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The Anti-Money Laundering Legislation in Pakistan: A Thematic Analysis

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Abstract

The purpose of the present study was to comprehend the structural components of the anti-money laundering act, 2010. After qualitative content analysis of the act, the current research found five key themes namely administrative, judicial, coercive, interacting and legislative frameworks. The findings of the study reveals that the administrative framework created various administrative offices, defined their roles, and established a command and coordination mechanism among various offices. The coercive framework authorized various administrative and judicial bodies to attach, forfeit, seize, freeze, or retain any property connected with money laundering, or to revoke licenses, impose fines, and punishments. The judicial framework provides the conditions and limitations for the courts to exercise jurisdiction, procedure for trial and appeal and some special rules of evidence to try money laundering cases. The findings also show that the act interacts with other statutory laws by borrowing provisions, or providing aid to other statutes or by giving priority to the act over other legal enactments. Likewise, the legislative framework empowered the federal government and the financial monitoring unit to amend the schedule or to make rules and regulations to achieve the objectives of the act.

Key Words: Money Laundering, Legal Framework, Content Analysis, Coercive Measures, Transnational Crimes

1. Introduction

The process of money laundering involves putting the proceeds of crime through a series of transactions to conceal their illicit origins and make them appear to have come from a legitimate

source (Graycar & Grabosky, 1996). Levi (2002) defines it as a type of organized crime that generates funds for criminal gangs or individuals (Force, 1999). Money laundering consists of three stages: placement (also called entry), layering (also labeled as hiding), and "integration (Schneider & Windischbauer, 2008). During the placement stage, individuals inject the proceeds of crime into the financial system using funds earned from legitimate sources (Cassella, 2018). During the layering stage, individuals conceal their income source through intricate financial transactions. During the integration stage, the financial system once again receives the laundered money under the guise of legitimate earnings (Buchanan, 2004). Money laundering has an impact on a country's economy at both the macro (Quirk, 1997; Masciandaro, 2013) and micro (Unger, 2007) levels, directly or indirectly (Ferwerda, 2013). At the macro level, it expands the scope of underground economies, encourages the illicit flow of capital, and decreases tax revenue (Hendriyetty & Grewal, 2017). Furthermore, money laundering decreases economic growth (Pinotti, 2015), causes lower company performance from both a cost and a quality perspective (Schoenherr, 2019), discourages the private sector, weakens the veracity of financial markets, makes economic policies ineffective, and causes economic instability (McDowell & Novis, 2001).

Though the history of money laundering is as old as the history of money, people used to view the predicate offenses as crimes and not the money laundering itself (Muller, 2007). However, over the years, the international community not only felt the necessity to have anti-money laundering measures, but it also took practical measures to combat money laundering due to its horrible social, political, and economic effects. The main feature of such efforts that the law enforcement agencies were assigned the major role to address this issue (Gallant2014). Arnone & Borlini (2010) discussed the brief history of the AML legislation. They stated that in 1970, they first implemented preliminary legislative measures that were regulatory and preventive in nature, mandating financial institutions to report suspicious transactions and maintain customer records. According to Moustafa et al. (2015), America introduced the initial legal framework on money laundering, mandating financial institutions to report suspicious financial transactions up to a specific threshold. Arnone & Borlini (2010) believe that the 1980s era saw the criminalization and internationalization of money laundering. Some argue that this era made

money laundering punishable, targeting drug traffickers, human traffickers, and arms traders (Teichmann & Falker, 2023). In 1989, the creation of FATF initiated the third phase, introducing international measures to combat money laundering, which included tracing, seizing, and confiscating funds obtained through illegal means. However, in 2001, the mandate to counter terrorism financing expanded the functions of FATF. Since then, the FATF has taken steps to curb money laundering and prevent laundered money from becoming a legitimate part of the financial system. This "twin-track" policy has attracted the application of various international treaties and agreements, and ultimately FATF put forward its recommendations in 2003, which are viewed as the most successful international soft law in criminal matters. FATF is now the hub and touchstone of the AML, and its recommendations are mandatory and part of the legal framework of member and non-member states (Arnone & Borlini, 2010). The United Nations has also played a significant role in combating money laundering by focusing on consolidating international cooperation and harmonizing AMLL.

Pakistan has signed and ratified four UN conventions to fight money laundering and better implement the FATF recommendations. These conventions include the Vienna Convention (1988), the International Convention for the Suppression of the Financing of Terrorism (2002), the United Nations Convention against Transnational Organized Crime (2003), and the United Nations Convention against Corruption (2005). Furthermore, since 2000, Pakistan has been a member of the Asia Pacific Group (FATF's regional organization tasked with combating money laundering and terrorist financing), making it obligatory to enact comprehensive anti-money laundering legislation in accordance with international standards. Pakistan has a variety of laws that fall into two categories: those that indirectly deal with money laundering and those that directly deal with it. Three enactments are worth discussing in the category of indirect legislation, namely the Control of Narcotics Substances Act (hereinafter CNSA), the Anti-Terrorism Act (hereinafter ATC), and the National Accountability Bureau (hereinafter NAB). The Control of Narcotics Substances Act (CNSA) regulates narcotic drugs and psychotropic substances, mandating financial institutions to provide information about suspicious transactions involving anti-narcotic substances (Section 67 of the CNSA). The CNSA also has the authority to freeze and confiscate assets obtained from illegal drug trafficking. The act also created special

courts for drug trafficking trials. Similarly, the Anti-Terrorism Act (ATA) declared money laundering a terrorist act (section 6 sub-section 6), allowing for the control of assets linked to terrorism, whether directly or indirectly. Likewise, NAO (1999) not only required the financial institution to take notice and inform the chairman of NAB about the suspicious financial transactions (section 20), but also provided punishment in case they failed to provide information. These enactments contained various provisions related to money laundering, but they did not directly deal with it. The Anti-Money Laundering Ordinance (2007), on the other hand, was the first enactment that directly dealt with the problem of money laundering. It contained a list of a few predatory offenses, declaring them non-cognizable. The Anti-Money Laundering Act 2010 replaced the said ordinance and provided a detailed legal framework to deal with money laundering by giving a preamble, providing provisions related to the definition of money laundering, confiscation of the assets acquired by ML, and predicate offenses. The various legislative measures taken at the national and international levels have empirically demonstrated a reduction in money laundering (Chong & Lopez, 2015).

