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The Olive Branch and the Hammer:
A Strategic Analysis of Hawala in the Financial War on Terrorism

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Since September 11, 2001, U.S. counter-terror efforts to disrupt al Qa'ida's finances have been imprecise at best; at worst, they have had profound negative effects. The question of why hawala poses such a great threat and why there is a need for strict regulation or elimination of hawala has been the subject of great deliberation among policy makers and financial scholars since al Qa'ida's attack on New York and Washington, D.C. Regardless, strategic banter became policy with the publishing of Executive Order (EO) 13224 which greatly expanded the U.S.'s ability to freeze, block and disrupt the transfer and storage of terrorist funds.[2] In the aftermath of 9/11, this executive order set the tone and direction for U.S. strategy to disrupt and infiltrate al Qa'ida's financial network. EO 13224 created the framework for further debate that continues today. The debate is driven by the underlying assumption of policy makers that hawala was a fundamental piece of al Qa'ida's financial repertoire, allowing al Qa'ida to finance its global operations, particularly the 9/11 attack on America. The roots of this false assumption are in myth and post 9/11 histrionics.

A prevailing school of thought argues that regulation of hawala needs to be tempered with patience, regional collaboration, socio-economic and cultural sensitivity, and broader formal financial reform. Efforts to date by the U.S. government and international community have been too aggressive and have not achieved their stated objectives. Hastily made recommendations and regulation will not benefit the U.S. in its long-term efforts to defeat al Qa'ida. This school of thought encompasses Maimbo, Thompson, Passas, and Sharma – all referenced throughout this paper.

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2 Department of the Treasury, Contributions by the Department of Treasury to the Financial War on Terrorism Fact Sheet, (Washington, D.C: Treasury Department, 2002).

By conducting a detailed analysis of hawala in Afghanistan from 2001-2006 this paper attempts to prove that hawala, as a component of the war on financial terror, is not a strategic threat. Furthermore, this paper attempts to show that most broad regulation has been ineffective, and in fact counter-productive, alienating scores of innocent Muslims and galvanizing regional support away from U.S. foreign policy while pushing Muslim sympathies toward al Qa'ida. The incongruence of American foreign policy in the financial "war on terror" has been damaging. America has extended the olive branch to the Muslim world in rhetoric while wielding a deadly financial hammer.

Financial Terrorism in Afghanistan: Background Issues

Hawala in Afghanistan has always played an important role in the financial sector, but especially in recent decades. Samuel Maimbo, a noted hawala scholar for the World Bank explains that because of decades of conflict Afghanistan's formal sector is practically non-existent.[3] During this period of turmoil, hawala filled a necessary role left void because of the financial sector's inability to meet basic financial service needs of the Afghan people.

Until the fall of the Taliban in 2001, the informal sector, namely hawala, was the only reliable service in play. While formal financial institutions were non-existent or incapacitated by sanctions and war, hawala provided a cheap, efficient, and cost-effective alternative that could be trusted by the Afghan people.[4] In the absence of an internationally recognized and legitimate government, the informal hawala sector's hawaladars, or money service providers, became "key economic agents"[5] in Afghanistan. While the formal financial sector has seen growth and improvement since 2001, the hawala network still remains a central cog in the financial networks of Afghanistan.

Mapping Hawala: The Scope and Extent of Afghanistan's Hawala System

Size:

The magnitude of hawala's footprint in Afghanistan is colossal. The World Bank estimates that a whopping 80-90% of all economic activity in Afghanistan is in the informal sector.[6] With hawala in many instances serving as the only viable financial medium in Afghanistan, it seems highly likely that some terror funds

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3 Samuel M. Maimbo, "The Money Exchange Dealers of Kabul: A Study of the Hawala System in Afghanistan", World Bank Working Paper No. 13, 2003.

4 Maimbo (2003), 1.

5 Edwina A. Thompson, "The Nexus of Drug Trafficking and Hawala in Afghanistan," in Afghanistan's Drug Industry: Structure, Functioning, Dynamics and Implications for Counter Narcotics Policy, ed. Doris Buddenberg and William A. Byrd (Washington, D.C: World Bank, 2006), 155.

