

What are the legal implications of the Hawala and the Kamaitee System within the UK?

Zahra Iqbal Zaheer

Submitted in accordance with the requirements for a degree of
Masters by Research

The University of Leeds
Faculty of Social Sciences
School of Law

Word count 31,017

November 2023

The candidate confirms that the work submitted is her own and that appropriate credit has been given where reference has been made to the work of others.

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Acknowledgements

This thesis would not have been possible without the kindness and help extended to me from various sources.

The first is Allah, as without the blessings and ability granted to me, this would not have been possible as all things happen with Allah's permission. My faith has been both a source of encouragement and comfort for me throughout this year.

Secondly, I would like to extend my appreciation to my supervisor Professor Andy Campbell for your continual belief, support and guidance without you this would have been a very difficult journey. You are a source of optimism and inspiration for me both as a supervisor but also as a person. Furthermore, I would like to thank my supervisor Dr Steven Montagu-Cairns for being a supportive and encouraging voice.

Next, I would like to thank my parents for their words of encouragement and duas as I am sure it is your duas that were answered by Allah. I would like to particularly thank my father for instilling in me the ability to overcome any challenge and my mother for the sacrifices she continues to make to support my aspirations.

Finally, I would like to thank my siblings and friends for always being there for me.

Words do not suffice in expressing my gratitude and love for all those who have enabled me to complete this research.

Abstract

This Thesis explores the Kamaitee system which exists within the Pakistani community in the UK. The Kamaitee system is an informal banking system which falls within a subsection of the Hawala system. The Hawala system has been researched and written about at length, particularly after the events on 9/11. In analysing UK legislation and literature for this thesis, alongside the analysis of legislation and literature originating from Pakistan this study has begun to explore the potential legal implications surrounding the Kamaitee system. As the Kamaitee system is linked to the Pakistani community this was a necessary inclusion. Furthermore, due to the lack of academic research surrounding the Kamaitee system empirical research was conducted in the form of semi-structured interviews with participants who run and benefit from the Kamaitee system within West Yorkshire.

This study is composed of five parts. The first is an evaluation of the use of cash, UK legislation and literature surrounding money laundering, terrorist financing, and tax evasion. It considers the implications of Hawala on these crimes and uses the evidence from the interviews to find common potential issues. The second part explores the requirement for customer due diligence, the presence of both control and trust within minority communities and how relationships are built in informal banking systems. The third part focuses on criminal financing, the potential different types that may be present in informal banking systems and to what extent is criminal financing an element of the Kamaitee system. The fourth part explores conflicts, power dynamics and how these impact the system as well as explaining why this system is used by citizens in Pakistan and finds common reasons with individuals interviewed for this study. The final part analyses the empirical data collected for this study, identifying common themes.

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Abbreviations

Financial Action Task Force.....	FATF
Customer Due Diligence.....	CDD
Politically Exposed Person.....	PEP
Anti-Money Laundering.....	AML
Crown Prosecution Service.....	CPS
National Crime Agency.....	NCA
Suspicious Act Reports.....	SAR
United Nations Office of Drugs and Crime.....	UNODC
Informal Value Transfer System.....	IVTS
Informal Financial Transfer Methods.....	IFTM

Introduction

Hawala systems have operated across the globe for centuries and pre-date western formal banks, despite an ever-changing landscape these systems have survived for over a millennium.¹ The word Hawala means to ‘transfer’ in Arabic and in some cases, it is used synonymously with ‘trust’ to express the informal yet personal nature of the relationship between the participants.² There are different variations of Hawala, which exist in different countries such as Fei Chi’en in the Chinese community,³ ‘Hundi’ in the Pakistani community,⁴ Padala in the Philippines⁵ and Xawilaad in Somalia⁶. However, the common characteristics across all systems include secrecy, informality, and ease.⁷

The Hawala system originated out of necessity.⁸ First introduced by Arab traders as a means of payment to avoid carrying large sums of money because of the thieves along the Silk Road.⁹ Although the system has spread to many parts of the world, it is predominately utilised and sustained by Asian migrants working overseas.¹⁰

Post 9/11 the USA’s assertion that funds for the 9/11 attacks were transferred using these systems¹¹ created a worldwide understanding that the systems needed to be regulated.¹² As Hawala systems enable money to be made available internationally without the transfer of funds therefore, making it difficult to track money or to hold people accountable.¹³ The current understanding and

¹ Monika H Mali, ‘Regulating Hawala: Thwarting Terrorism or Jeopardizing Stability?’ (Masters Thesis, Naval Postgraduate School, 2019)

² Robert Looney, ‘Hawala: The terrorist’s informal financial mechanism’ (2003) 10(1) Middle East Policy 1

³ Shehu Abdullahi , ‘The Asian Alternative Remittance Systems and Money Laundering’ [2003] 7(2) Journal of Money Laundering Control 176

⁴ Ibid 177

⁵ Galina Glushchenko , ‘Hawala - A vestige of the Past in the Services of Globalisation’ (2014) 43(5) Russian Politics and Law 30