There are numerous studies at international levels that have discussed, examined, and analyzed the various aspects of money laundering legislation. For instance, Zolkaflil, Omar, and Nazri (2019) discussed the investigation of money laundering; Pok, Omar, and Sathye (2014) examined the effectiveness of anti-money laundering and anti-terrorism financing legislation from bankers' perspectives; Arnone & Padoan (2008) evaluated the anti-money laundering legislation by international institutions; Harvey (2005) and Gerbrands et al. (2022) provided a general overview of the effectiveness of anti-money laundering policies. On the same line of inquiry, Ofoeda et al. (2022) investigated the effects of anti-money laundering regulations on the development of the financial sector, and Levi (2020) investigated predicate offenses and money laundering control. Furthermore, numerous researchers have evaluated the primary legislation of various countries dealing with anti-money laundering. For instance, Galeazzi, Mendelson, and Levitin (2021) analyzed the American anti-money laundering act of 2020; Kebbell (2021) analyzed the UK's anti-money laundering act; Srivastava & Ramchandran (2021); and Singh & Rashmi (2023) examined the Indian primary legislation on anti-money laundering. On the same line of inquiry, there are very few studies examining the Anti-Money Laundering Act, 2010 in

Pakistan (Anwar et al., 2022; Khan & Akhtar, 2021; Haider & Akhtar, 2020; Ali, 2018). These studies have examined the specific provisions or a specific legal framework dealing with money laundering. However, these studies do not examine the themes of the whole Anti-Money Laundering Act of 2010. The present study intends to fill this gap by identifying the themes of the act. The article has five sections other than the introduction. The second section offers a review of the literature, the third section describes the methodology, and the fourth section presents the findings. The fifth section offers a general discussion of the findings, and the last section concludes the study.

2. Review of the Literature

Various researchers from around the world have examined the efforts to combat money laundering from a variety of perspectives. By deploying different methodologies, they have analyzed region or countries wise efforts to combat money laundering. For instance, Jensen and Cheong (2011) examined the compliance of FATF's recommendations by developing countries in the Asia-Pacific. They found that FATF's recommendation pertaining to customer due diligence, reporting of suspicious transactions, and employees' training were satisfactorily implemented in developing countries. Similarly, Jun and Lishan (2010) analyzed the implementation of FATF's recommendations in developing countries and observed that some developing countries implemented all and some implemented the selected recommendations. Likewise, Zavoli and King (2021) empirically examined the challenges in the implementation of the AML regulations of 2017 in the real estate sector in UK. They noticed that the AML legal framework in the UK is based on punitive as well as preventive approaches. After interviewing estate agents and compliance officials, they reported that the legal framework in the real estate sector created well-informed and responsible regulations. However, the huge cost of implementing the regulations, the lack of commitment of the government, and the inconsistencies among various enactments dealing with customer due diligence and SAR spread a sense of discomfort among the real estate agents. Pontes et al. (2022) also explored the problems in the implementation of the UK's AML regulations. After collecting data from the public and private sectors, they pointed out numerous issues, including financial institutions failure to follow a risk-based approach, poor information sharing, a decrease in business profit,

the disproportionate evolution of AML in the public and private sectors, and officials' failure to guide the private sector regarding how to utilize their existing resources to investigate money laundering. He concluded that AML in the UK is unsuccessful necessitating to devise a sustainable plan to improve the existing state of affairs in the UK. On the other hand, Preller (2008) conducted a comparative study to assess the effectiveness of AMLL in the UK by comparing and contrasting with Swizz and German AMLL. He analyzed the penal, reporting, collation, and investigation aspects of these regulations and found that the nature and scope of the provisions related to the punishment of money laundering, obligations to report suspicious activities, and the status and powers of the financial intelligence unit at the investigation stage in the UK are different from those in other countries. He also reported that the UK's criminal liability for failure to report STR resulted in a flux of SARs as compared to Switzerland and Germany. He associated these differences with the comprehensive nature of the AML legislation in the UK. However, he could not identify the most effective legislation due to the absence of a reliable, acceptable, and standardized methodology.

Similarly, numerous researchers have examined the AMLL in China from different angles. For instance, Yang (2002) and Shi & Cao (2010) examined the Chinese policies regarding money laundering; Ping (2003) analyzed the criminal law on money laundering; Huang (2015) studied the legal framework of mutual assistance in combating money laundering; and Ping (2008) investigated China's measures to combat money laundering and terrorism financing. On the other hand, various researchers examined the anti-money regulation of a particular Chinese region and their comparative analysis with rest of China. For example, Kwok (2016) investigated the recent developments in Hong Kong's AMLL, and Sham (2006) compared the AMLL of Hong Kong with Chia. However, these studies fail to exclusively describe the primary legislation in China regarding money laundering. Conversely, there are only a few studies that analyzed the primary legislative text of China on money laundering. Among such studies, Ping's study is the most significant (2007). He formed seven major categories of Chinese AMLL, including general provisions, AML supervision and administration, obligations of financial institutions, investigations, international cooperation, legal liabilities, and supplementary provisions. He found that seventy-two offenses have been included in the list of predicate offenses that generate

illegal money directly or indirectly. In addition, the study revealed that the administrative department of anti-money laundering in the state council is the People's Bank of China, which not only frames the rules to combat money laundering but also supervises the investigation of cases. She concluded that the prevailing Chinese law on anti-money laundering is not in line with the international standard and needs to be improved by adding provisions relating to the obligations of financial and non-financial institutions.