6 Ibid., 155.

are in the hawala system alongside completely licit funds. The cultural precision required to pinpoint illicit activity though, seemed lost on policy makers in the U.S. government who settled on a more heavy-handed approach to hawala after 9/11.[7] Al Qa'ida used hawala for the same reasons that hundreds of NGOs and international aid organizations did - there was no dependable alternative.[8]

Surprisingly, with 80-90% of the entire Afghan economy generated from one sector, there are only a few hundred hawaladars that operate the entire hawala network. There have been two significant studies that help us sketch the size and numbers of the hawaladars and hawala markets in Afghanistan. Maimbo's seminal effort to hawala literature that focuses on the money dealers of Kabul estimates that there are 300 registered hawaladars in Kabul and 500-2000 total throughout Afghanistan.[9] Edwina Thompson, in her cogent contribution to the study of the opium problem in Afghanistan, places the number of significant shops in the country at 900.[10] Finally, based off 2004 interviews conducted in Afghanistan by the Treasury Department, the number of hawaladars is estimated to be slightly over 300 in the Kabul Money Exchange, and potentially 100-300 additional dealers scattered in each region to service each of Afghanistan's thirty-four provinces.[11] Whatever the exact number, it is clear that a relatively few hawaladars control a vast and powerful financial network.

Volume

The amount of money flowing through the hawala network is tremendous. Maimbo elaborates: By some accounts, NGOs alone have pushed hundreds of millions through Afghanistan's hawala system.[12] While typical international transactions are in the U.S. $100,000 - $200,000 range, single transactions between major financial centers such as Kabul and Peshawar in excess of U.S. $500,000, or even U.S. $1,000,000 transactions by international organizations are not unusual. However, internal transactions tend to be in the U.S. $10,000 – $20,000 range.[13]

The overall volume of money in the hawala market in Afghanistan is difficult to determine with any certainty. Due to the informal nature and general secrecy of hawala, "any estimate of the overall size of the hawala market in Afghanistan

7 This is discussed in more depth in the author's full thesis of the same title published by Naval Postgraduate School in May 2008.

8 Greenburg et al, 25.

9 Maimbo (2003), 3.

10 Thompson, 156.

11 These figures were based on conversations by Treasury officials with Afghans staffed in the Supervision Department of the Central Bank as well as with several Money Exchange Dealers in the Kabul Hawala market.

12 Maimbo, 4.

13 Ibid.

should however be viewed with extreme caution."[14] Nonetheless, Thompson provides a healthy estimate of what Afghan hawala flows look like. By her accounts, 2004-05 aggregate hawala flows in and out of the hawala system were between 5.6 – 6.1 billion dollars.[15] Hawala, while informal, finances and moves billions of dollars in and out of Afghanistan. It is an impressive feat considering the system relies solely on good business practices and self-regulation among its hawaladars.

Table 1. Rough Estimates of Aggregate Hawala Flows in Afghanistan from 2004-2005 (From the United Nations and Thompson)

Item	Inflow (US$ million)	Outflow (US$ million)
Opium trade~	1,700	?
Unofficial re-exports^	1,100	1,000
UN agencies*	500	?
NGOs**	1,300	?
Inward remittances and informal investments***	1,000 - 1,500	?
Imports of goods	---	?
Expatriation of opium profits	---	?
Other outward capital movements	---	?
Total:	5,600 - 6,100	5,600 - 6,100

~ The figure used here includes all farm-gate proceeds of the opium economy (because it is reasonable to assume that these do flow into Afghanistan), but only half of the aggregate profits accruing to Afghan traffickers (because it is not reasonable to assume that all of the "value added" at the processing and trading state enters Afghanistan).

^ These figures are based on World Bank 2001 estimates. It is possible to offer an estimate on the out flow here because the import bill cannot be too much less than the export bill on unofficial trade (a 10% margin on the unofficial re-exports is assumed).

* This figure accounts for the amount of funds transferred by two major UN agencies through the *hawala* system, as verified by the author.

** This figure emerged from interviews with major NGOs operating in Afghanistan.

*** This figure includes regular remittances from migrants and refugees in Pakistan and Iran, and irregular foreign direct investment from the diaspora.

Hawala Myths

One of the more populated myths in the barrage of post 9/11 hysteria and media scrutiny of hawala is the reported statement that hawala transactions are paperless, with hawaladars keeping little if any record of transactions. Contrary to conventional wisdom, hawaladars' record-keeping and accounting activities appear amazingly robust and professional. Hawaladars are careful to record currencies traded, international pricing of currencies, deposit balances, debit and credit balances of partner dealers and all customers, all lending transactions, cash

14 Thompson, 160.

15 Ibid, 161.

on hand, all foreign exchange positions, and customer receipts.[16] Though only anecdotal, one investigator offered further evidence of the meticulous record-keeping when he noted that after striking a rapport with a hawaladar in the Kabul Exchange, the dealer opened his books to show detailed records of every transaction for the past 20 years. Maimbo's research also affirmed the findings of the Treasury Department that most hawaladars could account for every transaction by a variety of means.[17]

