monitoring Unit is not a member of the Egmont Group of Financial Intelligence Units and this implies that the unit lacks access to the valuable international financial intelligence sharing networks further eroding the effectiveness of prosecution.

The new phenomenon in the judicial system has provided both opportunities and challenges in the improvement of prosecution. As observed in the commentary by Dawn newspaper (2025) following the 26<sup>th</sup> Constitutional Amendment, the guidelines applicable when appointing the high court judges, there are chances of having judges whose background and expertise to be applied in cases of financial crimes. However, the analysis emphasizes that the lack of effective law enforcement mechanism and criminal justice reforms coupled with appropriate judicial supervision measures can result in the re-emergence of international scrutiny by Pakistan even in the presence of a change of law.

The literature reveals that interdependence of legal, institutional, and procedural gaps is the cause of the challenges in prosecuting money laundering in Pakistan that cannot be resolved with the simple correction of legislation but requires the redesign of the entire system. Despite the improvement of certain segments of legal framework in the recent past, fundamental barriers to effective prosecution have persisted necessitating the adoption of systematic approaches in marshalling the institutions, inter-country cooperation and harmonization of the process.

## **DATA ANALYSIS**

The constitutional and procedural aspects of money laundering prosecutions, discussed in the light of the Anti-Money Laundering Act 2010 of Pakistan, suggest that the legal and institutional system has systematic gaps in several areas. When observing statutory provisions in the intensive analysis, it is possible to recognize specific patterns that, when combined, influence the effectiveness of prosecution and result in Pakistan continuing to be in the greylist of the Financial Action Task Force.

The most striking fact is related to the nature of money laundering as a non-cognizable crime stipulated in Section 3 of AMLA 2010, according to which, investigating officers will have to demand a judicial consent before making arrests. This procedural requirement creates substantial delays that allow suspects to destroy evidence, transfer assets, or flee jurisdiction before law enforcement can take action. Analysis of the Research

Society of International Law's comprehensive commentary on AMLA demonstrates that this classification presents one of the most significant barriers to effective prosecution, as it fundamentally undermines investigation timing and evidence preservation capabilities (Research Society of International Law, 2024).

Institutional coordination emerges as another critical impediment to effective prosecution. The AMLA designates four primary investigating agencies: the National Accountability Bureau, Federal Investigation Agency, Anti-Narcotics Force, and Federal Board of Revenue's Intelligence directorates. However, analysis of jurisdictional mandates reveals significant coordination failures and enforcement gaps. The examination conducted by SAHSOL reveals that the National Accountability Bureau's exclusion from terrorist financing investigations, despite this being a core AMLA objective, creates jurisdictional confusion that allows sophisticated criminal networks to exploit institutional boundaries (SAHSOL, 2024).

The challenge of establishing predicate offence linkages represents another fundamental prosecution barrier. Analysis of the landmark Muhammad Rafique decision reveals that Pakistan's criminal justice system traditionally operates under Section 154 of the Code of Criminal Procedure 1898, which requires only one criminal report per offence. The Research Society of International Law's detailed analysis of this case demonstrates that this procedural framework creates inconsistencies when pursuing money laundering cases that must demonstrate clear connections to underlying predicate crimes (Research Society of International Law, 2022). The technical complexity of establishing these linkages, combined with limited specialized training among investigating officers and prosecutors, results in weak cases that frequently fail at trial stage.

International cooperation deficiencies significantly compound domestic prosecution challenges. Daudpota's comprehensive analysis reveals that Pakistan lacks Mutual Legal Assistance Treaties specifically addressing money laundering with any country, severely limiting cross-border evidence gathering and asset recovery efforts (Daudpota, 2013; Ullah et al., 2021). The Financial Monitoring Unit's absence from the Egmont Group of Financial Intelligence Units has historically restricted access to crucial international financial intelligence sharing mechanisms, hampering effective prosecution of transnational money laundering cases.

The analysis of the Financial Action Task Force demonstrates the difficulty of these problems because Pakistan has been grey-listed a number of times. According to the research of the Pakistan grey-list position by Amin et al. (2020), the key causing factors of international scrutiny are institutional coordination failures, ineffective monitoring mechanisms and failure to implement. The Mutual Evaluation Report of the Asia Pacific Group found out that Pakistan was rated as compliant on one and to a large extent non-compliant on nine out of 40 FATF Recommendations and partially compliant on 26 of the remaining recommendations (Asia Pacific Group, 2019).

Another challenge to prosecution is evidentiary when it comes to the complexity of the investigation of financial crime. The money laundering cases are typically complicated when analyzed in terms of finance, computer forensic, and extensive documentation tracing to find out the source and movement of the criminal money. These challenges are also heightened by the absence of special financial crime judges, since general jurisdiction judges are often lack of expertise in technical language of money laundering laws, which may not be their specialty, and do not have the necessary expertise to judge sophisticated financial evidence (Ahmed et al., 2025; Ullah and Ullah, 2023).

