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The Growth and Formalization of Somalia's Hawala Economy

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in African Studies

By

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2015

ABSTRACT OF THE THESIS

The Growth and Formalization of Somalia's Hawala Economy

by

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Master of Arts in African Studies

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Professor Ghislaine E. Lydon, Chair

This thesis explores the roles hawalas have played in Somalia since the early 1990s and provides a theoretical framework for understanding the contractual forms and underlying mechanisms of the hawala. Instability and a lack of financial infrastructure in Somalia, coupled with the mass migration of millions of Somalis abroad, have fueled increasing demand for money transfers. Hawala companies emerged to meet this growing need, which led to the formalization and transformation of hawalas themselves. In addition, hawalas are a financial mechanism used not only for business transactions, but also to remit and safely transport money over long distances. This, combined with the hawala's potential for economic development in Somalia, makes them particularly useful in the modern Somali context.

The thesis of Emily Milstein is approved.

Edith S. Omwami

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2015

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Remittance money sent by Somalis in the diaspora has been a crucial source of income for impoverished residents of refugee camps, as well as those who Somalia. Given the severity of the persistent crises in Somalia and the growing Somali diaspora, much scholarship has been done both on the subject of remittances and the Somali diaspora. Since the early 1990s, the Somali money transfer industry has evolved from an informal network of xawilaad¹ agents into a multi-billion dollar industry. Xawilaad is the Somali rendering of the Arabic word for transfer, hawala. Hawala contracts can be defined as the transfer of a debt obligation from the liability of the original debtor, to the liability of a third party.² Essentially, hawalas are a means of financial transfer, in which a sum of money is transferred between two parties, often over long distances and with no money being physically transferred over that distance.

Hawalas are used for a variety of purposes beyond the simple transfer of a debt, including for business transactions, such as obtaining and accessing credit, and for the safe, secure transmitting of money. These transactions are incredibly important in Somalia today, where access to formal banking is limited and thus so are options for credit and the safe movement of money. It is hawalas' ability to conduct such transactions using deb transfer that makes them so useful in a wide variety of situations and contexts, including present day Somalia. In Somalia, money transferred into the country includes funds sent for business investments and transactions, development projects, and as remittances. Hawalas have been used in the Middle East for centuries and are regulated by Islamic law. While hawalas have always been used for things like obtaining credit or safely moving money, over time they have evolved to meet the needs of contemporary users. The use of hawalas to send remittances represents a relatively new use of

¹ Throughout this paper, I will use the words xawilaad and hawala interchangeably.

² Dietrich A, "Hawāla," *Encyclopaedia of Islam*, P. Bearman, Th. Bisquanis, C.E. Bosworth, El van Donzel, W.P. Heinrichs, eds., (Brill Online, 2015).

the debt transfer mechanism. Furthermore, the use of technology to transfer money and the establishment of specialized hawala companies, where none existed previously, is also relatively new, having emerged in the 1990s. These companies are now regulated by many countries' governments, including the United States government, and make a business of conducting debt transfers for customers. This represents the formalization of what had been an informal financial mechanism, whereby hawalas were conducted on an individual basis, between parties who needed to use a hawala to conduct a basic financial transaction, and not on mass scale, as is done today by hawala companies, also known as hawaladars.

The literature on xawilaad networks demonstrates that after the Republic of Somali collapsed in 1991, money transfers became highly important to Somalis remaining in Somalia, in in refugee camps, and in nearby countries, such as Kenya. Not only do remittances provide huge economic benefits to their recipients, they can also empower women economically, with women acting both as senders and recipients of remittances. Furthermore, xawilaads also have facilitated efforts to rebuild Somalia, including the growth of the country's telecommunications infrastructure.

The aim of this paper is to examine the critical role hawalas have played in Somalia since the early 1990s and to provide a broader theoretical framework for understanding the contractual forms and underlying mechanisms of the hawala. The role played by hawalas in Somalia has grown because instability, persistent poverty, and a lack of economic options, coupled with the subsequent migration abroad of millions of Somalis, has, since the early 1990s, fueled ever higher demands for remittance transfers. This demand led to the formalization and transformation of hawalas, as hawala companies emerged to meet this growing demand and as foreign governments brought Somali hawalas under their regulatory umbrella.

It can be difficult to find reliable data on hawala money transfers and on the Somali diaspora. Many Somalis have residence papers in multiple countries which, coupled with high mobility rates, makes it challenging to accurately count Somali populations in any particular country.³ In addition, hawaladars are elusive about the amounts of money they handle “in order to conceal potential wealth from possible donors [of international aid]”.⁴ This, coupled with the fact that money is often carried into Somalia through different channels and sent as cash, makes it difficult to know exactly how much remittance money enters the Horn of Africa each year. Many scholars address these data collection issues in their work, which is important because researchers writing about Somali hawalas often provide contradictory data that differs from that of another scholar. The difficulty in finding reliable data reveals the complex, multi-faceted nature of money transfers and the evolving nature of the hawala industry.

What is a Hawala?

Before examining the place of hawalas in Somalia’s economy, it is important to understand how a hawala works and where the hawala comes from. Islamic law and Muslim jurists allow for the permissibility of a number of different debt contracts, including the hawala. The word hawala literally means transfer or change in Arabic, while *hawalat al-dayn* means transfer of debt.⁵ Hawala contracts can be defined as the transfer of a debt obligation from the liability of the original debtor, to the liability of a third party.⁶ For example, if person A owes a

³ Ken Menkhaus, “The Role and Impact of the Somali Diaspora in Peace-Building, Governance and Development,” in *Africa’s Finances: The Contribution of Remittances*, ed. Raj Bardouille, Muna Ndulo, and Margaret Grieco, (United Kingdom: Cambridge Scholars Publishing, 2008), 191.

⁴ Cindy Horst, “Xawilaad: The Importance of Overseas Connections in the Livelihoods of Somali Refugees in Dadaab Refugee Camps of Kenya,” (University of Oxford: 2002), 8.

⁵ Maha-Hanaan Balala, *Islamic Finance and Law: Theory and Practice in a Globalized World*, (New York: I.B. Tauris Co Ltd., 2011), 97.

⁶ Dietrich.

debt to person B, and person C owes a debt to A, then A can transfer the liability for the debt owed to him or her by C, shifting that obligation over to B. Person A would thus be absolved from his or her debt owed to person B, and person C would pay the debt they owe to person B.⁷ It is within this basic structure of a debt transfer that Somali hawalas operate today.

In Arabic, the primary debtor (person A) is referred to as a *muhil*, while the person to whom the debt is being transferred (person C) is referred to as the *muhil 'alayhi*. Furthermore, the debt itself is referred to as *muhil bihi* while the person to whom the debt is owed (person B) is referred to as the *muhil lahu*.⁸ A hawala thus releases the *muhil* from the liability of the debt and the creditor, the *muhil lahu*, must seek repayment of the debt from the *muhil 'alayhi*. The term hawala can refer to the transfer of any type of debt, be it money, or some other type of good, such as dates.⁹

There are two different types of *hawalat al-dayn*, a conditional hawala which known as a *hawala mutlaq*, and an unconditional hawala which known as a *hawala muqayyad*.¹⁰ A *hawala mutlaq* contains conditions that all parties to the hawala must follow. These conditions can include a provision that holds the *muhil* responsible for paying a debt if that debt remains unpaid by the *muhil 'alayhi* after hawala has taken place. Hawalas can also contain a provision that allows the *muhil 'alayhi* to repay a debt with any property belonging to the *muhil*, which the *muhil 'alayhi* has in his or her possession. A *hawala muqayyad* on the other hand is a hawala that contains none of these provisions or conditions. Furthermore, in a *hawala muqayyad*, the

⁷ Wael B. Hallaq, *Shari'a: Theory, Practice, Transformations*, (United Kingdom: Cambridge University Press, 2009), 260.

⁸ Ibid.

⁹ Malik b. Anas, *Muwatta'*, trans. Aisha Abdarahman at-Tarjumana and Ya'qub Johnson, Center for Muslims-Jewish Engagement, University of Southern California, Book 31, 31.20.48.

¹⁰ Muhammad Tahir Mansuri, *Islamic Law of Contracts and Business Transactions*, New Delhi: Adam Publishers, 2006, 305; Muhammad Yusuf Saleem, *Islamic Commercial Law*, (Singapore: John Wiley & Sons Singapore Pte. Ltd., 2013), 141.

debt transferred by the *muhil* must be linked to a debt owed to the *muhil* by the *muhil* 'alayhi, hence the restriction, which is not the case with the *hawala mutlaq*.¹¹

In addition to the two types of *hawalat al-dayn*, another type of hawala, the *hawalat al-haqq*, meaning the “transfer of right from one creditor to another”,¹² is a hawala in which one creditor is replaced by another.¹³ A *hawalat al-haqq* thus differs from a *hawalat al-dayn*, which is a hawala where one debtor is replaced with another.¹⁴ A *hawalat al-haqq* could be used in instances where a person selling an item will send the buyer of that item to the seller’s creditor and have the buyer pay the seller’s creditor for the purchased goods. The primary difference between a *hawalat al-dayn* and a *hawalat al-haqq* is the fact that in the *hawalat al-haqq*, the creditor, the *muhil lahu*, takes the initiative to instigate the hawala, whereas with a *hawalat al-dayn*, the debtor, the *muhil*, instigates the hawala.