International Organizations[18]

Due to the lack of formal financial institutions and the unreliability of those in place, hawala was the preferred method of funds delivery for international aid organizations and non-governmental organizations (NGOs) during the war-torn Taliban era; it continues to be so today. The formal sector provides little options, and aside from carrying small sums of cash for basic operating costs, international organizations are forced to use hawala to send substantial amounts of money. Consequently, it is the only viable option.[19] Under the Taliban, international users had one or two designated hawaladars that they could deal with, but now there is considerable competition between many hawaladars offering more competitive, cheaper, and highly reliable financial services into and out of Afghanistan.[20]

As of 2003, there were 127 international and 467 local NGOs operating in Afghanistan. It is estimated that in excess of U.S. $200 million was sent through the hawala system in the first year after the Taliban government collapsed. Furthermore, in the more rural areas where much of the aid money is desperately needed there is no formal alternative to hawala.[21] There are some formal banks that solicit business from NGOs, but they tend to be "laboriously slow."[22] Ultimately, the advantage of hawala over any formal financial entity is its long-stretch (it can reach the most rural areas of Afghanistan) and that it "provides NGOs with liquidity they otherwise might not have."[23]

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16 Amit Sharma, Remarks given at the Naval Postgraduate School July 31, 2007. Sharma works for the Department of Treasury as the Senior Advisor to the Deputy Secretary of the Treasury and has previously conducted analysis of hawala while working in the Office of Terrorism and Financial Intelligence.

17 Maimbo (2003), 7.

18 For a more detailed description and examples of typical NGO/international aid organization transactions through hawala, see Maimbo's 2003 study full report.

19 Maimbo, 11.

20 Ibid.

21 Ibid., 13.

22 Ibid.

23 Ibid.

Mapping the Formal Financial Sector
Afghanistan's formal financial sector reflects a weak history. During the Taliban's rule, only six licensed banks existed; none providing commercial services or the ability to facilitate international remittances.[24] Since the fall of the Taliban regime, more strict financial institutions are forming in Afghanistan, but are still lacking in services. "Like everything else in Afghanistan, the formal financial services are underdeveloped."[25] As of October 2005, there were 13 licensed banks open for business in Kabul.[26] New banks such as National Bank of Pakistan, Habib Bank, and Punjab National Bank of India are all conducting business in Afghanistan now. Despite the slow emergence of major international and regional banks, the banking system "is best described as embryonic."[27] Years of conflict decimated the functionality of Afghanistan's formal banking services.

Only Da Afghanistan Bank, the central bank of Afghanistan maintained some limited functional role during this time.[28] Despite the slowly increasing number of services and banks available, the overall effect of the financial sector at the moment is limited. What little improvement in capacity or availability of service is restricted to Kabul. Regional and provincial access to formal financial services is not readily available. Even in Kabul, practical access for the layman is problematic: to use an ATM at Afghanistan's leading foreign bank requires you to run the gauntlet of a street known as Sniper Alley, then be patted down by a bristling security detail of Gurkhas before getting access to a cash machine that might or might not be functioning.[29]

One of the chief reasons for the limited interaction with the formal sector is the physical location. Formal financial institutions are nowhere near the bazaars and markets where Afghan hawaladars operate; thus impractical for them to utilize formal banks.

The Dark Triangle: Hawala, Drugs, and Terror
Amit Sharma believes, "the presence of a burgeoning opium economy and

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24 Samuel M. Maimbo, "The Challenges of Regulating and Supervising the Hawaladars of Kabul," in Rural Finance in Afghanistan: The Challenge of the Opium Economy: Report on a Two-Day Workshop, Kabul, Afghanistan, December 13-14, 2004, (Washington, D.C.: World Bank, 2005), 54.

25 "Everything to Play For," Foreign Direct Investment Magazine, June 07, 2005. http://www.fdimagazine.com/news/printpage/php/aid/1288/Everything_to_play_for.html (accessed April 3, 2007).

26 Thompson, 157.

27 Foreign Direct Investment, 2005.

28 Ibid.

29 Eric Ellis, "Afghanistan Gets Back to Business," E-Ariana (September 6, 2006), http://www.e-ariana.com/ariana/eariana.nsf/ (Accessed April 2007).

terrorism in Afghanistan provides for considerable risk to the hawala system."[30] As the insurgency has grown in recent years alongside the booming opium crops, a nexus has emerged between drugs and terror. This nexus occurs in the informal hawala network that helps conceal the financial movements of both illicit industries. While Thompson provides a lengthy and superb analysis of every region in Afghanistan and its hawala connections with the drug economy, pursuant to the goals of this paper, this section will focus on her analysis of the provinces and regions in the heart of the Pashtun belt. It is the hypothesis of this author that there is a direct correlation between the intensity of terrorist/insurgent activities in certain areas and the intensity of hawala drug-related transactions in these same areas that are well-documented by Thompson.