Similarly, Williams (2017) conducted a doctrinal study by analyzing the South African primary and secondary legislation and reported seven shortcomings in AMLLs. These shortcomings included the absence of legal provisions to identify politically exposed persons, obligate financial institutions to conduct due diligence on cross-border correspondent banking, identify beneficial owners, and require the authorities to follow a risk-based approach. He also noticed the absence of formal national risk assessment of money laundering and terrorism financing, immunity to a large number of institutions from AMLLs, and failure to keep data regarding investigation, prosecution, conviction, and mutual assistance. Likewise, numerous researchers compared South African laws with AMLLs of other countries. For instance, De Jager (2018) compared the South African AMLLs with international standards, and Beebeejaun & Dulloo (2022) compared with Mauritius' laws. Likewise, various researchers explored the specific aspects of South African AMLLs. For instance, Kersop (2014) examined mobile money in the context of the AMLL; Gani (2017) provided the legal analysis of the implementation of the AMLL by banks working outside South Africa; and Moosa (2022) discussed the various provisions dealing with money laundering and currency control. Likewise, various researchers analyzed Indian AMLLs. For example, Singh (2009) discussed the issues and possibilities of combating money laundering in India; Kumar (2018) examined the various money laundering scams in India and their effects; Rani & Kumar (2014) described the various ways in which black money is generated in India; and Shoaib (2022) critically analyzed the legal framework of AMLL dealing with the Indian securities market. Equally, various researchers conducted comparative studies analyzing the Indian AMLL with those of other countries. For instance, Sultana (2020) compared the Indian law on the role of FIU with that of Bangladesh, and Pandey

(2023) compared the Indian legal framework relating to FIUs and FATF recommendations with the laws of Canada, Australia, and the Netherlands.

Numerous researchers from different fields explored various dimensions of AMLLs in Pakistan. For instance, Sultan and Norazida (2022) explored the typology, placement, layering, and integration of black money through money laundering. After content analysis of Asia Pacific Group's yearly report, mutual evaluation report, and national risk assessment, they identified four major predicate offenses: corruption, tax crimes, smuggling, and drug and human trafficking. Similarly, Hassan, Hussain, and Sajid (2022) interviewed the experts in Islamic banking to assess the efficiency of AMLLs in Pakistan. To them, the state bank of Pakistan is actively trying to implement the AMLL in Pakistan; however, the lack of coordination between lawmaking and banking authorities frustrated its efforts. They suggested improving the existing laws dealing with banks by reducing the time period for their implementation. Likewise, some researchers examined the implementation of the act, 2010 from a specific perspective. For instance, Sultan, Mohamed, and Hussain (2023) investigated the implementations of AMLLs regarding due diligence by financial institutions in the context of tax amnesty schemes, and Zia, Abbas, and Arshed (2022) explored the challenges in counter-terrorism financing. On the same line of reasoning, Khan & Siddiqui (2021) assessed the possibility of the implementation of AMLLs on the basis of customer record-keeping, employees' training, and reporting of suspicious transactions in the context of local and foreign banks in Pakistan. They informed that customer record-keeping and reporting of suspicious transactions in the banking sector had a direct and significant impact on money laundering, in contrast with employee training and money laundering. Kemal (2014) qualitatively examined the effectiveness of anti-money laundering regulations in the banking sector by considering three independent variables (customer record keeping, suspicious transaction reporting, and employee training) and one dependent variable (money laundering). He reported that the training of bank employees had a direct link with their performance in countering money laundering in Pakistan and developing countries. He suggested the provision of financial support for the training of the employees, the guidance and assistance of the foreign-trained specialists in money laundering, and the transparent, consistent, and timely implementation of money laundering regulations. Qureshi

(2017) has also explored the diverse methods of money laundering in Pakistan. To him, the money derived from drug trafficking, cash smuggling, corruption of politicians and officials, real estate business, tax evasion, and hundi is laundered through various channels. Similarly, various researchers have examined the role of various bodies created under the act, 2010. For instance, Sultan & Mohamed (2023) studied the role and performance of FIU in combating money laundering and terror financing. Their analysis indicated its poor performance due to time-consuming procedures, failure to share feedback with other authorities, lack of international cooperation, a dearth of appropriate staff in terms of quality and quantity, and an insufficient budget. On the other hand, Shah (2023) carried out a qualitative study to explore the difficulties of investigating officers while investigating the offenses of money laundering under the act, 2010. Based on the interviews and their observations, he found a direct link between investigating officers' behavior and the quality of the investigation. He reported the various factors effecting his behavior, which included scarcity of resources, work pressure, external pressure to conclude the investigation in a particular way, their inability to have recourse to bank records and non-cooperation from the banks, poor quality of training, and a lack of coordination between various authorities.

Similarly, there are a few studies that examine the specific provisions of the act, 2010. For instance, Iftekhar and Iqbal (2021) analyzed the specific provisions of the act, 2010 relating to international cooperation to combat terrorism and money laundering. They noted that foreign countries either housed or provided the majority of the looted money and funds for terrorism in Pakistan. They were of the view that Pakistan did not receive as much international cooperation as it needed. Correspondingly, Haider and Akhtar (2020) pointed out numerous omissions in the act, 2010. To them, inadequate punishment for money laundering, failure to provide a separate court system to adjudicate the cases, declaring all the offenses as non-cognizable, putting investigating officers' powers under the supervision of magistrates, and the inability of investing agencies to access the required data are the major issues in the act, 2010. On the other hand, there is only on study (Ali, 2018) that offers a detailed analysis of the act, 2010. He pointed out that the act, 2010 does not meet the international standards; it gives very weak mandate to the investigating or prosecuting agency; it fails to provide comprehensive list of predicate offenses,

and it contains insufficient punishment for money laundering. The study concluded that the present law dealing with money laundering in Pakistan is ineffective compared to the laws adopted by other countries and suggested to bring major changes in its framework.