In the event that a *muhil* 'alayhi becomes physically unable to repay a debt or denies that the hawala ever existed and there is no available evidence to the contrary, the debt will transfer back to the *muhil*.¹⁵ Any party bringing forth evidence that a hawala had not been legally completed and the debts not repaid would have present evidence that conformed the rules of evidence laid down in Islamic law. Such rules include laws about written versus oral evidence and rules about who can be a witness to a transaction. The founder of the Maliki school of Sunni law, Malik Ibn Anas, wrote his *Muwatta*’, a work of Islamic jurisprudence and a founding legal text for adherents of the Maliki school of Islam, “If a man has his debt to somebody taken on for him by another man and then the man who took it on dies or goes bankrupt, then whatever was

¹¹ Saleem, 141.

¹² Ibid.

¹³ Ibid.

¹⁴ Mansuri, 305; Saleem, 141.

¹⁵ Joseph Schacht, *An Introduction to Islamic Law*, (Oxford: Oxford University Press Inc., 1964), 149.

taken on by him returns to the first debtor.”¹⁶ In this quote, Malik is writing that if a *muhal* ‘*alayhi* fails to repay a debt for which he or she assumed liability, either by death or bankruptcy, then liability for that debt must transfer back to the *muhil*. This is important because it means that ultimately, the creditor will receive their due and the debt will not go unpaid.

The hawala is similar to another instrument of financial transfer used in the Islamic world, the *suftaja*, which is a written bill of credit or exchange that could provide access to credit.¹⁷ The *suftaja* was used to avoid the risks presented by physically transferring money or valuable goods over long distances.¹⁸ The hawala and the *suftaja* can both be used to transmit money over long distances without physically moving the money or goods themselves. They differ in one crucial way however, because the *suftaja*, unlike the hawala, creates a debt obligation between two parties, in which one simply loans money (or goods of value) to the other.¹⁹

Hawalas have a long legal and historical foundation in Muslim communities. The use of the hawala has been used fairly consistently since at least the sixth century and its underlying mechanism and principles have remained relatively constant. The benefits of a hawala include its ability to expand a person’s access to capital in an environment where coins or other forms of money are scarce. A person can use a hawala to buy goods on credit, thereby expanding his or her purchasing power and giving that person a commercial advantage. A hawala is also convenient because it can allow a person to safely move money over a long distance without requiring them to physically move that capital, which can be risky and expose the money to risk of theft or loss. Today, hawalas are used by Somalis for a variety of purposes, including for

¹⁶ Malik ibn Anas, *Muwatta*, 36.31.38c.

¹⁷ Abraham L. Udovitch, “Credit as a Means of Investment in Medieval Islamic Trade,” *Journal of the American Oriental Society*, 87:3 (1967), 262.

¹⁸ Schacht, 149.

¹⁹ *Ibid.*

obtaining credit and safely transferring money to avoid risk. Many Somalis in the diaspora also use hawalas to send remittances to distant family members. Hawalas provide a mechanism for Somalis to transmit money across the globe safely and efficiently and, in Somalia, provide people with access to financial services in a place where financial infrastructure is limited.

Since the early 1990s, specialized Somali-run companies that use hawala mechanisms to transfer money have been established. Many Somalis use these companies to remit money in their business dealings. These companies operate using the same basic principles of any other *hawalat al-dayn*, with three parties, the company, the person sending money, and the person receiving the money, all of whom transfer a debt between themselves. As is the case with a basic *hawala muqayyad*, a debt is transferred, rather than physical money. The companies however operate out of a centralized hub, often located in Dubai, where debts are consolidated. This is something new for hawalas because in the past, hawalas were conducted on a vastly smaller, individual scale and there was no need for a hub to consolidate the debts

Somali hawaladars operate with a client who gives a sum of money to an agent to transfer. That agent then contacts a second agent in close proximity to the recipient of the money. That second agent would then deliver that money to the intended recipient. At some point in the future, the agents, or the company, would settle the debt, either by a reverse hawala or other business/trade transaction, or through a broader consolidation of debts that included additional agents and a company's larger network.²⁰ Today, Somali communities use hawalas primarily to transfer of money, rather than other types of goods. Islamic financial laws and laws governing the transfer of debts regulate Somalis' hawalas, providing an important framework for standard debt transfer practice. In order to understand how Somalis use hawalas and why they are so

²⁰ Ibid.

important to Somalia, one must first comprehend the legal framework within which hawalas operate.

Varied Legal Opinions on the Hawala Among the Four Main Sunni Madhhabs

Somali hawalas must operate within the bounds of what is permissible in Islamic law. Each of the four main Sunni madhhabs, the Shafi‘i, Hanafi, Hanbali, and Maliki schools, recognize hawala as legal, acceptable practice. Each madhhab represents a distinct school of Islamic law and each follows the legal opinions and ideas of a founding jurist, one for each school. Sunni jurists generally choose to follow one particular school, basing their work on texts written by their school’s founder or other influential jurists from that school. While the four madhhabs rely on the same concepts and definitions of hawalas, they each have slightly different rules and regulations that govern debt transfers. Sunni legal traditions, including laws governing hawala, are drawn from various sources, all of which are subject to differing interpretations by jurists. In Somalia, the school most commonly adhered to is the Shafi‘i madhhab, meaning that Somali hawalas operate in accordance with the Shafi‘i rules for debt transfers. This is important because jurists from the different madhhabs vary in the conclusions they draw from sources of law and produce different bodies of rules governing hawalas. These sources include the Quran, the writings of Muslim jurists, and hadiths, which are narratives of the Prophet Muhammad’s sayings and deeds and some of which address debt transfer explicitly.

Even though Shafi‘i Islam is the dominant school practiced in Somalia, it is useful to look at the *Muwatta’*, a Maliki text by Malik Ibn Anas, a jurist from Medina who lived in the seventh century and died in 795, and is the founding scholar of the Maliki madhhab.²¹ This text deals

²¹ Schacht, 41.

explicitly with debt transfer and states “The people of knowledge agree that there is no harm in partnership, transfer of responsibility and revocation of sales of food and other goods.”²² In this excerpt, Malik explicitly acknowledges that the transfer of responsibility, in this case responsibility for a debt, is allowed. This has important implications for the use of hawalas today by Somalis because, while this excerpt is from a source of Maliki Islam and not the Shafi‘i Islam practiced in Somalia, the allowance within Islam for debt transfer is common to all madhhabs. The fact that debt transfer is legal within Shafi‘i Islam makes hawalas an ideal way for Somalis to transfer money, because users can be sure that their money will be handled in a way that adheres to Islamic legal principles.

One such hadith, as narrated by Abu Haraira, one of the Prophet Muhammad’s companions and the narrator of a number of hadith, states that “The Prophet said, ‘Procrastination (delay) in paying debts by a wealthy man is injustice. So, if your debt is transferred from your debtor to a rich debtor, you should agree.’”²³ While this hadith clearly sanctions the simple act of debt transfer, its implications are open to interpretation. This is made clear by the differing understandings and conclusions jurists from Sunni Islam’s four main madhhabs that draw on this hadith. Those different interpretations include a divergence of views regarding which parties to a hawala transaction must give prior consent for the transfer of the debt. What is meant by consent is that before the transfer of the debt occurs, all or certain parties involved in the hawala must know that liability for a debt is being transferred and agree that such a transfer of debt should take place. Jurists from different schools disagree on who must have prior awareness of the transaction before it occurs and who must agree, give their consent, for the occurrence of the transaction.

²² Malik, 31.23.54.

²³M. Muhsin Khan, trans., *Sahih Bukhari*, Center For Muslim-Jewish Engagement, University of Southern California, 3.37.487.

Hanbali jurists interpret this hadith as expressing an obligation, and believe that a hawala is only legitimate if the *muhil* gives their consent for the transfer of the debt. Once the transfer is initiated by the original debtor, the people to whom the debt is owed and to whom the debt will be transferred must be informed about the transfer, and are compelled to accept it. Hanbali jurists also maintain that the person to whom the debt was transferred is obliged to repay the debt, regardless of any attempts by the initial debtor to retake responsibility for that debt obligation. The primary point here is that Hanbali jurists believe that the person to whom the debt is being transferred does not need to agree to assume liability for the debt for the hawala to be valid.²⁴

Maliki and Shafi‘i jurists, including Somali legal scholars, on the other hand claim that *muhil* and the creditor, the *muhil lahu*, must provide their consent for the transfer of a debt to be valid. Malik wrote

One should not buy a debt owed by a man whether present or absent, without the confirmation of the one who owes the debt, nor should one buy a debt owed to a man by a dead person even if one knows what the deceased man has left. That is because to buy that is an uncertain transaction and one does not know whether the transaction will be completed or not completed.²⁵

In this except, Malik explicitly states that a debt transfer is not valid unless the *muhil* consents to the transfer.²⁶ Consent of the debtor is required because he or she should be allowed to choose the way in which they wish to settle the debt.²⁷ The person owed the debt also must agree to the transfer because it is their property that is at stake, particularly in instances where the

²⁴ Saleem, 139.

²⁵ Malik, 31.39.86.

²⁶ Hallaq, 260; Saleem, 139.

²⁷ Saleem, 139.

trustworthiness of the person who will assume the liability for the debt is under question.²⁸ Like Hanbali jurists, Maliki and Shafi‘i jurists believe that the person who will acquire responsibility for the debt does not need to agree to the transfer. For Somalis, this means that technically, the person *muhāl ‘alayhi* does not need to agree to the hawala before it takes places. For Somali hawalas, the role of the *muhāl ‘alayhi* is played by hawala company agents, who acquire liability for a debt when a transfer occurs. Within the framework of a hawaladar, debts are absorbed by the company and settled later at that company’s central hub, which lessens the importance of who does or does not give consent for a hawala. Ultimately, any hawalas a company conducts are all consolidated within the operating framework that hawaladar, which pools all its debts together within that company’s operating system.