Helmand and Qandahar are located in the heart of Pashtun country that stretches across the border into Pakistan. These provinces are "ideally placed to exploit the extensive Pashtun trading networks that reach many of the world's key financial sites." As one saraf, or hawaladar, described the nature of the relationship between Helmand (and Hilmand) and Qandahar, "you may as well see them as one and the same market."[31] The same holds true for the areas on the other side of the border. Just as Helmand and Qandahar are one Pashtun economy with tight interdependence, so are the cross-border economies and social ties with the Pashtuns in Pakistan. It is one network, one economy, and one kindred cultural perspective.

Because of Qandahar's strategic location in Pashtun country it is "an important site to explore the links between the informal hawala networks and the trafficking of drugs."[32] If hawala is being exploited for the concealed movement of illicit drug funds, it seems reasonable to assume that it is being exploited in a similar fashion and with similar intensity by insurgents and terrorists. Helmand, too, boasts similar pre-conditions for abuse of its hawala network.

Thompson does not map out this area of the Afghanistan hawala network, but provides solid basis for further investigation. She does, however, highlight that there are 54 hawaladars in Qandahar and Helmand that specialize in drug transactions.[33] Furthermore, her study estimates that in both Qandahar and Helmand drug funds account for 80-90% of all hawala funds.[34] Sharma, a Treasury Department official who has spent time in Afghanistan investigating the hawala system and financial reform there, offers this conclusion:

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30 Amit Sharma, Remarks made at the Naval Postgraduate School, July 31, 2007.

31 Thompson, 170.

32 Ibid., 176.

33 Ibid., 177.

34 Ibid, 156.

> The broad answer is, yes folks (hawaladars) agreed that they did 'know' their customers, and therefore did indeed know much of the time what the business they were facilitating included… that said, everyone I spoke with did admit that facilitating terror (and other illicit activity for that matter) was not a good thing, and that they did want to find solutions that they could shove out this business but do so in a way that still retained their access to the larger pool of funds and the market…. I do think there is a distinction drawn between facilitating narcotics and terrorism – absolutely – and we need to remember that financially facilitating some of the drug trade is interpreted different ways… especially if some count their livelihood that way.[35]

The nexus between drugs and hawala is palpable. The more difficult connection is the third leg of this triangle: terror. Accepting Thompson's data is accurate, or as close to fact as one can get in the inherently recluse and informal hawala network of Afghanistan, one must next examine the interplay of terror in hawala. The UN data shows the richest poppy cultivation in the volatile southern provinces of Helmand and Qandahar, as well as a few eastern and north-eastern provinces. The connection between drugs and terror, and implicitly hawala, come into focus in U.S. Central Command's data on 2006 coalition forces attacks during the months leading up to harvest in the aforementioned drug provinces. Insurgent and terrorist activities in Helmand, Qandahar and the eastern, northeastern provinces are highest during the peak drug months of early 2006. There seems an obvious direct connection between the two, and likewise, given the exposed abuse by drug-specialist hawaladars in these provinces and the researched data showing extremely high percentages of overall hawala drug-related activity in Helmand and Qandahar, an equally apparent connection of the two with hawala. It is unlikely that there are as many actors involved either as terror hawaladars or terrorist/insurgents actors in general due to the nature of terrorism and its high risk and low financial reward. Still, even if the number of hawaladars involved is fewer, there is a high probability of correlation to the intensity of hawala drug transactions in Afghanistan's volatile southern provinces.

The drug and terror networks are more duplicitous than imagined. They appear to be one convergent network with tactical differences but complimentary strategic outlooks. In many cases, they may be exactly the same. Certainly, it appears probable that the hawaladars that service both the drug and terror industries are the same, though further field research is desired to verify this

35 Amit Sharma, Email message to the author, November 1, 2007.

hypothesis. It is reasonable to assume that a hawaladar that bears the risk of dealing with drugs might also be tempted by the allure of terror financing. It is probably more certain that hawaladars that deal with terrorist transactions initially also deal with drugs if given the opportunity. The final point is the rich Pashtun interdependence that sweeps into Pakistan provides policymakers and regulators with a difficult context in which to begin deciphering the tightly woven nexus of Afghanistan's black triangle.