The above discussion indicates that the researchers have examined the AMLLs from various perspectives including record and information keeping under such laws, comparative studies of such laws, the role and performance of various offices created under such laws, the problems in implementation, and how the criminals launder their money. Likewise, a number of issues are associated with the studies which have focused the act, 2010. These studies lack the depth and breath since these do not provide a thorough and systematic analysis of the act, 2010. Moreover, these studies fail to identify the given mechanisms in the act. The present study intends to fill this gap as it intends to offer a systematic analysis of the act, 2010.

3. Methodology

The purpose of the present study was to carry out the thematic analysis of the Act of 2010, so qualitative content analysis was the appropriate methodology to be followed. Qualitative content analysis is "a research method for the subjective interpretation of the content of text data through the systematic classification process of coding and identifying themes or patterns" (Hsieh & Shannon, 2005). There are three approaches to carrying out content analysis: summative, directed, and traditional. The summative approach refers to the analysis when the researcher approaches the text as a single entity (Hsieh & Shannon, 2005), and in the directed approach, a researcher develops codes by using a theory or a priori knowledge (Elo, S., & Kyngäs, 2008). Conventional content analysis, on the other hand, refers to the analysis in which a researcher develops or creates categories from data while analyzing it (Hsieh & Shannon, 2005). The researchers followed conventional content analysis since it was the appropriate approach to accomplish the objective of the present study. After setting the objective and formulating the research question, the researchers followed a five-step methodology to carry out the present study. The first step involved the collection of data, and the whole text of the act, 2010 excluding definitions and schedule was gone through. At the second step, the text was coded by deploying in vivo and thematic codes, and a code book was prepared. After coding the entire text, we analyzed the codes and categorized them into sub-categories, then into major categories, taking

into account the similarities and dissimilarities between the various codes. The fourth step involved developing the themes from the categories by consulting relevant literature. At the fifth step, the themes were reported by citing the categories with relevant sections without reproducing the whole section. The whole section was not reproduced due to the volume and language of the section.

4. Findings

This section presents the findings of the analysis by reporting five themes namely administrative framework, judicial framework, coercive framework, interacting framework and the legislative framework.

4.1 Administrative Framework

The data show that the act, 2010 contains a large number of provisions that provide an administrative framework. The administrative framework in the present study refers to the formal organization of various bodies and offices, their roles and responsibilities, the chain of command, coordination among various offices and institutions, and the qualifications for these offices and bodies. These aspects of the formal administrative framework are described in the following lines.

4.1.1. Formal Organizational Structure

It refers to establishing a formal structure of various bodies and offices to ensure smooth functions and active decision-making. The data show that the formal structure-creation is sometimes mandatory and sometimes discretionary. In addition, the various bodies under the act, 2010 are created in two ways: either the act establishes administrative bodies itself or it enables other bodies to establish a formal structure by proving the qualifications of the authorities or bodies.

For instance, Section 5 creates the National Executive Committee (hereinafter NEC), and Section 5 (3A) authorizes the NEC to constitute one or more sub-committees and to assign any functions to it. Section 5(A) constitutes a general committee to assist NEC, and the general committee is authorized to constitute one or more committees to perform the function that the general

committee assigns to it (Section 5(8)). Similarly, Section 6 of the act requires the federal government to establish a financial monitoring unit (hereinafter FMU) to perform numerous functions assigned to it by the act. Also, Section 24 empowers the agencies and the federal government to appoint an investigating officer. Section 24(1) states that an investigating or prosecuting agency may nominate one of its officers as the investigating officer, and sub-section 2 states that the federal government may empower an officer of the federal or provincial government not below the rank of BPS-18 as the investigating officer. Similarly, Section 22(2) of the act also empowers the federal government, investigating agency, prosecuting agency, and court to appoint a prosecutor who may plead or withdraw the proceedings under the act. The section states that the federal government may appoint a person as a public prosecutor who is qualified to be an advocate of a high court. The proviso clause of the section also empowers the investigating or prosecuting agency to appoint a public prosecutor whose terms and conditions will be determined by the federal government. Correspondingly, Section 22(4) permits a court to authorize any person to act as a prosecutor when a prosecutor appointed by the federal government or an investigating or prosecuting agency is, for any reason, temporarily unable to conduct proceedings before the court. On the other hand, Section 6(3) provides the qualifications of the director general of FIU, and it states that he shall be a financial sector specialist.

4.1.2. Defined Responsibilities

The act, 2010 also assigns roles and responsibilities to each body and institution created under it to lessen the possibility of conflicts. These responsibilities may include developing, assisting, and reviewing the performance of various offices, giving recommendations or approvals of various actions, granting powers and functions, and providing limits and conditions. In addition, the responsibilities under the act, 2010 are assigned in two ways: either the act itself assigns responsibilities or it authorizes other bodies and offices to assign responsibilities. For instance, Section 5 (3B) states that NEC may assign its functions to a general or sub-committee. On the other hand, the general committee is assigned the functions to develop and review the performance of investigation agencies, FMUs, financial institutions, and non-financial businesses and professions and to suggest a training program for them. Similarly, it is required to assist NEC in carrying out its functions under the act and approve the budget and staff for FMU. It may

be assigned or delegated any function by the NEC. Similarly, Section 6 provides the power and functions of the FMU and authorizes it to receive, require, analyze, and disseminate reports and CTR concerning suspicious financial activities from financial institutions, non-financial businesses, professions, and other persons. It is also required to disseminate the gathered information or record it with the concerned investigating or prosecuting agencies for inquiries or other legal actions. The act also requires FMU to establish and maintain a database on the basis of suspicious transaction reports and CTRs. Likewise, Section 7(3) requires the reporting entities to preserve the record of suspicious financial transactions for at least ten years. Section 7(7) states that all the reporting entities shall conduct customer due diligence and maintain records concerning financial transactions in accordance with the regulations issued by the regulatory authority. On the other hand, Section 38 (3) guides and describes the limits within which official assignees or receivers have to exercise their powers. The section states that the powers of the official assignee or the official receiver shall be exercised subject to the provisions of the Insolvency Act, 1909, or the Provincial Insolvency Act, 1920. Similarly, there are certain provisions in the act that describe the conditions before exercising the powers granted under it. For instance, Section 13(1) of the act states that an investigating officer will get the permission of the court to exercise the power of survey when he has reason to believe that an offense of money laundering has been committed. Similarly, Section 14(2) requires him to seek prior permission from the court to exercise his power to search. It also provides that where immediate action is required, the powers of search and seizure shall be exercisable with the prior permission of the senior officer of the concerned investigating or prosecuting agency, not below the rank of an officer of BS-20.