In contrast to Shafi‘i jurists, Hanafi jurists draw different conclusions from their readings of this hadith. According to Hanafi jurists, the person who is transferring a debt to another, the *muhil*, does not need to give their consent for the transfer to be valid. Hanafi jurists agree that this hadith expresses a non-binding recommendation and that for a hawala to be legitimate, all parties involved in the reallocation of the debt must provide their agreement of the transfer for it to be legitimate.²⁹ The justifications for this requirement of universal consent are multifold. First, the original debtor must instigate the hawala, and therefore must approve of the transfer. Second, the person to whom of debt is owed must agree to the transfer because their property is at stake, and debtors can vary in their levels of trustworthiness and creditworthiness, as well as their ability to repay a debt.³⁰ Third, the person assuming liability for the debt must agree to

²⁸ Ibid.

²⁹ Ibid.

³⁰ Ibid.

assume that responsibility.³¹ Wael Hallaq, an influential scholar of Islamic law, on the other hand writes that for Hanafi jurists, the original debtor, the *muhil*, does not need to give their consent for the transfer to occur because the transfer presents no risks to the *muhil*, who will only benefit from the enactment of the hawala.³²

These diverging opinions about the implications of this hadith regarding the necessity of for all parties to consent to a hawala transaction illustrate the level of disagreement that exists among jurists from different madhhabs. The difference of opinion, even among Hanafi jurists who profess to follow the same madhhab, reveals the extent to which the hawala is subject to interpretation by scholars. This is unsurprising because Islamic law, as it is practiced, is based on individual interpretations of foundational sources such as the Quran and the body of hadiths by scholars, each of whom may interpret these texts differently. While jurists from different madhhabs can agree on the larger points of this hadith, such as the fact that a transfer of debt is sanctioned by Islam, they disagree about who must give consent for a hawala transaction to be legally performed. These opinions also demonstrate the fact that, while the hawala has long been used throughout the Islamic world, its practices can vary widely.

Despite these variances of opinion however, most hawala companies today operate within similar frameworks and conduct hawalas by comparable methods. The consolidation of many hawalas within a single company and the fact that the company can conduct many transactions at once, with multiple debts being settled at a later point, makes these rules about who gives consent less of an issue, because the company can assume that all its agents and parties can approve of any debt transfers being made.

³¹ Ibid.

³² Hallaq, 260.

Jurists from the different madhhabs also differ on other points of the laws governing the hawala. Hanafi jurists for instance believe that in the event of a transfer of debt, the person to whom the debt is transferred, the *muhāl ‘alayhi*, must be indebted to the main debtor the *muhil*. Hanafi jurists differ on this point from jurists in other madhhabs because they contend that the transfer of debt does not necessarily need to be linked to the original debt, in other words that the *muhāl ‘alayhi* may or may not owe the principal debtor.³³

While a hawala generally absolves a *muhil* from liability for a debt, a hawala can also occur in which the *muhil* retains responsibility for a debt, allowing the creditor a means of recourse against the *muhil* in the event that the debt remains unpaid.³⁴ On the issue of recourse against a debtor who fails to repay his or her debt, Hanbalis and Shafi‘is believe that in the event of a debt transfer to a person who is solvent at the time of the transfer, but who fails to repay their assumed debt, the creditor cannot seek recourse from the *muhil*.³⁵ This is because when the hawala occurs, the *muhil* is released from any liability connected to the debt. The only instance in which the *muhil* can be held liable for the unpaid debt is if an agreement was made before the hawala took place for the *muhil* to assume liability for the debt in the event that the *muhāl ‘alayhi* failed to repay the creditor. For Somali hawaladars today, the role of the *muhil* and the *muhāl ‘alayhi* are both played by people working within the same company. This means that this rule about liability is less of an issue, because it is ultimately the company’s responsibility to settle any debts and not that of the individual agents.

Malikis agree with Hanbalis and Shafi‘is for the most part regarding liability, except that Malikis believe that a creditor, the *muhāl lahu*, can seek recourse for an unpaid debt if the *muhil*

³³ Ibid, 261.

³⁴ Mansuri, 304.

³⁵ Ibid.

had misrepresented the transfer to a *muhil 'alayhi* who was already bankrupt before the hawala took place.³⁶ Furthermore, Hanafis generally follow the same rules as the other schools, except for the fact that Hanafis believe that the *muhil lahu* can seek recourse against the *muhil* for an unpaid debt if the *muhil 'alayhi* is insolvent or claims that the hawala never occurred, and the creditor cannot prove otherwise.³⁷

The fact that the hawala is explicitly endorsed by scholars of Islamic law and given specific rules for the conduct of transfers of debt is evidence of the importance of hawala contracts in business transactions conducted by Muslim merchants. The rules laid down for drafting and the endorsement of hawalas by Muslim scholars illustrate the longstanding use of hawalas by Muslims.³⁸ That hawalas continue to be used by Somalis today represents an important level of continuity with the past. As in the past, hawalas today continue to operate within the bounds of the rules laid down by the different madhhabs, which constitutes a key legal framework for the effective functioning of Somalia's hawala economy. The corporatized form that Somali hawaladars take today however makes some of these rules less relevant to hawalas as they were previously. Rules such as the lack of need for consent by a *muhil 'alayhi* before a hawala can take place are less relevant today because when hawalas occur within the framework of a hawala corporation the rules regarding consent are less important. A hawaladar does not need to worry about obtaining consent of parties because a company's money is pooled at that company's central hub, negating any doubt as to how or by whom a debt will be settled.

Even if certain hawala legal rules are less relevant today, the use of hawalas for business transactions has remained constant over time. In the past hawalas were important because they

³⁶ Ibid.

³⁷ Ibid.

³⁸ Khan, 3.37.487.

could be used in business transactions, to obtain credit and extend one's purchasing power and safely transfer money. These remain important functions of business for Somalis today, for which hawalas provide an important financial transfer mechanism, one that facilitates the sending of remittances as well as business transactions. Since 1991 and the collapse of the Somali state, hawalas have played an important role in upholding Somalia's weak economy, providing Somali men and women with access to financial infrastructure and much needed capital from abroad.

Somalia Country Profile: History of a Diaspora

In order to understand why hawalas and money transfers became so important for Somalis after 1991, one must understand the history of the instability in Somalia. Somalia's various conflicts have led to the growth of the Somali diaspora and subsequent evolution of the hawala economy. It is helpful to focus on two key incidents within Somali history, the Ogaden War, which lasted from 1977 to 1978, and the collapse of the Republic of Somalia in 1991. These events produced large numbers of refugees that swelled the Somali diaspora and laid the groundwork for the instability and violence that have led to the country's continuing insecurity and volatility. Understanding this history is crucial to comprehending how and why the hawala money transfer industry is so important to Somalia today.

Since the 1970s, there have been a number of significant waves of Somali migration, including migrations both into and out of Somalia. These include the migration of Somalis in the 1970s to states in the Persian Gulf to work in the oil industry, migration into Somalia from Ethiopia during the Ogaden War, and migrations in and around Somalia since the Somali civil war of the early 1990s.

In the 1970s, many Somalis left their homes because of the heavy-handed tactics and authoritarian rule of Siad Barre, Somalia's president cum dictator. Barre's tenure as president was marked by repressive attempts to control public opinion and restrict rights to freedom of assembly, and the harassment and imprisonment of government opponents. These policies were enforced by the National Security Service (NSS), which was formed in the 1970s and was a security force trained by KGB officers stationed in Somalia. The NSS possessed powers of arbitrary arrest and placed public service employees under surveillance. Members of Somalia's westernized elite, particularly those who were more outspoken against Barre's rule, fled Somalia, with many going to Kenya, Saudi Arabia, and the Gulf states.

Many of those people who left Somalia in the 1970s sent remittances to family members in Somalia. In the 1970s and 80s, the governments of many of the Gulf states did not allow foreign migrant workers to obtain or seek citizenship in their countries. These governments also discouraged migrant workers from investing their earnings locally, encouraging them to either save their money in local banks or remit that money home. This wave of migration sparked a brain drain, in which Somalia lost a significant segment of its educated human resources.³⁹ In the 1970s and early 1980s, approximately 150,000 to 175,000 Somalis were living and working in the Middle East.⁴⁰ The remittances sent to Somalia became an important source of currency for the country. Much of this money was distributed along kinship lines via informal networks.

Another significant wave of migrations occurred during Ogaden War. The war was fought over a disputed region of Ethiopia known as the Ogaden, which is home to large numbers of ethnic Somalis. In 1977, Somalia invaded the Ogaden and was repelled by Ethiopia, causing hundred of thousands of Somalis living in the region to flee Somalia. Between 1977 and 1978,

³⁹ I. M. Lewis, *A Modern History of the Somali: Nation and State in the Horn of Africa*, (Ohio: Ohio University Press, 2002), 213-13.

⁴⁰ Peter D. Little. *Somalia: Economy without State*, (Bloomington: Indiana University Press, 2003), 147.

approximately 400,000 to 800,000 Ethiopian Somalis fled to Somalia and subsequently gained Somali citizenship.⁴¹ Many of these people ended up in refugee camps that had been set up in Somalia to deal with the influx. The financial strain these refugees placed on Somalia and the lack of economic options available residents of the camps prompted many of the refugees to leave Somalia to obtain jobs abroad. These migrants went to work in places like the Gulf region in fields like house-cleaning, masonry, construction, security, truck driving, and as cooks and electricians.⁴² Many of these migrants sent remittances to family members who remained in Somalia, which provided Somalia with a significant source of private-sector foreign capital.⁴³

Before the 1990s, Somalia had very limited access to financial institutions such as banks. The only bank that existed in the Somalia was the Somali Commercial Bank, which was run by the Barre government. A primary function of this bank was to restrict imports and exports and impose tariffs and other border controls.⁴⁴ Economically, Somalia's economy has always been export driven and externally oriented.⁴⁵ Somalis have, since at least the 1500s, traded livestock in the Middle East, which remains an important sector of Somalia's economy.⁴⁶ During the colonial era, British Somaliland served as source meat to supply the British garrison at Aden.⁴⁷ Italian Somaliland also served as a source of goods for export, including bananas, animal hides, and salt.⁴⁸ After Somalia's independence in 1960, the country continued to export livestock and other goods. Under Barre's program of Scientific Socialism in the late 1960s and the 1970s however,

⁴¹ Menkhaus, 190.