Figure 1. OEF Attacks on Coalition Forces February 2006. (From: CENTCOM and Thomas Johnson)

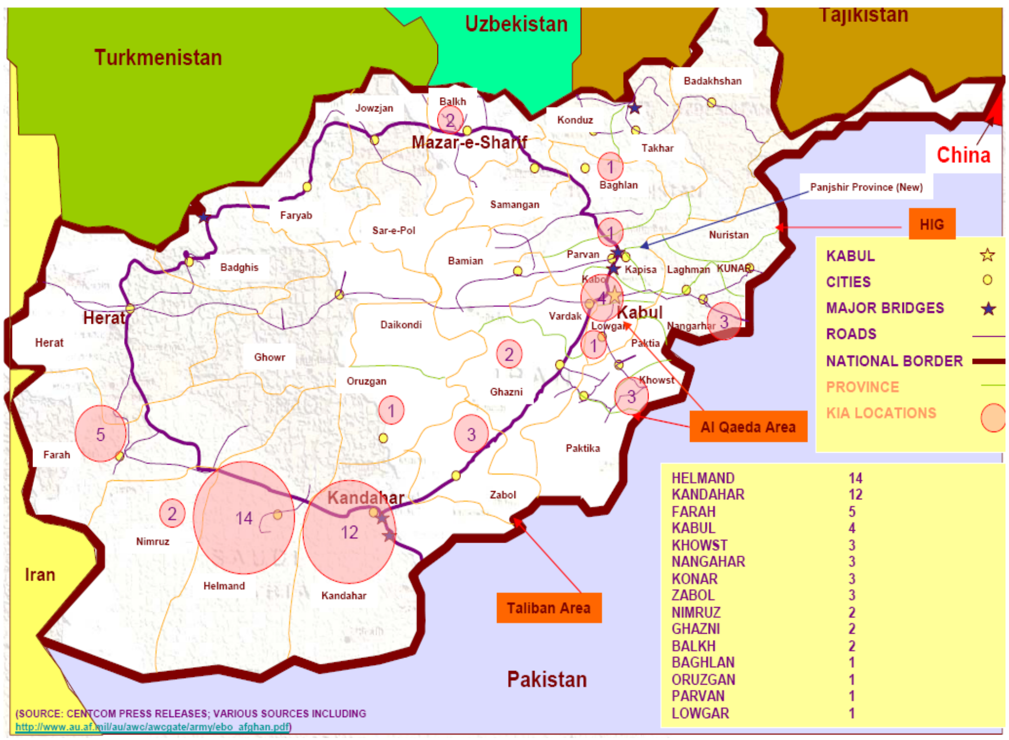


Figure 2. OEF Attacks on Coalition Forces March 2006. (From: CENTCOM and Thomas Johnson)