4.1.3. Coordination

It refers to the situation when various offices are required to report to other offices to ensure the flow of communication and accountability. The data show that the act, 2010 ensures effective coordination among various offices in two ways: either it authorizes an office to provide information or empowers it to seek information from other offices. Likewise, there are various provisions in the act that provide the procedure to seek or provide information to the higher authorities. In addition, the information may be in the form of data sharing or recommendations

and may relate to investigation, prosecution, suspicious transactions, attachment, freezing, search, etc.

For instance, Section 6 requires the FMU to submit an annual report pertaining to its analysis of suspicious financial transactions, number of investigations, and prosecutions of money laundering and terrorism financing with the NRC and general committee. Likewise, the same sub-section requires the FMU to submit recommendations to the NEC and general committee about countermeasures taken to combat money laundering and terrorism financing after seeking periodic reports from the investigating and prosecuting agencies. Section 6 also requires all the relevant agencies and individuals to promptly provide the requested information that FMU requires. Section 6(e) states that FMU will share, request, and receive information regarding money laundering and terrorism financing with FMU international agencies in other countries. Similarly, Section 8(2) requires the investigating officer to submit the report of attachment of property to the head of the concerned agency in a sealed envelope within forty-eight hours of the attachment. Section 8(5) also requires an investigating officer to submit a monthly report of the progress of the case to the court. Similarly, Section 13(2) requires an investigating officer to forward a copy of the report within forty-eight hours regarding the survey to the head of the concerned investigating or prosecuting agency in a sealed envelope. Likewise, Section 14(3) states that an investigating officer shall, within forty-eight hours immediately after search and seizure, forward a copy of the report on search and seizure to the head of the concerned investigating or prosecuting agency in a sealed envelope. Similarly, Section 17(2) requires an investigating officer to forward a copy of the order for retention of property for the purposes of investigation to the head of the concerned investigating or prosecuting agency in a sealed envelope. Likewise, the act sometimes provides a comprehensive procedure for the reporting entities to furnish information. For instance, Section 7 of the Act states that if a reporting entity knows or has reason to believe or suspect that a financial transaction involves derivation, concealment, or disguising the proceeds of crime, it shall inform the FMU about it within seven working days. Likewise, Section 7(2) also states that an international agency may also share such information with the FMU.

4.1.4. Command

It refers to the situation where an officer at the lower level needs the approval or consultation of higher or other authorities before taking certain actions. For instance, Section 13(1) requires an investigating officer to seek permission from the court before entering any place if he has some material in his possession and has reasons to believe that an offense of money laundering has been committed. Similarly, Section 7(h) states that FMU will frame regulations to receive suspicious transaction reports and CTRs from financial and non-financial institutions with the consultation of SBP and SCEP. It further states that such regulations will be approved by the NEC

4.1.5. Synchronization of Activities

It refers to achieving harmonization among different offices and bodies and ensuring that their efforts align with the overall organizational goals. The data show that the synchronization may be in the form of information sharing or restricting data base sharing, representing Pakistan, requiring assistance in investigation, the processes of the court, evidence sharing and preservation, the procedure to coordinate, and the transfer of accused. Furthermore, the coordination may be the result of an agreement or legal provisions, as well as among local and international authorities. For instance, Section 7(2) states that any local or foreign authority or entity may share intelligence or reports regarding suspicious transactions or CTR in the normal course of their business. The section also requires FMU to coordinate with other data bases established in or outside of Pakistan by linking its data base with them when it is required. Section 34(3) restricts the FMU, investigating agency, or officers from disclosing any information that the reporting entities have shared with them. In addition, Section 6(f) also mandates the FMU to represent Pakistan with other regional and international organizations to combat money laundering. Correspondingly, Section 25 of the Act states that the officers of the Federal Government, Provincial Government, local authorities, and financial institutions shall provide requisite assistance to the investigating officers, FMU, and other authorities in the enforcement of this Act. Section 34(3) restricts the FMU, investigating agency, or officers from disclosing any information that the reporting entities have shared with them.

Likewise, the act also creates the possibility of promoting or extending international cooperation to combat money laundering under the act. For instance, Section 26 of the Act states that the

federal government may make an agreement with a foreign country to investigate, prosecute, exchange information for the prevention of crimes, or obtain or provide evidence and transfer property involved in the offenses under the Act. Similarly, Section 27 empowers the investigating or any officer superior to the rank of investigating officer to write a letter of request to the courts or authorities of any contracting state to provide evidence that is available in that country. Similarly, Section 28 of the Act deals with how to provide assistance to such a letter of request from the contracting state. The section states that where a letter of request is received by the Federal Government from a court or authority in a contracting state requesting an investigation into an offense or proceedings under this act or under the corresponding law in force in that country, the Federal Government may forward such a letter of request to the Court or to the authorized officer or any authority under this act for the execution of such a request. However, the section also requires that such a request must not violate any Pakistani law or be prejudicial to the sovereignty, security, national interest, or public order of Pakistan. Likewise, Section 29 of the Act deals with the reciprocal arrangement for the process and transfer of the accused person. Section 29(1) states that a Pakistani court may issue summonses or warrants to the designated officers of the contracting state when it requires the attendance of witnesses or the accused. Similarly, sub-section (2) deals with the reciprocity of the execution of the request for a summons and warrant from the contracting state. The sub-section states that when a court has received summons to an accused or witnesses or a warrant of arrest or search that are to be executed in Pakistan, it shall cause the same to be served or executed as if it were a summons or warrant received by it from another court in the said territories for service or execution within its local jurisdiction. The section also stipulates that Pakistan will follow the act's arrest and search procedure when it entertains such foreign requests. In addition to this, the sub-section also describes the situations when foreign requests for the above-mentioned purposes will not be entertained, and accordingly, if such requests are prejudicial to sovereignty, security, national interest, or public order, they may not be entertained.