⁴² Anna Lindley, *The Early Morning Phone Call: Somali Refugees' Remittances*, (United Kingdom: Berghahn Books), 2010, 26.

⁴³ Lewis, *A Modern History of the Somali*, 246-248.

⁴⁴ Little, 7.

⁴⁵ Ibid, 3.

⁴⁶ Ibid, 3.

⁴⁷ Lewis, *A Modern History of the Somali*, 40.

⁴⁸ Ibid, 96.

Somalia's banana and sugar exports declined.⁴⁹ In addition to exports, remittances sent to Somalia are also an example of Somalia's external economic outlook, with the country taking in capital earned elsewhere.

In the 1980s, Barre became an increasingly repressive ruler and Somalia experienced increasing violence and famine. Under these conditions, a significant number of Somalis fled, with an estimated one million people going to places such as Kenya, Ethiopia, Yemen, Canada, the United States, and various parts of Europe, including Scandinavia and England.⁵⁰ This period marked the beginning of the end of the Somali nation-state, which had completely disintegrated by 1991. In 1991, Somalia's dictator, Siad Barre, fled the country and the Republic of Somalia essentially ceased to exist.

After Somalia's central government collapsed, the country sank deeper into crisis, prompting the second largest mass migration of Somalis in modern history. As Ahmed Samatar writes, the period after the state collapsed was marked by

A shrinkage of the means of existence and subsequent deepening of pauperism on a mass scale, the destruction of macro-political institutions, and a hemorrhaging of social and cultural norms [which] have all merged to produce a context of both swift deterioration of quality of living and a high spiritual anguish.⁵¹

These hardships forced Somalis to migrate, either to refugee camps in Kenya or to countries further abroad. By 1992, almost one million Somali refugees had fled to other countries in the region.⁵² Kenya had an estimated 412,000 refugees registered in Kenya, and another 100,000 or

⁴⁹ Ibid, 258.

⁵⁰ Ibid, 265.

⁵¹ Ahmed I. Samatar, "Somalia: Statelessness As Homelessness," in *The African State: Reconsiderations*, ed. Abdi Islamil Samatar and Ahmed Samatar, (Heinemann, New Hampshire, 2002), 241.

⁵² Ioan M. Lewis, *Understanding Somalia and Somaliland, Culture, History, Society*, (New York: Columbia University Press, 2008), 130.

so unregistered refugees.⁵³ By now, most Somalis who possess the ability to leave Somalia and migrate abroad have done so, or at a minimum choose to spend much of their time outside of Somalia.⁵⁴ The enduring instability in Somalia and the country's limited economic opportunities, access to healthcare, and education are all factors that forced Somalis to migrate abroad.

Somali migration patterns experienced a shift in the 1990s. Previously, Somali migration had been focused on the Arabian Peninsula and the Persian Gulf, in part because Somalia has historic trade ties with the Gulf States, linked to the Somali livestock trade and labor migration. Beginning in the 1990s however, Somalia's labor diaspora began to re-orient itself away the Gulf states, with Somali diasporic communities now located all over the world. Enduring instability in Somalia continues to produce large numbers of refugees each year. According to the United Nations High Commission for Refugees, close to 60,000 refugees have been displaced since January 2013.⁵⁵ According to the United Nations Population Fund, in 2011 Somalia had a population of 9,557,000 people.⁵⁶ Estimates of the numbers of Somalis living outside of Somalia vary, however in 2008 it was estimated that approximately five to six million Somalis lived outside of Somalia and Somaliland. Ethiopia, Kenya, and Djibouti have large Somali populations, made up of a combination of refugees and those countries' own indigenous Somali populations. Yemen, the United States, the United Kingdom, the Netherlands, and Canada are home to the largest Somali populations outside the Horn of Africa. Other states, including South

⁵³ Ibid.

⁵⁴ Menkhaus, 187.

⁵⁵ UN Office for the Coordination of Humanitarian Affairs, "2014 Humanitarian Needs Overview: Somalia," (2013), 1.

⁵⁶ Department of Economic and Social Affairs: Statistics Division, "World Statistics Pocketbook 2013 edition," United Nations 5/37 (2013), 181.

Africa, Egypt, and Sweden, are also home to smaller numbers of Somalis.⁵⁷ Many Somalis also live in refugee camps in Kenya, including the Dadaab refugee camp.

After the collapse of Somalia's central government, various international attempts to set up a new government failed and Somalia remained unstable. This prompted ever-greater numbers of Somalis to migrate abroad. In particular, many members of Somalia's non-Somali ethnic minorities, including groups like the Bantu-Jareer, the Rer Hamar, and the Rer Brava, left Somalia to seek asylum abroad. International refugee policies in the 1990s favored Somalis who were believed to hail from Somali minority groups based on the understanding that these groups faced a heightened risk of violence at home. Bantu Somali groups such as the Gosha and Jareer, who make up approximately five percent of Somalia's population, benefitted from asylum policies in the United States, Canada, and countries in Europe that assisted minority groups from Somalia. The makeup of the Somali population is complex and contains a number of groups who could be considered to be ethnic minorities in Somalia. In 2002, 12,000 Somali refugees in Kenya were given blanked permission for asylum in the United States based on their minority status.⁵⁸ This represents the significant impact international migration policies can have on Somali migration and the determining of makeup of the Somali diaspora.

This history of conflict after 1991 and Somalia's chronic instability have been driving forces behind the growth of the Somali diaspora. Somalia's instability shaped the development of the hawala industry, as hawalas became the primary means used to transmit money by Somalis living outside of Somalia. Hawalas provide migrants with a much needed, concrete link to their homes. For the waves of migrants that have left Somalia, hawalas and the money they bring into

⁵⁷ Menkhaus, 189.

⁵⁸ Luca Ciabbari, "Trade, Lineages, Inequalities: Twists in the Northern Somali Path to Modernity," in *Milk and Peace, Drought and War*, ed. Markus V. Hoehne and Virginia Luling, (New York, Columbia University Press, 2010), 91.

Somalia is a crucial source of capital and financial support to Somalia's weakened economy, which has, since the early 1990s, offered very little in terms of formal financial or banking services. In Somalia's often unstable climate, hawalas allow for the safe movement of money, including remittances money, while also providing other financial services, such access to credit. This is important because, given Somalia's lack of banks, hawalas fill a financial gap, providing people with financial services they otherwise would not be able to access.

The Evolution and Formalization of the Somali Hawala Economy

The growth and development of today's hawala economy has been marked by the evolution of informal hawala money networks into a multi-billion dollar global industry. The lack of formalized and financial services in Somalia is responsible for the transformation of hawaladars into the primary financial service providers for many Somalis. The corporatization and increasing formalization of xawilaad companies, coupled with their use of traditional debt-transfer mechanisms, positioned those companies to meet the needs of the growing Somali diaspora and the collapsed Somali state. As hawaladars enlarged their networks and operations, they retained elements their informal nature as debt-transfer operations operating outside the formal financial sector. This allowed xawilaad networks to operate more effectively in Somalia and is a factor that helps us understand why, in the latter half of the 1990s, the hawala industry and infrastructure flourished, as new hawala companies were established, such as Amal, which was founded in 1997. Until the 1990s, Somalia had very little formal financial banking services apart from the government-controlled Somali Commercial Bank. Hawala companies have partly filled this void by providing access to money transfer and credit services where there previously were none. The growth of hawala companies marked an important part in their evolution in the

development of the hawala economy, from hawalas being informal financial operations to a more formalized economy made up of well-established companies who handle billions of dollars annually.

Historically, hawalas were informal systems of financial transfer. While they operate within the bounds of what is permissible in Islamic law, they were not regulated by any government or did not operate based on any type of financial infrastructure. Hawalas were an instrument that agents operated on an individual basis to serve the needs of the involved parties. There were no established companies that made a business of dealing in hawalas.

From the 1970s onward, and primarily in the 1990s, hawalas became increasingly formalized. This meant that hawalas began to operate under the auspices of established companies set up to conduct hawalas for people. As these companies have expanded their networks, conducting more and more transfers each year, they fell under the purview of governments in the countries in which they operate. The governments of multiple countries, including the United States, the United Arab Emirates, Kenya, and the United Kingdom, among others, expanded their financial regulatory laws to include hawaladars. Furthermore, in contrast to the previously individual nature of hawalas, in which individual parties used debt transfer as a one-time transaction not necessarily linked to any other hawalas, hawalas companies today operate out of a centralized hub, where they process and consolidate all transfers and debts, which was previously not the case.

Somalia has never had well-developed financial infrastructure, primarily banks and other financial institutions as well as regulatory infrastructure, which impacted the growth and development of hawala networks. The limited financial institutions available to Somalis before the 1990s were poor in quality and plagued by bureaucratic inefficiency. As previously

mentioned, the Somali government controlled the country's only bank, the Somali Commercial Bank. The few banks that existed in Somalia were located primarily in Somalia's cities, limiting their access to mainly urban dwellers.⁵⁹ The government imposed restrictions on financial transactions, including border controls and restrictions on both imports and exports. The government was slow to approve trade and currency transactions, which impinged on Somalis' abilities to conduct financial transactions, especially international ones.