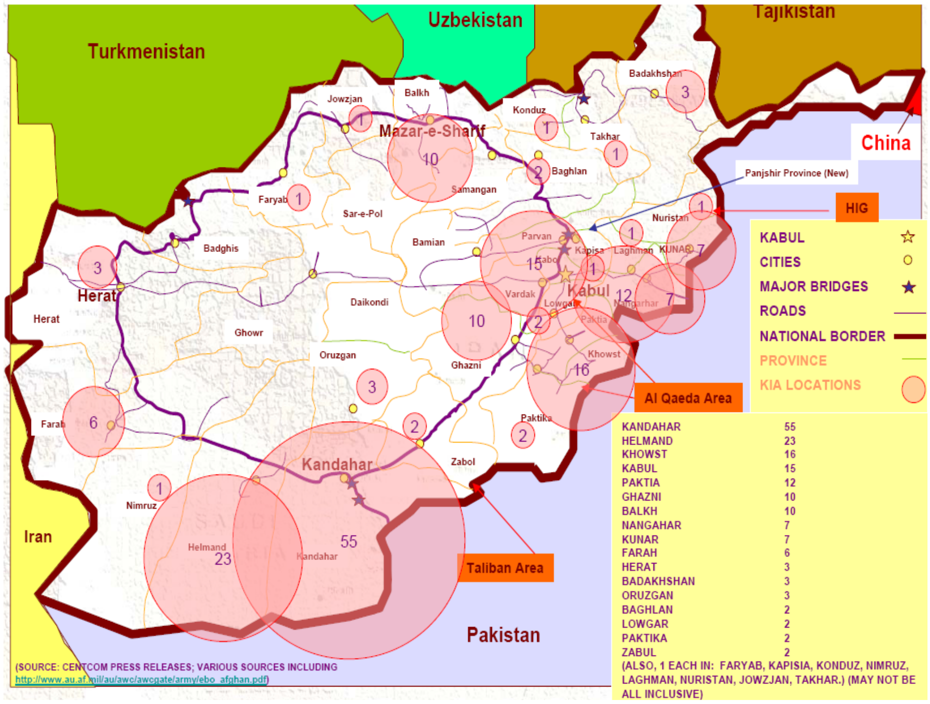
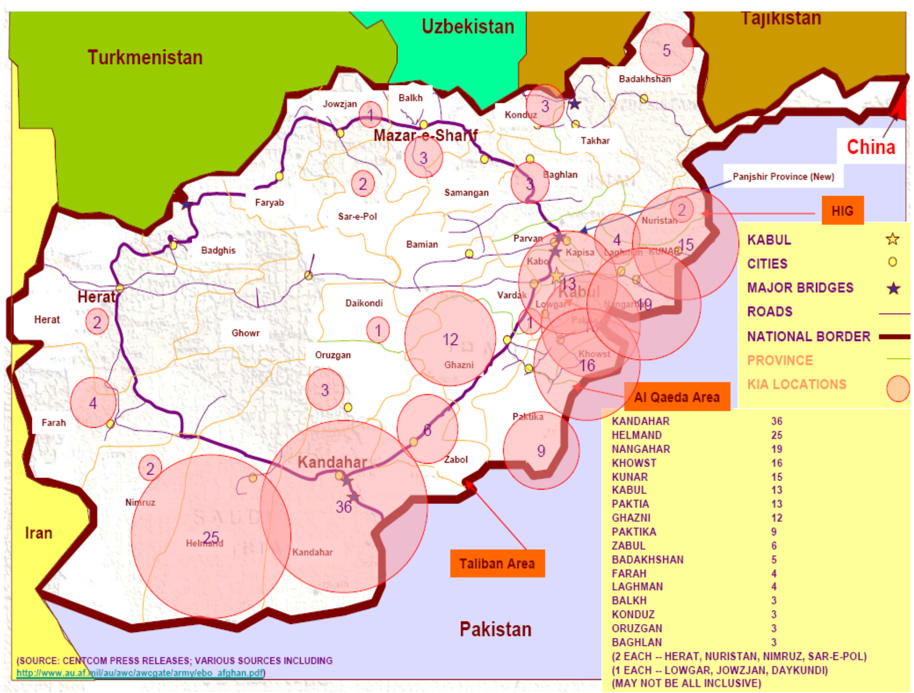


Figure 3. OEF Coalition Attacks April 2006. (From: CENTCOM and Thomas Johnson)



Regulatory and Reform Models: The Way Forward
Current Models
In the wake of the events of September 11, 2001, and the subsequent international efforts to combat money laundering and the financing of terrorism, abstaining from regulation or supervision of the informal financial system is no longer a tenable option.[36] Given the intense interest and focus on the hawala system of the Middle East and Islamic world post 9/11, some measure of oversight or regulation is required. One can make a strong case that no regulation is needed whatsoever, but given the political climate, such a position is politically unsustainable. Within this framework several regulatory models are on the table, several have been enacted at the behest of the U.S. government and international coalition, and others have suggested strategic guidelines that map out best practices to maximize the benefit of hawala while curbing the illicit components. The most critical aspect of any regulation, though, must consider the unique characteristics of Afghanistan's financial system and people. Hawala in the U.A.E. is not hawala in Pakistan. Hawala in Pakistan is not hawala in Afghanistan. Hawala in Afghanistan is not hawala in the U.A.E.. Blunt regulatory tools[37] and policy cannot be universally applied to the many people who utilize hawala. It is culturally naive to do so, and unrealistic to expect the people of Afghanistan to wrap their arms around a policy better suited for Pakistan or maybe Indonesia.

In Maimbo's field research, many hawaladars did make passionate arguments against any regulation. Four main points emerged in this argument: First, hawaladars are difficult to identify for regulation. Some are only hawaladars, but others operate as hawaladars in addition to being a butcher, or running a market store. Second, there is no incentive to open themselves up as a business community to external regulation. Hawaladars fear the big stick approach shown by regulators in the al Barakaat[38] debacle in Somalia. Third, hawala transactions are varied and would be difficult to develop a regulatory pattern. Lastly, even if sound regulations were feasible, DAB absolutely lacks the capacity to enforce anything.[39] For the hawaladars, regulation appears wrought with danger and low in reward. From the government perspective, Afghanistan needs to focus its immediate attention elsewhere first. Hawala regulation seems

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36 Maimbo (2003), 16.

37 Specifics of U.S. regulatory policy and the FATF special recommendations on terror financing are discussed in-depth in a separate chapter.