A second layer of complexity to the efficacy of prosecution is the regulatory framework of Designated Non-Financial Businesses and Professions. The real estate agents, lawyers, accountants and precious metals dealers are extremely significant gatekeepers in the financial system and lack appropriate anti-money laundering compliance programmes. The data analysis of regulatory enforcement indicates that the violations in the DNFBP sector are not actively prosecuted, which can mean that this sphere is widely non-observed or the control mechanisms are not effective.

Constitutional problems associated with the distribution of federal-provincial jurisdiction are also present that present additional problems to prosecution. Money laundering Investigations Money laundering is a federal offence, and predicate offences are in provincial jurisdiction. This jurisdictional arrangement requires liaison of the federal investigating agencies with the provincial police and this has availed a chance to contaminate evidence, postpone the proceedings and coordination failures that cripples the effect of prosecution.

The discussion shows that such systematic defects may be addressed only by means of legislative amendments, institutional reforms, and resources investment. A timeline analysis of Pakistan involvement in FATF by Anwar et al. (2022) reveals that despite the major amendments to the old laws and the introduction of hundreds of new laws, the simple barriers to prosecutions still exist. It is a trend that suggests that effective reforming should be done in an integrated way such that it involves finding a solution to the gaps in the legal systems, coordination system of institutions, resource allocation and capacity building simultaneously.

The fact that, though placed on the FATF greylist, Pakistan has managed to be removed thereof in October 2022 indicates that it is possible to improve the situation provided that a comprehensive set of reforms is implemented. The case study of the Institute of Chartered Accountants of Pakistan has demonstrated that the evolution of the particular institutional framework, including the National FATF Secretariat and specifically created AML/CFT Authority, led to the advancement of the coordination and compliance capacities to a significant extent (IFAC, 2022). To sustain these returns, however, it will be necessary that the institutions continue to be reinforced, and resources be directed to the task of redressing the systemic failures.

The analysis and data lead to the conclusion that the challenges of money laundering prosecution in Pakistan are systemic and interconnected and that it cannot be mitigated through the adoption of individual legislative modifications. The impossibility to identify the perpetrator of the crime in the non-cognizable group of money laundering offences, the absence of global collaboration, and the lack of resources all help create the environment in which sophisticated financial criminals operate with the threat of successful prosecution at a minimum. The solution to these difficulties must be systematic and involve not only reform of the laws and regulations framework, but also institutional restructuring, capacity building and increased international cooperation to develop effective implementation of anti-money laundering in accordance with the international standards.

## CONCLUSION

This is a critical review of constitutional and procedural issues in money laundering cases in the Pakistani Anti-Money laundering Act 2010, which indicates the necessary irresponsiveness to the factuality of the legislative vision and the factual operations. The

study suggests that the persistent inability to prosecute money laundering in Pakistan over the years is not a lapse in one case but a failure in legal structure itself.

The issue that the notion of money laundering is regarded as the non-cognizable offence is discovered as the most considerable obstacle in the given context as it has already generated the time lag that in fact nullifies the effectiveness of the investigation and enables the perpetrator to eliminate the evidence and escape the punishment. This classification and a minimum sentence of one year in Pakistan places the nation in a very disadvantageous position as compared to regional and international practices. Institutional fragmentation of the four leading investigating agencies further complicates these issues because the agencies are not only restricted to the scope of their jurisdiction but also failed to develop coordination huddles and loopholes in enforcement that can be easily exploited by well-organized criminal networks.

As seen in the discussion, the law cannot be used to address these institutional loopholes. There are still some fundamental constraints in prosecution despite the radical shifts in the FATF recommendations, presented by the amendment of AMLA in 2020. The technical difficulty of creating predicate offence links within the framework of the regular criminal procedure system in Pakistan, and ineffective training and proactive international cooperation, remains to be translated in the low volumes of prosecutions and low conviction rates.

As the fact that Pakistan has exited the FATF greylist in October 2022 attests, the situation may change, provided that the revision of the legislation and strict institutional changes take place. These gains can however only be maintained with systematic reforms which will also respond to the inefficiencies in the legal frameworks, institutional coordination mechanisms and capacity building. Among the most significant aspects that lead to achieving the success in anti-money laundering implementation, one may outline the establishment of special financial crime courts and the improvement of the system of international cooperation and the principles of interagency coordination. Unless these related issues are resolved in a context of a structural overhaul that goes beyond a single piece of legislation, Pakistan will not be able to get out of the pattern of another spiral of international distrust and inefficiency in the combat of high-tech monetary offenses that will shatter its economy and its reputation on the global scale.

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