In the 1970s and 1980s, a system known as *franco valuta*, an Italian term in the Somali context refers to a system used by Somali businessmen working abroad, primarily in the Arabian Peninsula and Persian Gulf states, to bring foreign capital into Somalia outside the purview of the Somali government. Somalis working outside Somalia would remit money to family members through these businessmen, who would transfer the money to Somalia in the form of tangible goods. The businessmen would then sell those goods and take some of the money from the profits to give to the people who were meant to be receiving the remittances.

While the *franco valuta* system was primarily a means of importing goods and money into Somalia, it also provided an important mechanism for sending remittances into the country. These remittances were sent to Somalia informally, outside the purview of official import channels. The system increased the flow of foreign exchange to Somalia.⁶⁰ Somalia's currency is the Somali shilling and in the 1970s, currency reserves in Somalia were small, but the *franco valuta* system brought new flows of capital into the country. The foreign exchange brought into Somalia using the *franco valuta* system vastly surpassed that brought into Somalia through official import channels. Furthermore, by some estimates, currency and goods brought into

⁵⁹ Little, 7-9.

⁶⁰ *Ibid*, 149-9.

Somalia through the franco valuta system totaled approximately three times the earnings from Somalia's exports.⁶¹

The franco valuta system operated using its own foreign exchange rates, ones that differed from the official rates, which were overvalued and were marked by currency shortages.⁶² The franco valuta system and its separate currency exchange rates operated as part of the black market and were used for private consumption and investment, as opposed to the official exchange rates, which served the interests of the government and public sector.⁶³ Traders using the franco valuta system were only permitted to import goods into Somalia if the source of the capital at hand lay outside of Somalia.⁶⁴ In the 1981s, as the Somali government ended its program of socialist development, the franco valuta system was dissolved and banned, however it was reinstated in 1984 and then banned again a year later.⁶⁵

This lack of access to formal financial institutions makes hawala networks especially important in the Somali context. Hawala networks have traditionally operated informally, but as hawala operators stepped in to fill the gap in access to financial services, the hawala economy grew significantly. Larger hawala operations register themselves in the countries in which they operate and therefore adhere to those nations' banking rules.⁶⁶ The growth of the hawala economy improved access to financial services and banking facilities in Somalia in the 1990s and 2000s.⁶⁷ The proliferation of hawala operators in Somalia in this period increased Somalis' access to alternative financial services. Hawala operators not only allow people to transfer

⁶¹ Jamil Abdalla Mubarak, *From Bad Policy to Chaos in Somalia*, (Connecticut: Praeger Publishers, 1996), 64.

⁶² Ibid, 65.

⁶³ Ibid.

⁶⁴ Ibid, 133.

⁶⁵ Ibid.

⁶⁶ Little, 142-4.

⁶⁷ Ibid, 9.

money over long distances, they are also used by businessmen and provide access to credit where credit is scarce. Capital brought into Somalia via hawala networks is also used as investment capital, particularly in urban real estate.⁶⁸

The lack of financial infrastructure in Somalia after 1991 has made hawala companies the primary financial service providers for Somalis. In 1991, all state-run financial institutions in Somalia and Somalia's financial regulatory bodies, collapsed, along with the rest of Somalia's limited non-government financial system.⁶⁹ At this point, all of Somalia's regions and their economies operated without recourse to commercial banks, meaning that most small transactions were conducted on a cash basis, with only the hawaladars providing any form of financial services and support.⁷⁰ The absence of formalized financial service providers in Somalia created a niche market for hawaladars, which do not rely on formal banking infrastructure. This explains why, after 1991, hawala networks became such a significant financial force in Somalia and why hawala companies have grown to the point that they now, collectively, handle billions of dollars each year.

As migration from Somalia increased during the 1980s and 1990s, demand for money transfers also grew because remittances are a primary means that Somalis in the diaspora use to remain connected to distant family members. Somali immigrants have, for decades, built systems and financial networks that allowed them to remain in touch with family members back home. Furthermore, money transfers are important not only for refugees and their families, but also for efforts to develop and rebuild Somalia. In the latter half of the 1990s, hawala networks expanded their reach and the Somalia's hawala economy benefitted from increasing infrastructure

⁶⁸ Ibid, 142-4.

⁶⁹ Samuel Munzele Maimbo, "Remittances and Financial Sector Development in Conflict-affected Countries: Lessons from Somalia and Afghanistan," in *Africa's Finances: The Contribution of Remittances*, ed. Raj Bardouille, Muna Ndulo, and Margaret Grieco, (United Kingdom: Cambridge Scholars Publishing, 2008), 81-2.

⁷⁰ Ibid, 82.

development. This growth was due to increasing demand from refugees, businessmen and women, and international aid organizations.⁷¹

Hawaladars responded to the increased volume of money transfers by expanded their businesses' networks and their operating capacity. Before the advent of the internet and communications technology, hawalas operated using regular mail. In the late 1980s and early 1990s however hawala agents used radios to communicate payment information and instructions to other agents operating on the ground in Somalia. Each agent would receive a portion of the amount of money transmitted (up to 15%) for transferring the money to the intended recipient.⁷²

In the mid-1990s, hawala networks and infrastructure grew considerably, as entire hawala companies grew out of the formerly independent hawala networks. Hawala agents were integrated into a growing system of money transfer operators, which absorbed those agents' preexisting networks of contacts. This marked an important moment in the transition of hawalas from an informal status to increasing formalization, as independent networks of agents came to fall under the auspices of a specific company.

Significant amounts of money are needed to establish a hawala company that is able to conduct operations across the globe. Agents can be independently affiliated with a hawala company and conduct hawalas out of their own businesses, such as shops or cafes. Conducting hawalas is a way for agents to earn money, primarily through the cut that agents receive from each amount of money transferred.⁷³ In this way, hawalas were corporatized, and hawala networks were transformed from independent, inter-clan operations into a globalized, multibillion-dollar industry. The new xawilaad companies could deliver and receive money from

⁷¹ Lindley, *The Early Morning Phone Call*, 36.

⁷² Ibid.

⁷³ Ibid, 37.

more locations than independent xawilaad agents could. The companies built networks that operated out of a central hub, often located in Dubai, where debts were settled and consolidated, which facilitated the handling of large sums of money. Hawala networks and companies today operate with large networks of agents spread throughout the globe. Companies make payments available to recipients within one day, generally in US dollars. Agents operating in places such as the United States will deposit money into a bank account that is used to send money to the company's hub.⁷⁴ Today, technology is thus crucial to the daily operations of hawala companies, because only with technology could money transfers happen so rapidly.

For modern hawala companies, debt-transfer remains the primary mechanism used to move money. Companies use a variety of ways to replenish the ready cash stocks of company agents, however companies usually avoid physically moving cash. The methods include importing goods to Somalia, which are then sold, with the earnings being used to pay agents (which is similar to the franco valuta system), by having agents keep any outbound transfers, or by physically sending people from the company hub abroad with funds to restock distant outlets. Companies do however attempt to avoid physically moving cash because of the inherent risks and difficulties in moving large amounts of cash across borders, primarily the threat of loss or problems dealing with customs and border agents.⁷⁵ Debt-transfer is thus done in increasingly sophisticated ways and on a larger scale than in the past, allowing companies to reach more clients.

Today, the Somali hawala economy handles at least two billion dollars annually.⁷⁶ Two of the largest Somali money transfer companies are Amal and Dahabshiil. Dahabshiil is

⁷⁴ Ibid, 36.

⁷⁵ Ibid.

⁷⁶ Ibid, 37.

reportedly the world's biggest money transmitting company and has over 1,000 branches worldwide, and operates in forty countries. In addition, Amal, which was founded in Somalia's Puntland region, has an estimated 300 agents working internationally and operates at least 350 bureaus inside Somalia.⁷⁷ Other money transfer companies include Qaran, Mustaqbal, Global Money Transfer, and Kaah.⁷⁸ Most of these companies operate like other multinational corporations and are run by multiple shareholders, a board of directors, and well-established Somali business leaders.

The use of technology to instantly conduct hawalas and to consolidate and centralize debts marks a departure from tradition. While companies today use technology to conduct and record transfers, in the past, this was primarily done based on a combination of verbal and written contracts, all on which was underlain by trust, which is still an important element of hawalas, because customers need to trust that a company will handle their money responsibly. The transformation that occurred lies in the ways in which a hawala is conducted, verified, and recorded, as well as in the use of technology to transfer money and settle debts. These changes represent the hawala's evolution to meet the needs of an increasingly globalized, modern economy.

That today's xawilaad corporations have adopted modern means of transmitting money demonstrates how flexible the modern xawilaad economy is, and helps show why xawilaad corporations are uniquely suited to serving the Somali community. Hawalas provide their users with a mechanism to move money over long distances in a secure way.⁷⁹ Hawala companies operate in environments where other financial service providers can't operate and where there

⁷⁷ Ibid.

⁷⁸ Ibid.

⁷⁹ Anna Lindley, "Between 'Dirty Money' And 'Development Capital': Somali Money Transfer Infrastructure Under Global Scrutiny," *African Affairs*, 108/433 (2009), 526.

are risks to carrying around large sums of money. Hawalas can also provide security to travellers who are visiting Somalia. Travellers can use a hawala to send their money to their destination, meaning that they only need to carry a small amount of money on their body during their trip, which helps protect against loss or theft.⁸⁰ This is made possible by the fact that hawala companies now operate in so many different locations throughout Somalia.