38 Al barakaat was a major hawala firm in Somalia handling hundreds of millions of dollars. It served as the only functioning financial medium between Somalia to the outside world. After 9/11 al barakaat was hammered by the US Treasury Department for alleged terrorist financing but the 9/11 commission ultimately concluded there was no connection. To date, no convictions have occurred in this case, but the company was largely destroyed by the process.

39 Maimbo (2003), 16.

less urgent by comparison to the scope of everything that needs to be overhauled financially in Afghanistan.[40]

What does work in Afghanistan is self-regulation. The hawaladars of Kabul have been self-regulating without any oversight since 1930.[41] There are over 300 self-regulating hawaladars in the Kabul Money Exchange. The Kabul hawaladars even serve under an executive committee "responsible for enforcing the tacit rules and business codes of the market; code violations bring serious consequences. The executive committee is also responsible for the amicable settlement of disputes."[42] Self-regulation is a viable option because the hawaladars are better able to identify the problems within hawala and deal with them more effectively than any external regulators ever could. If hawaladar input was solicited in the right way, hawaladars might have a more vested interest in the rules and regulations imposed (since they created them) and this might narrow the gap between the formal financial world (and government) and the hawala system.[43] Self-regulation allows for a more realistic approach to effective regulation than that from the FATF or central bank which is largely seen as meddling or external interference in legitimate business.

Another option on the table is a hybrid model aimed at creating transparency without sacrificing the allure of hawala's inexpensiveness, efficiency, and reach. In an incremental process, carefully choreographed with the help of the hawaladars themselves, hawaladars would be asked to register (not license), identify customers carefully to include physical address, bear the responsibility of suspicious activity reports, and when necessary, facilitate investigations.[44]

Challenges to Reform

Hawala is ingrained in the cultural and religious landscape of Afghanistan. It is part of daily life. "The market has such a long history of operational and regulatory independence that external oversight is unlikely to be easily welcomed - especially if it is overly burdensome."[45] Afghanistan, a state plagued by the great game and other imperial interferences does not want external or western policies forced on them. This is the first challenge. Afghans simply prefer hawala. It is a subtle but important point; this is what the people want. While not exclusive to Muslims, hawala is sanctioned by sharia law and is synonymous with Islamic banking. It is a cultural aspect of Islam that can be

40 Maimbo, 16-17.

41 Maimbo (2005), 57.

42 Maimbo (2003), 17.

43 Ibid., 17.

44 Ibid.

45 Maimbo (2005), 58.

traced back to the Prophet Mohammed, himself a trader and user of the informal economy.

Literacy is another impediment to hawala reform or acceptance of regulation. Broad FATF regulations not adapted to Afghanistan miss the mark and alienate the population. 74% of Afghans and 91% of women are illiterate and most have no formal identification.[46] This social condition is a disabling pre-text for the transfer of hawala informal economy to the formal sector. It is unrealistic and ignorant to expect Afghans to embrace rules better suited for a U.S. state. Western corporate procedures and business plans, formal accounting, and other reform ideas that are being incorporated by U.S.AID (United States Agency for International Development) and the World Bank are unlikely to succeed given the underlying illiteracy problem in Afghanistan. Delawari is pushing universities to offer courses on business, accounting, and financial literacy, but this is a long-term problem with a slow process toward improvement. In the meanwhile, it is a huge obstacle to reform.

Perhaps the most glaring error in policy and hindrance to hawala regulation or reform is the lack of input received from hawaladars, or rather the lack soliciting of hawaladars by policy makers. Every expert from Wilson to Thompson to Passas to Maimbo has suggested what is plain to see; the first step in any serious discussion of moving forward should be to co-opt the hawaladars of Afghanistan, namely the executive committee of Kabul's market. Yet, six years after 9/11, this has not genuinely happened. While the U.S. Treasury Department and the DAB will almost certainly say that hawaladars have been engaged in the reform process, including the most recent round of laws concerning money-dealers and foreign exchange dealers, research shows this engagement to be merely transitory. Commenting on the Treasury Department's own mission to Kabul in 2004, Sharma found that most hawaladars felt that even when DAB conducted open forums with the hawaladars, the sticky points of regulation were already decreed and the DAB was just there to tell them the new policy rather than ask their opinion.[47]

Whether or not it is reality, the perception among hawaladars is certainly one of alienation and exclusion from the reform process by the government. Hawaladars have a preset suspicion of authority. "Collaboration with government regulators requires a profound social and psychological stretch for

46 Thompson, 186.

47 Amit Sharma, Naval Postgraduate School, July 31, 2007.

those who run the networks."[48] The mistrust of the formal sector and adversarial standing between hawaladars and government regulators creates an inherent problem. There is no strong inclination for hawaladars to emerge from the shadows, much less be dragged out by their feet.
Finally, hawaladars acknowledge that there are certainly illicit funds facilitated through their hawala system. However, as individual hawaladars, they would not stem the flow - there is too much at stake.[49] In a business environment run on honor, interdependent peer relationships, and tacit rules, one cannot venture off the beaten path without consent. The risk of being black-listed or cut out of the business partnerships required to conduct transactions is too great. There is great fear among hawaladars that cooperation in driving out illicit funds would be disclosed (back to the issue of general mistrust of the central government) and financially ruin their own business due to the interdependent nature of hawala.