4.2 Coercive Framework

Coercive framework refers to the measures which the authorities take to compel compliance with the act, rules, regulations, or policies made under the act. The act, 2010 contains numerous

provisions which establish a coercive framework to deal with certain matters pertaining to money laundering and terror financing. The coercive measures may be provisional or perpetual and may relate to property and person.

4.2.1 Forceful Actions against Property

The act contains several provisions authorizing investigating officers, courts, or the director general of FMU to attach, forfeit, seize, freeze, retain any property or record or any evidence in and outside Pakistan.

For instance, Section 8(1) empowers the investigating officer to provisionally attach the property after receiving information from concerned investigating or prosecuting agencies. It states that an investigating officer may attach a property involved in money laundering after getting the written permission of the court to do so. However, Section 38 gives the right of representation to several persons, including the owner, his legal heirs, the official assignee, or the receivers of such property. Similarly, some provisions deal with the de-attachment of property. For instance, Section 9(5) states that the attachment, retention, or seizure will come to an end and the property will be handed back to the concerned person if the court acquits the accused of the charges of money laundering. Similarly, the act also provides the circumstances and manners in which any property may be forfeited and managed. Section 9 sub-section 3-A (b) states that when property is attached under Section 8(1) or retained or seized under Sections 14 or 15, and it is proved in court that the property is involved in the money laundering, the provisional order of the court will become final. Section 9(6) further provides that when an order of retention, seizure, or attachment is final, the court will also order the forfeiture of such property. Section 10 states that such property, along with all rights, will be vested in the federal government. Section 11 provides that the federal government may appoint trustees or receivers as administrators who shall receive, manage, and sell the property (if it is perishable or requires more expenses to take care of it) in relation to which an order of forfeiture has been made. Correspondingly, Section 7(6) authorizes the director general to freeze the property if there are reasonable grounds to believe that such property is involved in money laundering. However, the director general is required to seek the permission of the NEC prior to freezing such property. Equally, Section 17 empowers an investigating officer to retain the property for the purposes of investigation if he

has seized such property under Sections 14 or 15 of the Act, 2010, and he has reason to believe that such property is required for investigation. Further to that, the investigating officer is required to inform the court about the peculiar nature of the seized property and, where necessary, seek appropriate directions for its proper care during retention. Similarly, Section 18 of the Act also authorizes an investigating officer to retain any record for a period of not more than ninety days that he has sized or attached under Sections 14 or 15, and he has reason to believe that such record will be required to carry out an investigation under the Act. The section also states that the retained property will be handed back after the expiry of the given time period. However, the act also provides that the ninety-day time period may be enhanced by the court if the court believes that such a record is required for investigation purposes. Likewise, the act also empowers the authorities to attach or forfeit property located in a foreign country. Section 30(1) states that when any property has been attached by an investigating officer and such attachment is confirmed by the court or a court issues orders for the forfeiture of property located in a foreign country, the court may issue a letter of request to a court or any other relevant authority for the execution of such an order. Similarly, Section 14(4) deals with the seizure of evidence. According to the section, when an investigating officer finds relevant evidence during a survey under Section 13 and has suspicion that such evidence may be concealed or tempered with, he may enter any building and seize such evidence. Similarly, Section 15 of the act also authorizes an investigating officer to search and seize any property or record if such property is or may be useful or relevant for any proceedings under the act.

4.2.2 Forceful Actions against Person

The act contains several provisions that authorize various authorities to take coercive actions against a natural or legal person, including search, arrest, confinement, fine, and revocation of license. Moreover, the coercive actions may be mandatory or recommendatory and may be for violating the provisions of the act, 2010 or the rules and regulations made by various authorities under the act, 2010. In addition, the act sometimes requires the authorities to get the permission of higher authorities before taking coercive actions. For instance, Section 15(1) of the Act of 2010 empowers an investigating officer to search a person if he has reason to believe that such person has secreted about the person or anything under his possession, ownership, or control, any

record or property that may be useful for or relevant to any proceedings. Similarly, Section 16 authorizes an investigator or any officer appointed under Section 24(2) to arrest any person if they have reason to believe that such person has committed the offense of money laundering. However, they are required to obtain the permission of the concerned judge or magistrate before arresting any person, to inform the accused of the of the grounds of arrest, and to produce the accused before the magistrate after twenty-four hours of such an arrest. Similarly, Section 4 provides the punishment for money laundering, and it states that whoever commits the offense of money laundering shall be punishable with rigorous imprisonment up to ten years and shall also be liable to a fine up to five million rupees. The section further provides that every director, officer, or employee of the company found guilty under this section shall also be punishable under this section. Equally, Section 32 provides the punishment for an investigating officer on the ground of vexatious survey and search, and it states that he shall be imprisoned for a term that may extend to two years or fine up to fifty thousand rupees or both. Similarly, Section 33(2) empowers the regulatory authorities to revoke the license or take any appropriate action against a reporting entity who has been convicted by court. On the other hand, Section 25(2) states that whoever willfully fails or refuses to provide the requisite assistance to the investigating officers, FMU, and other authorities shall be guilty of misconduct and shall be proceeded against by its respective department or organization, and a report of such proceedings shall be submitted within reasonable time to the recommending agency. Similarly, 37 (2) provides that where any rules, regulations, directions, order, or provisions of the act, 2010 are violated by any director, manager, secretary, or other officer, they shall be liable to be proceeded against and punished accordingly.

4.3 Judicial Framework

There are various provisions in the act which deal with the jurisdiction, trial and appeal of the cases, and special rules of evidence.