Hawalas are also important to Somalia's livestock trade, which remains an important part of Somalia's economy. Traders from Somalia often go to Kenya to sell their animals, and those traders then need to be able to take their profits with them when they go back to Somalia. To avoid carrying large amounts of cash across the border, traders often take their profits to Nairobi and send them to Somalia via a hawala. The money is then collected in Somalia by the trader's associates. This ensures that the money being transported internationally and over long distances will be safe and secure, which is important in the Somali context where chronic instability makes it necessary to utilize secure ways of transferring money.⁸¹

People who receive money through hawalas on average receive between fifty or one hundred dollars. After conducting interviews among Somalis living in the Dadaab refugee camp in Kenya, Cindy Horst wrote that one Somali woman she interviewed said "I do not receive money on a monthly base, but my daughter in the United States sends us one or two hundred dollars every now and then, through the xawilaad in Dadaab".⁸² For the most part, people receive relatively small amounts of money from family members living abroad.

Even though most hawalas are conducted successfully, there are however instances in which the money transfer does not go smoothly. Hawaladars face the risk that thieves will

⁸⁰ Horst, 18.

⁸¹ Little, 142.

⁸² Horst, 13.

burglarize a company bureau and steal any available cash reserves. In Somalia, companies also face the threat of political meddling. Anna Lindley writes that one Somali hawala operator stated “Politically Somalia is a minefield, where remittance operators have to tread carefully...Even in my speech I have to be careful lest I offend someone.”⁸³ Hawala operators face pressure to not outwardly offend any existing political authority in Somalia, lest that company is banned from operating. Hawala operators in Somalia will sometimes hire armed security to guard their operations as a precaution against theft.

The evolution of the modern xawilaad economy was thus step in-step with the growing Somali diaspora and the Somali community’s needs for flexible, widespread, money transfer services. The Hawala’s flexibility allows them to operate well within the context of Somalia’s clan and kinship networks. Frequently, hawala companies’ networks evolved out of existing clan structures, which companies used to grow their businesses.

Somalia’s Hawala Economy

Somalia’s growing hawala economy is the source of most of the country’s remittances and has thus been highly impactful with regards to Somalia’s economy since the early 1990s. In addition, hawalas and the sending of remittances occur within the context of Somalia’s kinship structures, which provide important frameworks for social organization. The impacts of hawalas on Somali society, both negative and positive, are there best examined within the context of the country’s clan system.

Global Somali migration patterns are shaped by kinship networks and one’s family obligation to assist relatives financially, which means that family ties have shaped Somali

⁸³ Lindley, *The Early Morning Phone Call*, 39.

remittance-sending practices, and will continue to do so. Kinship ties play a role in verifying the identity of persons receiving money transmitted via hawala networks. In Somalia, where government-issued forms of identification can be unreliable or hard to come by, hawala operators will ask a person receiving money questions about his or her kinship network before they are allowed to pick up their money.⁸⁴ Such questions operate as a form of identification, and would have been previously specified by the person who sent the money. If the person receiving the money is able to correctly answer the questions about their lineage, he or she will be allowed to take their money because the hawala operators were able to verify that the money was picked up by the correct person. In this context, kinship ties and one's knowledge of his or her lineage serve as an important form of identification, one that works particularly well for Somalis.⁸⁵

Clan and kinship ties have also played a role in the formation and growth of hawala networks. Kinship ties impact long distance trade networks and have helped hawala operators gain access to markets, capital, and information. Kinship ties are also important in establishing trust in hawala transactions, which is especially necessary when money is being transferred over long distances.⁸⁶ Trust, traditionally a central element of hawalas, continues to be an important factor in regulating today's corporatized xawilaad economy. Clan and kinship ties play an important role in generating the trust between customers and hawaladars, and between hawaladars and their agents. Hawala companies face the constant threat that their employees could steal large amounts of money from the companies and their customers, which would undermine that company's ability to operate effectively.⁸⁷ Hawala companies mitigate this risk by, at least at first, recruiting many of their agents through existing clan and kinship networks.

⁸⁴ Little, 142.

⁸⁵ Ibid, 164.

⁸⁶ Ibid.

⁸⁷ Lindley, "Between 'Dirty Money' And 'Development Capital': Somali Money Transfer Infrastructure Under Global Scrutiny," 525.

This generates bonds of loyalty between and among staff and customers.⁸⁸ This is similar to the character of traditional, informal hawala networks in which inter-clan ties also played a role in forming hawala networks.

Clan and kinship ties are thus important to the functioning and growth of the Somali hawala economy because they help create the necessary trust that underlies hawalas. Such ties allow companies to grow their networks and provide a mechanism of identification that ensures that money ends up in the correct hands. Clan and kinship networks strongly support the effective functioning of today's hawala economy. Beyond clan ties, this economy has implications for a number of highly salient topics in Somali society today, including economic growth, gender relations in Somali families, and rebuilding and developing Somalia, including the country's telecommunications sector.

Most scholars do not dispute the significance of remittances on the economies of Somaliland, and Somalia. Scholars do disagree however on the extent to which hawalas have a positive impact on recipients and for their communities as a whole. Some of the negative consequences of include increased crime and inequality, overdependence on remittances, and the spending of remittances on the consumption of unproductive goods, such as qat, a plant that, when chewed, acts as a mild stimulant.

Additional drawbacks with hawalas are apparent in Kenya, where many Somalis live and receive money from hawalas. The money entering Kenya via hawalas has contributed to the growth of inequality between Somalis who receive money and poor Kenyans. One result of this is the fact that that in palaces like Nairobi, where rents have risen, poor Kenyans can no longer afford to the rent in parts of the city. Kenyans have been pushed out of the housing market in

⁸⁸ Ibid.

Nairobi by wealthier Somalis, who have extra income that they receive via hawalas. This race based inequality has led to increased tensions between Kenyans and Somalis, with the Kenyans understandably resentful of Somali communities in Kenya.

In view of both these wider drawbacks that hawalas pose, especially for a community as a whole, the literature on money transfers shows that remittances generally have a positive effect for recipients. Remittances can lift a poor family out of poverty, provide a family with capital for investments, and can support a family when other sources of income are scarce, providing a buffer against hardship.

Remittances can be crucial safety nets for poor families by providing a relatively reliable influx of cash that can help people survive in times of hardship, including during droughts or periods of violent conflict.⁸⁹ While remittances can be important in maintaining a family's basic standard of living and provide a secure way storing money, remittance cash can attract thieves. Offices of hawaladars in the Dadaab refugee camp have, at times, attracted thieves who stole money that was meant for residents of the camp. Thieves have also violently attacked and stolen money directly from people who had recently received cash.⁹⁰

Remittances can also increase inequality between families who receive money and those who do not. However, while growing inequality is a problem and the trickle down effect of remittances for communities as a whole is negligible, more families would be stuck in poverty without remittances. Some families however benefit more from remittances than others. Remittances can also create dependency and over-reliance on money received from abroad, which creates problems if families experience a gap in remittance payments.

⁸⁹ Horst, 10.

⁹⁰ Ibid, 17.

Remittances do make up a large portion of Somalia's yearly revenue and thus constitute a significant source of capital for Somalia's economy. In 2008, remittances equaled an approximate \$500 million to \$1 billion per year and were one of the biggest sources of income in Somalia.⁹¹ Remittances thus play an important role in maintaining Somalia's economy by providing money used to fund purchases for daily living expenses such as food, clothing, or education, which are what most Somalis spend their remittance money on.⁹²

The spending of remittance money on qat can be a problem because some men may spend money they receive on qat rather than on basic family needs, which may create problems within families. If the people sending the money disapprove of the ways that money is being spent, i.e. spent on things like qat, this can create tensions between the senders and recipients of money.⁹³ Lindley writes of one Somali woman living in Britain named Farhiya whom interviewed about remittance payments. The woman stopped sending regular remittance payments to her brother in Somalia after the woman discovered that the brother was spending the money to buy qat, which created a rift between them.⁹⁴ While the spending of remittances on qat does little to help Somali families, the increase in tensions over how money is spent is a significant problem faced by transnational families. This is especially true because it can be difficult for families to effectively resolve conflicts over long distances. Spending remittance money on qat and family tensions over how remittance money is spent are both negative effects of the remittance economy in Somalia.

Remittances however can be beneficial because they can help refugees who return to Somaliland get re-established financially. This is important because refugees often migrate

⁹¹ Menkhaus, 191-2.

⁹² Ibid, 192.

⁹³ Ibid, 193.

⁹⁴ Lindley, *The Early Morning Phone Call*, 128.

multiple times, to various destinations, before ending up in Somaliland, a region of Somalia that is more stable than southern parts of Somalia.⁹⁵ Furthermore, in cases where families have a source of income beyond remittances, remittance income can be used as supplemental income, serving as a buffer in times of need. Unfortunately however, families who receive remittances can sometimes rely on those remittances to the point of unhealthy dependency. When families rely to heavily on remittances, they can face problems if a significant a period of time goes by in which they do not receive any money, which is something that could easily be outside of the recipients' control.⁹⁶

The ways a family spends its remittance money can determine negative outcomes, with smart choices on the ways remittances are spent mitigating some negative consequences of that money. For instance, Somalis who choose to use remittances as investment capital, either to start businesses, in education, land, or in emigration, reap an immense payout by investing their money wisely. Remittances can thus have both negative and positive consequences for families. The positive effects of remittances however outweigh the negative effects. Some of the negative effects of remittances, such as buying qat, are due more to the choices families make about how to spend their money, than to the simple fact that those families receive money. In addition, when families are believed to depend too heavily on remittances, it is often because they have few other options for earning money, not because the recipients depend too much on remittances and won't get jobs.⁹⁷ High unemployment and resilience in Somali families, who are used to long periods of hardship, minimizes the effects of dependency. Lastly, even though remittances increase inequality in communities, they decrease overall poverty rates by lifting some families

⁹⁵ Ibid, 69.