Afghanistan: Policy Missteps and the Cultural Fallout
The U.S. Treasury Department has totally failed to see social and cultural realities on the ground. Ironically, the Bush Administration found out the hard way that they had to rely on the same hawala network terrorists use to move money in Afghanistan to get anything done after the Taliban fell. A little historical perspective can go a long way. This sort of improper framing of the issue has plagued U.S. foreign policy and certainly its approach to hawala.

"During the decades of conflict, trust in the government was progressively eroded and transposed to kinship, ethnic, and other social connections."[50] The gravitational pull of these ties is forceful. These social and ethnic ties bind the Afghan people, not the central government. It is in these contexts that the Afghan people want to conduct their business, not under the perceived interference of Kabul or the U.S. Treasury Department's regulations. "Afghanistan's political economy is so deeply constituted through regional and international associations that it would be a mistake to view it in a purely national context."[51] Yet that is exactly what the U.S. is attempting to do through FATF regulations and DAB laws.

Afghanistan is not hopeless. The government of Afghanistan is doing many things right. Formal sector reforms are moving nicely. However, any reform or regulation of the hawala sector must be done slowly and cautiously. Centuries

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48 Thomas A. Timberg, "Informal Remittance Systems and Afghanistan," http://www.nathaninc.com/NATHAN/files/CCPAGECONTENT/DOCFILENAME/0000502422/Informal%20Remittance%20Systems%20and%20Afghanistan.pdf (accessed May 2007), 7.

49 Amit Sharma, Naval Postgraduate School, July 31, 2007.

50 Thompson, 157.

51 Ibid., 170.

of social memory cannot be erased. Hawala works in Afghanistan. Hawala is embraced by Islam. These are facts that should not be ignored but rather adroitly leveraged in Afghanistan.

The Afghanistan case study affirms the scholars' school of thought on hawala. The crux of this school of thought rests in the core belief that regulation of hawala needs to be tempered with patience, regional collaboration, socio-economic and cultural sensitivity, and broader formal financial reform. Hastily implementing recommendations and regulation will not benefit the U.S. in its long-term efforts to defeat al Qa'ida. If counter-terror efforts are to curb hawala usage by criminal elements without denying its sanctity to legitimate users, then reform must address Afghanistan's rich culture. Another tenet of the scholars' school of thought is that broader formal financial reform will have a more desired effect in reducing hawala misuse than direct external pressure and regulation on hawala through registration and licensing. This case study shows that Looney, Passas and Maimbo are correct. Regulation cannot achieve its desired effect without broad and gentle financial reform in all sectors of the Afghan economy. Lastly, as de Gourde emphatically states: you must account for the socio-economic and cultural effects of any hawala regulation. Al Barakaat is but one example of regulators not looking ahead and seriously considering the cultural second and third order effects of stamping out hawala. Heavy-handed regulation is disastrous. Afghanistan bears out the preeminence of socio-economic and cultural impact of poorly designed financial regulation.

Ultimately, the most important truth to glean from Afghanistan is the utter inefficacy of any reform that does not include the hawaladars themselves in the creative process. Due to the social constraints, business practices and history of self-regulation, it is imperative to have hawaladar support in any regulatory measures. Less than full endorsement and collaboration in regulatory legislation or enforcement will doom any such measures to failure. Trust must be earned. However, the government can reach out to hawaladars over time, heeding their advice, and slowly nudging them to the formal sector incrementally.

There seems to be a belief that universal regulation, blunt tools such as the PATRIOT ACT, EO 13224, or those offered in the FATF special recommendations are going to ubiquitously act as penicillin for the incongruities and faults of hawala networks throughout the world. This is false and a disastrous cognitive pretext for reform.

It is a mistake to over-regulate hawala, and to the extent that it must be regulated, the greatest cultural deftness must be employed. If the U.S. is to curb Islamic "extremism" and jihadism in the "war on terror" than it absolutely cannot afford to continue offering an olive branch to moderate Muslims even as it wields a blunt and deadly financial hammer in the other hand.