4.3.1 Jurisdiction

The provisions of the act, 2010 dealing with the jurisdictions of the courts are of three types: the enabling provisions, the conditional provisions, and the restricting provisions.

For instance, Section 20 of the Act of 2010 is an enabling provision, and it states that the offenses under the act will be tried by a court of session. However, the section also states that if the predicate offense is triable by any other court than the court of session, the offense of money laundering and all matters connected therewith or incidental thereto shall be tried by the court trying the predicate offense. Similarly, Section 21(2) is a conditional provision, and it describes the conditions to be fulfilled before a court takes cognizance. It states that the court shall not take cognizance of any offense unless a written complaint has not been made by the investigating officer or any officially authorized officer of the federal or provincial government. It further states that an investigating or any authorized officer will seek the approval of the concerned regulatory authority when the accused is a financial institution before filing a written complaint in court. Similarly, sub-section 3 of Section 21 of the Act requires that the Court shall not take cognizance of any offense punishable under subsection (1) of Section 33 except upon a written complaint made by the FMU. On the other hand, the act provides certain provisions expressly or impliedly restricting the courts' cognizance of certain matters or cases. For instance, Section 35(1) expressly bars the civil and criminal jurisdiction of the courts. It states that no suit shall be brought in any court to set aside or modify any proceedings taken or made under the act. It also states that no prosecution, suit, or other proceeding shall lie against the actions taken in good faith by the authorities. Furthermore, Section 22(2) states that no court shall have jurisdiction to entertain any suit or proceedings in respect of any matter that the investigating officer, the committee, or the court is empowered by or under the act to determine. Similarly, the section also restricts the courts ability to grant temporary relief. The section states that no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this act.

Likewise, the act implicitly restricts the courts from taking cognizance, and these implied restrictions include protections from civil, criminal, and disciplinary proceedings against various authorities. These restrictions may be imposed because the actions were done under the act or in good faith. For instance, Section 12 provides protection to financial and non-financial institutions and businesses and their officers by stating that they shall not be liable to any civil, criminal, or disciplinary proceedings for furnishing information required under the act or the rules and

regulations made under the act. Similarly, Section 35(1) states that no prosecution, suit, or other proceeding shall lie against the Federal Government, any officer of the Government, FMU and its officers, any official agency, or members of the NEC or general committee for anything done or intended to be done in good faith under the Act. Similarly, Section 46 of the Act offers validation to the actions, orders, instruments, notifications, agreements, proceedings, processes, or powers conferred or exercised by the Federal Government, Financial Monitoring Unit, or its officers on or after January 5, 2008, and before the commencement of this Act, which shall be deemed to have been validly done.

4.3.2. Procedure

Similarly, the act also provides provisions related to the procedure for the trials and the appeals of the cases. Section 22 states that the courts trying the offense of money laundering will apply the provisions of the Code of Criminal Procedure (if these provisions are not inconsistent with the act) of 1898 regarding arrest, bail, bonds, search, seizure, attachment, forfeiture, confiscation, investigation, prosecution, and all other proceedings under this act. Similarly, Section 23 of the Act deals with the appeal under the Act. The said section states that any person aggrieved by a final decision or order of the Court may prefer an appeal to the High Court within sixty days from the date of communication of the decision or order on any question of law or fact arising out of such a decision or order.

4.3.3. Special Rules of Evidence

Similarly, the act also contains provisions providing special rules of evidence related to presumptions and the admissibility of defective documents. For instance, Section 19(a) states that if the public documents found during a survey or search under the act are in the possession of any person in Pakistan or are received from any person under the act, the court, prosecuting agency, or investigating agency shall presume that the signature, handwriting, execution, and attestation are genuine. In addition to this, the subclause (b) states that a document that is otherwise admissible will be admitted as evidence even if it is not stamped. Section 36 states that notices, summons, orders, documents, or other proceedings issued, made, or taken that are

substantially in the form and objective of the act shall not be invalid by reason of any mistake, defect, or omission.

4.4.Interacting Framework

There are several provisions in the act that create a relationship among various provisions of the act, 2010, and other laws. The Act of 2010 establishes the relationship by borrowing some provisions from some other substantive and procedural laws, by giving priority to the act, 2010 over certain provisions of other laws, or specific provisions of the act, 2010, and by giving aiding status to the act,2010.

For instance, the schedule of the Act (2010 borrows specific provisions of substantive laws, namely the Pakistan Penal Code, the Arms Act, the Prevention of Corruption Act, the Foreign Exchange Regulation Act, the Copyright Ordinance, the Pakistan Arms Ordinance, the Customs Act, the Securities Act, the Emigration Ordinance, the Sales Tax Act, the Control of Narcotic Substances Act, the Anti-Terrorism Act, and the National Accountability Ordinance, etc. Likewise, the act also borrows some provisions from the procedural law. For instance, Section 22(1) states that the provisions of the Code of Criminal Procedure, 1898, shall, in so far as they are not inconsistent with the provisions of this act, apply to arrest, bail, bonds, search, seizure, attachment, forfeiture, confiscation, investigation, prosecution, and all other proceedings under this act. Similarly, there are several provisions in the Act that prioritize, sometimes generally and sometimes specifically, the provisions of the Act 2010 over other laws or legal provisions. For instance, Section 39(1) states that “the provisions of this act shall have effect notwithstanding anything inconsistent contained in any other law for the time being in force." Similarly, Section 21(1) gives the overriding effect of the provisions over the provisions of the Criminal Procedure Code, 1898, by stating that all the offenses in the act are non-cognizable and non-bailable (if the punishment provided in the act is more than three years), notwithstanding anything contained in the Code of Criminal Procedure, 1898. Similarly, Section 7(5) states that the provisions of this section shall have effect notwithstanding any obligation as to secrecy or other restriction on the disclosure of information imposed by any other law or written document. Similarly, Section 7(6) also provides that, notwithstanding anything contained in any other law, any suspicious transaction reports required to be submitted by any person or entity to any investigating or