⁹⁶ Ibid, 69-70.

⁹⁷ Ibid, 69.

out of poverty. Remittances have thus produced an overall economic benefit for families and communities who receive them, especially since the early 1990s.

The Impacts of Remittances on Gender Roles

In addition to economic benefits, remittances can also impact the roles women play with regard to their families' finances. Scholars have found that women are believed to be more dependable managers of family finances than men.⁹⁸ Whether this is actually true or not, people believe it to be so and thus may give women roles in managing family finances, both as senders and receivers of remittances. Giving women larger roles in managing family finances however may not translate into wide-ranging empowerment. Lindley writes that after conducting interviews among Somalis in London, she found that approximately sixty percent of remittance senders were men, while forty percent were women.⁹⁹ Even though women, at least in London, make up a smaller percentage of remittance senders, forty percent is a significant number. Lindley also found that in Somalia, twenty-five percent of the women receiving remittances were receiving that money from other women, while thirty-six percent of transactions involved men sending remittances to women, and seventeen percent of transactions involved women sending money to male recipients.¹⁰⁰ Remittances thus have an impact in the lives of Somali women, as they not only migrate abroad and work to send money to family members and friends. For women who receive that money, they can gain an increase in spending power within their families.

⁹⁸ Horst, 13.

⁹⁹ Lindley, *The Early Morning Phone Call*, 124.

¹⁰⁰ Ibid 63.

Cindy Horst writes that refugees she interviewed in the Dadaab refugee camp perceived women as being more dependable than men when it came to managing a family's finances. After conducting interviews in the camp, she found that people believed women were "better aware of the problems that exist in trying to sustain a family. They deal with the household bills, and thus assist each other, not only when they go overseas, but also while they are in the camps."¹⁰¹

Women in refugee camps who manage their families' income and bills have a lot of control over how their families' money is spent. Lindley also found that in Hargeisa, among people who receive remittances, women's primary role was looking after their families and their household, while a small percentage of men reported that same occupation.¹⁰² Thus remittances can contribute to women's power as managers of family finances. Some people would rather send their money to female relatives because of beliefs that the women will spend the money they receive in a way that benefits the needs of the whole family, whereas money senders fear that men will use the money to buy qat, a plant which, when chewed, acts as a mild stimulant.¹⁰³

Women's perceived ability to manage a family's financial needs as well as the fact that many women's primary employment lies within in the home, gave women greater roles in the economic spheres of their households. Lindley found that in Britain, most female, as well as male, remittance senders are between the ages of twenty-five and forty-four.¹⁰⁴ Young women make valuable contributions not only by sending remittances, but young women who receive money acquire and dispense that money to family.¹⁰⁵ Younger women's roles as financial providers are due in part to the fact that migration is expensive and families in Somalia often

¹⁰¹ Horst, 15.

¹⁰² Lindley, *The Early Morning Phone Call*, 68.

¹⁰³ Ibid, 63.

¹⁰⁴ Ibid, 68.

¹⁰⁵ Mulki Al-Sharmani, "Transnational family networks in the Somali diaspora in Egypt: women's roles and differentiated experiences," *Gender, Place & Culture: A Journal of Feminist Geography*, 17/4 (2010), 509.

cannot afford to pay for their entire family to migrate. Those families may prioritize women, sending them abroad first, where resources are limited, because they believe that women can be relied upon to remit money more frequently than men.

If a woman takes on the role of remittance earner, this role can give her increased financial independence. After conducting interviews among Somali women in Egypt, Mulki Al-Sharmani found that the women who sent remittances:

...were committed to investing in their linkages with their extended families because the bonds of obligation and reciprocity created through these relations enabled them to be more mobile and to generate income from trading and thereby achieve financial independence from their husbands.¹⁰⁶

For some women remittances can, have an empowering effect because women increase their “social capital”¹⁰⁷ as financial providers. Economic empowerment and perceptions of women as more dependable financial managers can give women an increased role in managing family finances. These roles may not be wholly new to Somali women however, in pre-civil war Somalia, women had more limited economic roles outside of their homes and families. Violence and instability created a necessity for more women to seek work outside their homes and to contribute financially to their families’ livelihoods.¹⁰⁸ As family financial managers, women have more power because they decide how to spend remittances. Women can manage their households, including economic matters, with limited influence from men in the family, which marks a departure from traditional women’s roles.

¹⁰⁶ Ibid, 508.

¹⁰⁷ Ibid.

¹⁰⁸ Lindley, *The Early Morning Phone Call*, 64.

Remittances can limit women's empowerment to the realm of the family's economic matters. After conducting interviews among Somali women, Lindley writes "many women remain skeptical about the extent to which women's increased access to cash has given them a stronger voice in the wider community in Somaliland."¹⁰⁹ This is due in part to the fact that women's increased access to cash and financial power has not necessarily translated into increased power in the male-controlled arenas of community and family politics.¹¹⁰ Despite the fact that the power women gain from handling their family's remittances may only apply to the economic realm, remittances can still provide a benefit to women. Remittances and women's roles as family financial managers can increase their social capital,¹¹¹ giving women greater influence managing their families' finances, which represents a new arena of power for women.

Hawalas and Economic Development in Somalia

In addition to impacting women's roles, after 1991, xawilaad networks have shown potential as a tool for development in Somalia, in part by aiding development projects as well as private sector economic growth. This has been particularly for Somalia's growing information technology sector. Communications infrastructure facilitates money transfers and eases communication between transnational Somali families. Somalis living abroad can remain involved in rebuilding Somalia as what, Nauja Kleist aptly terms, "agents of development and change."¹¹²

¹⁰⁹ Ibid, 65.

¹¹⁰ Ibid.

¹¹¹ Al-Sharmani, 508.

¹¹² Nauja Kleist, "Agents of Development and Change: The Somali Diaspora at Work," in *Africa's Finances: The Contribution of Remittances*, ed. Raj Bardouille, Muna Ndulo, and Margaret Grieco, (United Kingdom: Cambridge Scholars Publishing, 2008), 97.

Remittances bring substantial amounts of capital into Somalia, which many Somali businessmen use to invest in businesses. Since the 1990s, Somaliland has achieved a measure of stability that has eluded southern Somalia. This stability attracted refugees living in camps in Ethiopia and migrants living abroad who sought to return to Somalia. Cities in Somaliland, such as Hargeisa, Boorama, and Burco, which were destroyed during Somalia's civil war, have seen their populations triple since the 1970s.¹¹³ Population growth, combined with steady flows of remittance money entering Somaliland, has brought about a significant amount of investment in areas like real estate and construction.¹¹⁴ The impact of remittance inflows in Somaliland is positively impacted by the open-border between Somaliland and Ethiopia and by an environment with limited taxation.¹¹⁵

Since 1991, xawilaad companies and remittances transfers have played an important role in rebuilding Somalia's private sector economy. Remittances have fueled the growth of areas such as transport and telecommunications services, including the expansion of money transfer services themselves.¹¹⁶ The growth of Somalia's and Somaliland's telecommunications sectors are particularly important as the Somali diaspora continues to grow and people need to be able to communicate with distant friends and relatives. After the Somali government collapsed in 1991, much of Somalia's telecommunications infrastructure was destroyed and much of Somalia was cut off from communication with the international community. Since then, Somalia and Somaliland have rebuilt their telecommunications sectors, including phone and internet services, whose access has been greatly expanded since the 1990s. As technology has improved, so have the technological resources of hawaladars and their ability to conduct business on a global scale.

¹¹³ Ciabbarri, 80.

¹¹⁴ Ibid.

¹¹⁵ Ibid, 81.

¹¹⁶ Munzele Maimbo, 83.

This is demonstrated by the fact that hawala operators no longer rely on radios to conduct business as they did in the 1980s and early 1990s. Computers, the internet, and phones are now the primary tools of hawalas.

Hawaladars played an important role in investing in and developing Somalia's internet, fax, and phone infrastructure.¹¹⁷ Before being shut down in 2003, Al Barakaat, a large hawaladar, invested significant sums of capital into a telecommunications company that provided customers with internet, fax, and phone services.¹¹⁸ The company operated as a joint-venture with AT&T and British Telecom, and was Somalia's biggest telecommunications company in 2001.

¹¹⁹ The reasons behind such investments are twofold. First, hawala networks rely on communications infrastructure to operate and transfer money across long distances. Second, remittances provide an incentive for Somalis who remain in the Horn to stay connected with relatives in the diaspora, which is also facilitated by telecommunications networks.

After the collapse of the Somali state, telecommunications infrastructure in Somalia, including money-wiring services, actually improved substantially. Hawala companies rely on telecommunications infrastructure to conduct and expand their businesses. Because of the need for technology and increased demand for telecommunications infrastructure, hawala companies have invested in building and improving Somalia's computer networks, mobile radio systems, satellite communications infrastructure, and phone services.¹²⁰ Hawala companies need to be able to contact agents spread out over long distances and send money across the globe almost immediately, necessitating the use of technologies like the internet and phones. Technology also helps companies record their transactions and allows hawaladars to connect with the company's

¹¹⁷ Bob Feldman, "Somalia: Amidst the Rubble, a Vibrant Telecommunications Infrastructure," *Review of African Political Economy*, 34/113 (2007), 568.

¹¹⁸ Little, 144.

¹¹⁹ Ibid.

¹²⁰ Horst, 7-8.

hub in real time, speeding up the process of transferring money. Somalia's historic lack of telecommunications infrastructure necessitated this investment in communications technology.