prosecuting agency shall be submitted to FMU to the exclusion of all others. Similarly, section 27 (1) gives priority to the section over other provisions of the act, 2010 by stating that "notwithstanding anything contained in this act…. if, in the course of an investigation into an offence or other proceedings under this act, the investigating officer or any officer superior in rank to the investigating officer believes that any evidence is required in connection with investigation into an offence or proceedings under this Act and he is of opinion that such evidence may be available in any place in the contracting State, he may, with the prior permission of the head of that investigation agency, issue a letter of request to a court or an authority in the contracting State competent to deal with such request". Likewise, the Act of 2010 also contains provisions that provide that the provisions of the Act of 2010 will not derogate the provisions of specific laws but rather will be added to other statutes. For instance, Section 39(2) states that "the provisions of this act shall be in addition to, and not in derogation of, the Anti-Narcotics Force Act, 1997, the Control of Narcotics Substances Act, 1997, the Anti-terrorism Act, 1997, the National Accountability Ordinance, 1999, and any other law relating to predicate offenses.".

4.5.Legislative Framework

The data show that the act, 2010 contains several provisions that offer a legislative framework by empowering certain authorities to amend the act, to make rules and regulations, and to remove the difficulties in the application of the act, 2010. In addition, legislative powers have been granted to various authorities, including the federal government and FMU. For instance, Section 42 grants the power to amend the schedule, and it states that the federal government may, by notification in the official Gazette, amend the schedule so as to add any entry thereto or modify or omit any entry therein. Similarly, Section 43 empowers the federal government to make rules by stating that the federal government may, in consultation with the National Executive Committee, make rules for carrying out the purposes of the act, 2010. Likewise, Section 44 allows FMU to make such regulations (subject to the supervision and control of NEC) as may be necessary for carrying out its operations and meeting the objects of the act, 2010. Similarly, Section 45 authorizes the federal government to remove the difficulties arising out of the act, 2010 by providing that if any difficulty arises in giving effect to the provisions of this act, the

federal government may make such provisions not inconsistent with the provisions of this act as may appear to be necessary for removing the difficulty.

5. Discussion

The purpose of this study was to gain a deeper comprehension of the structure of the Anti-Money Laundering Act of 2010. The study found that the act provides a legal framework in addition to administrative, coercive, judicial, and interactive frameworks in order to combat money laundering and the financing of terrorist organizations. According to the findings of the current study, the primary focus of the anti-money laundering legislation in Pakistan is on the establishment of an administrative structure that would guarantee a continuous flow of information and the efficient operation of a number of different offices across the country. The administrative structure of the AMLL is comprised of a complex network of interconnected bodies and institutions, which are organized by a multitude of offices, both domestic and international. There is one of these entities that acts as the hub of the network, and all of the other bodies are not just connected to it but also connected to each other. It has also been made obligatory for the various bodies to meet together after a certain length of time has passed, which has made it feasible for them to converse and interact with one another within the same time period. The fundamental functions, powers, and responsibilities of the numerous offices that make up the administrative structure have been established by the legislation, while the ancillary matters have been left up to the discretion of the offices to choose how they should be governed. Additionally, the administrative structure of AMLL is meant to supervise, manage, approve, or assist in the performance of a number of actions, as well as to enhance the performance of those offices. This is in addition to the fact that it is designed to improve the performance of those offices. The results also show that the formation of administrative set up fits the needs that are envisioned and visualized when the act itself supplies the administrative set up or authorizes other authorities to establish such set up. Not only do the anti-money laundering laws in Pakistan provide an administrative structure, but they also give the numerous agencies the ability to ensure the implementation of the AMLL by allowing them to use coercive measures where they are required to do so. One example of these coercive strategies is the use of penalties or other forms of harsh actions that are both temporary and permanent in nature. It is the responsibility of

the AMLL to award the authority to inflict a wide variety of punishments on judicial and administrative bodies in Pakistan. These penalties include imprisonment, fines, and the revocation of licenses. In addition, the AMLL in Pakistan also incorporates the procedures for trials and appeals. It has been made possible by either appropriating substantive or procedural provisions from the existing legal framework or by introducing a few new laws concerning the rule of evidence and jurisdiction. These laws largely restrict the jurisdictions that the courts have over their cases by setting requirements and constraints on the courts. In a similar vein, the AMLL are connected to other laws in a variety of ways, such as by borrowing provisions from other laws, by awarding precedence to the act, or by providing the act with supporting status. The AMLL in Pakistan is granted the right to supersede other laws by declaring that the AMLL would have precedence over other laws. The Pakistani AMLL also grants a number of authorities the authority to make laws and regulation in order to achieve the objectives of the act. A legislative capacity to alter statutes or make rules is granted to the government by the anti-money laundering legislation, and other agencies are given the jurisdiction to pass regulations. In addition, the government is given the ability to make rules.

4. Conclusions

The anti-money laundering act, 2010 is mainly concerned with creating an administrative framework that ensures continuous flow of information and the smooth operations of numerous offices. The act has outlined the primary roles, powers, and duties of the several offices. Nevertheless, the management of supplementary matters has been left to the discretion of the offices. The act, 2010 also grants various authorities the power to enforce the act, 2010 by permitting them to take coercive actions including fines, license revocation, and imprisonment. The said act has borrowed substantive and procedural provisions from other statutes to deal with trial and appeal of the cases under the act. However, the act has also introduced a few new provisions relating to rules of evidence and the jurisdiction of the courts by placing restrictions and requirements. In addition to this, the act, 2010 supplements to or borrows provisions from other laws or sometimes, it has overriding status over some specific laws. Furthermore, many authorities are granted the power to make laws, to amend laws or to make rules and regulations to achieve the objectives of the act, 2010. Despite all this, the changing economic, legal and

global environment and challenges necessitate that the laws dealing with money laundering and terror financing should be continuously evaluated and aligned with international standards.

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