Investments by hawaladars have significantly improved Somalia's growing telecommunications infrastructure, with the results that Somalia has a higher density of phone infrastructure than some other countries in the region. Somalis can make international phone calls for fairly affordable prices.¹²¹ Despite being prone to instability, Somalia's communications sector is relatively well developed, in part because of Somalia's xawilaad economy.

Communication technology can also assist communication between transnational families. The money transfer economy increased the need to communicate with distant relatives.¹²² Somali families' reliance on remittances from abroad gives them incentives to stay connected to distant relatives. Somalis' demand for communication technology to facilitate the sending of remittances and long-distance communication fueled the growth of Somalia's communications sector, which has been tremendously significant as Somalia rebuilds itself.

In addition to rebuilding communications technology, hawalas can potentially play a role in funding development initiatives in Somalia and Somaliland. One way the Somali diaspora uses remittances for rebuilding and development is by pooling remittance money into migrant organizations, which makes these investments more impactful than individual remittances. These organizations can have a significant effect on the communities in which they work because they can pool money to support projects directly.¹²³ Such projects include Somscan, a program to build houses in Somalia, and the Water Project, which installed a water pump in Somalia to

¹²¹ Lindley, *The Early Morning Phone Call*, 37.

¹²² *Ibid*, 37.

¹²³ Kleist, 100.

provide Somalis access to clean water. Hawalas played an instrumental role in these projects because remittance money transferred through xawilaads funded these projects. Initially, funding for Somsca was channeled into Somalia through the xawilaad company Dahabshiil.¹²⁴ Not only do xawilaad companies provide the wealth used to fund these development projects, they can also be used to guide funding into specific development initiatives, making xawilaad companies potentially important players in Somalia's rebuilding.

The Politics of the Hawala: The Increasing Regulation of Hawaladars

The expanding use of hawala by Somali communities to transfer money and invest in Somalia has increased the need for regulating what was originally an informal money transfer system. This increased regulation is a central factor in the formalization of hawalas that has occurred since the 1970s, and especially the 1990s. Historically, the only legal regulation of hawalas came from Islamic law, as well as customary law, which operated within the bounds of Islam. This has changed as governments have begun imposing regulations and restrictions on hawaladars.

The regulation of hawaladars has increased in many countries where hawalas take place, including the United Arab Emirates (U.A.E.), the United Kingdom, and the United States. Since the early 2000s, Somali hawala operators have been subject to increasing regulation due to fears that hawala companies are being used in money laundering operations and used to fund illicit activities, primarily terrorism. The United Kingdom for instance, home to one of the largest Somali communities outside the Horn of Africa, implemented new hawala regulation policies that were first laid out in a report in June 2000 titled *Recovering the Proceeds of Crime*, and then

¹²⁴ Ibid, 111.

implemented in 2001.¹²⁵ Britain requires all hawaladars to register with the government and pay a separate fee for each location in which they operate. Upon registering, hawala operators are required to ensure that their customers show identification, train their staff to prevent money laundering and establish a special office to report money laundering, and hold all their business records for a minimum of five years.¹²⁶ Furthermore companies must have systems in place to prevent money laundering and control their business operations.

Upon registering, hawala operators are required to inform British customs of the location in which they will conduct business and are subject to a visit from a customs official. This allows the British government to monitor the companies' operations and ensures that regulations concerning money laundering are fully understood, that customers show identification, and that the company keeps proper records of their transactions. If any company is found to be in breach of British law, it is subject to penalties and ultimately to prosecution if that company continues to operate illegally. In Britain, the onus of responsibility for compliance with hawala regulations is placed primarily on the business, rather than with British government.¹²⁷

As of April 2003, hawala operators who conduct business in the U.A.E. have been required to register themselves with the Central Bank of the U.A.E. The bank issues the company a certificate and requires it to keep records of every transaction they conduct, including personal details of the person remitting the money and of his or her bank account. The U.A.E. also requires that hawaladars report suspicious transfers they suspect of money laundering and that they record and submit all of their financial returns to the Central Bank. As of 2004, 124 hawala

¹²⁵ David Faulkner, "U.K. Regulation of Money Service Businesses," *Regulatory Frameworks for Hawala and Other Remittance Systems*, (2005), 43.

¹²⁶ *Ibid*, 45.

¹²⁷ *Ibid*.

operators had registered and as of 2007, there were 220 registered hawala operators in the U.A.E. alone.

In the United States, after September 11, 2001, the government became more interested in regulating hawalas. Before 2001, anti money laundering regulations in the United States applied only to certain institutions, primarily banks and other bank-like operations, which did not include hawala operators.¹²⁸ The passage the U.S.A. Patriot Act in 2001 extended these laws to include a broader range of businesses that transmit money on a frequent basis, such as hawaladars. The law also included provisions requiring hawala operators to record their transactions, verify the identification of customers, and establish programs to prevent money laundering.¹²⁹ Beginning on December 31, 2001, all money service businesses that operate within the United States were required to register with the U.S. Department of the Treasury's Financial Crimes Enforcement Network (FinCEN) office.¹³⁰ The crackdown on hawala operators had widespread effects, including the closing of what has been one of the largest hawaladars, Al-Barakaat, in November 2001. This closure occurred despite the fact that the United States government had no explicit evidence that the company was being used to fund terrorism.¹³¹ The efforts that led to the closing of Al-Barakaat provide an important lesson on the regulation of hawala operators. While it is necessary to regulate these businesses in order to prevent money laundering, it must be done in a way that is based on real facts and that does not threaten Somali migrants' ability to remit money to distant family members.

¹²⁸ The Secretary of the U.S. Department of the Treasury, the Board of Governors of the Federal Reserve System, and the Securities and Exchange Commission, "A Report to Congress In Accordance With § 356(c) Of The Uniting And Strengthening America By Providing Appropriate Tools Required to Intercept And Obstruct Terrorism Act of 2001 (USA Patriot Act)," (2001), 3-5.

¹²⁹ *Ibid*, 2-7.

¹³⁰ *Ibid*, 7.

¹³¹ The National Commission on Terrorist Attacks Upon the United States, "The 9/11 Commission Report," (2004), 81-83.

Despite the increase in regulation of hawalas in countries like the United States, the lack of a well functioning, efficient Somali state and central government makes it difficult to regulate hawaladars from within Somalia. While a country like the United States can control who sends money and verify that person's identity, there is virtually no effective way to control where that money eventually ends up. This opens up the possibility that money sent by hawalas could ultimately end up in the hands of criminals or end up funding violence. For instance, at least some portion of the money transferred by hawalas ends up in the hands of militias in Somalia and is used to finance violence.¹³² It is this lack of regulation within Somalia that allows governments like that of Kenya and the United States to call into question the legality and legitimacy of hawalas and has fueled recent attempts to curb the use of hawalas in these countries.

Conclusion

Since the Republic of Somalia collapsed in 1991, the hawala economy has been instrumental as a force of change in Somalia. Not only have money transfers contributed to rebuilding Somalia, they have also served as a lifeline for poor Somali families who remained in the Horn and have helped rebuild and develop the region. Given Somalia's prolonged conflict and corresponding high levels of migration out of the country, the brain-drain effect is huge for Somalia. Money transfers can however mitigate these consequences of migration. Money transfers allow Somalis in the diaspora to contribute to rebuilding and developing Somalia. While there are fears that xawilaad networks are used to fund illicit activity, like terrorism, hawalas are primarily a tool used by Somali families to stay connected across long distances and

¹³² Little, 150.

to assist relatives. Since 1991, the expansion of hawaladars and the hawala economy, and their role in expanding Somalia's telecommunications infrastructure, have been a positive development for men and women in the global Somali community.

Since much of the money transferred via hawalas is sent by people living outside Somalia, international immigration and welfare policies have the potential to have an impact on the abilities of Somalis to send remittances. Economic benefits in some countries for refugees and their ability to find work abroad can significantly impact the amount of available capital Somalis living have, and thus how much money they are able to send to family members.¹³³

After recent Al-Shabaab attacks in Kenya, such as the May 2, 2015 at Garissa University in Kenya, the Kenyan government moved to suspend Somali hawaladars operating in Kenya because of fears that the companies were being used to fund terrorism. Given the large numbers of Somalis in Kenya that use hawalas to send and receive money, shutting down those businesses could cut off a crucial financial lifeline for Somalis both in Kenya and Somalia, and negatively impact traders who use hawalas to conduct business. Amid the aftermath of the chaos and violence that killed 147 people, mostly innocent students, it is important to think clearly and recognize the impacts of those suspensions will have and the concrete reality of what shutting down, or severely limiting hawalas, will do. While the Kenyan government is fully justified in acting to curb terrorism within its borders, policy makers must clearly understand and evaluate what hawalas are and where they come from before jumping to shut them down. By understanding the hawala's various uses, origins, legal interpretations and long history in the Muslim world, it is clear that it was not simply money laundering scheme, but a financial

¹³³ Little, 170.

mechanism with deep cultural roots in the Islamic world that have become incredibly important to Somalia today.

The enduring popularity of the hawala is evident in its widespread use by Somalis today for financial transactions. While the role of Islamic laws and legal thought are still highly important for Somali hawalas today, other, non-religious laws, such as a country's national laws, now play a significant role in regulating hawalas. The challenge for the future will thus be to regulate hawalas in such a way as makes them permissible not only within Islamic law, but also within the financial regulations of a country like the United States or Kenya, who continue to struggle with finding appropriate ways to regulate hawaladars. While Islamic legal scholars have theorized about the rules and regulations of hawalas in the past and provided effective legal frameworks within which hawalas could successfully operate, today we must do the same. This will allow hawaladars to continue to occur in a manner that does not conflict with any country's laws and ensure that they remain a financial option for Somalis worldwide.

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