⁶ Ibid

⁷ Ignacio Ferrero and others, ‘Exploring the Ethical Dimensions of Hawala’ (2014) 124(2) Journal of Business Ethics 4-7

⁸ Shehu Abdullahi , ‘The Asian Alternative Remittance Systems and Money Laundering’ (2003) 7(2) Journal of Money Laundering Control 177

⁹ Ibid

¹⁰ Maryam Razavy, ‘Hawala: An Underground Haven for Terrorists or Social Phenomenon?’ (2005) 44(3) <<https://doi.org/10.1007/s10611-006-9019-3>> accessed 19 October 2023

¹¹ Karen Anne Cooper ‘A Critical Examination of the Anti-Money Laundering Legislation Framework for the Prevention of Terrorist Finance with Particular Reference to the Regulation of Alternative Remittance Systems in the UK’ (PHD Thesis, University of Leeds, 2014) 13

¹² Ibid

¹³ Maryam Razavy, ‘Hawala: An Underground Haven for Terrorists or Social Phenomenon?’ (2005) 44(3) <<https://doi.org/10.1007/s10611-006-9019-3>> accessed 19 October 2023

research of the Hawala system has led to attempts at regulating it.¹⁴ Hawala is a remittance system where a Hawaladar in a western country has links in another country so that a person in the western country can provide their family with money without transferring any funds.¹⁵ They usually have cheaper fees; the money is available faster and in remoter areas.¹⁶ As there is a large demand for informal methods of money transfer, the best way to reduce the use of Hawala systems is to strengthen the migrant community's confidence in traditional banks.¹⁷

There have been attempts to regulate Hawala networks.¹⁸ First, through registration¹⁹ and second, through understanding the system and how to protect it from being exploited by terrorists or other forms of criminal activity.²⁰ The Hawala system exists and operates within the West Yorkshire area, it has historically been involved with a high-profile fraud case such as the case involving over 11 individuals and more than £500m.²¹ The existing literature considers how Hawala systems operate²² and aims to identify how it was able to be exploited by criminals or people attempting to commit fraud.²³ This looks at the simple model of people from a western country sending money to their home countries.²⁴ However, it fails to acknowledge informal banking systems which operate within these communities contained in the Hawala network. Subsequently, this study aims to research a sub section of the Hawala system which is referred to as the 'Kamaitee' system.

¹⁴ Benedetta Berti, 'The Economics of Counterterrorism: Devising a Normative Regulatory Framework for the Hawala System' (2008) MIT International Review 19

¹⁵ Shehu Abdullahi, 'The Asian Alternative Remittance Systems and Money Laundering' (2003) 7(2) Journal of Money Laundering Control 178

¹⁶ Robert Looney, 'Hawala: The terrorist's informal financial mechanism' (2003) 10(3) Middle East Policy 165

¹⁷ 'Cheap and Trusted' The Economist (London, 2001) 97

¹⁸ Jonas Rusten Wang, 'Regulating Hawala: a comparison of five nations' (2011) 14(3) Journal of Money Laundering Control 211

¹⁹ Ibid

²⁰ Patrick M Jost and Harjit Singh Sandhu, 'The Hawala Alternative Remittance System and its Role in Money Laundering' (Asset Search Blog, 2000) <<https://www.assetsearchblog.com/wp-content/uploads/sites/197/2013/06/FinCEN-Hawala.pdf>> accessed 31 October 2023

²¹ 'Travel agent jailed in £500m scam' (BBC, 17 April 2007) <<http://news.bbc.co.uk/1/hi/england/bradford/6564841.stm>> accessed 18 October 2023

²² Emily C Schaeffer, 'Remittances and Reputations in Hawala Money-Transfer System: Self-Enforcing Exchange on an International Scale' [2008] 24(1) Journal of Private Enterprise 100-101

²³ Jyoti Trehan, 'Underground and Parallel Banking Systems' (2002) 10(1) Journal of Financial Crime 80

²⁴ Ibid

The Kamaitee system has various names in different countries but the bones of how it operates are the same.²⁵ In Pakistan it is a common method used to save money.²⁶ It is utilised when saving for larger value goods,²⁷ weddings²⁸ or home repairs.²⁹ Reports show around 90% of the population within Pakistan uses this system as a money saving technique and it is the third most popular method to save money.³⁰

When individuals migrate, they transport with them certain parts of their culture therefore, it is a viable assumption that a popular money saving method such as the Kamaitee system may have travelled to the UK with migrants³¹ for a variety of reasons. The mistrust of authorities, which was identified during research³² conducted relating to Hawala, and the inherent trust and loyalty within migrant communities all relates to the potential reasons for an informal banking system such as this to exist in the UK.³³

The Kamaitee system is an unregulated and informal banking system, which operates largely within South Asian communities.³⁴ It may be defined as a rotating savings system whilst simultaneously raising credit. It involves a group of individuals who all use a Kamaitee operator to run the system and they all give this individual a lump sum every month and each month all the money is given to a participant. This will continue until each participant has received the complete

²⁵ Shelly Gigante, 'What is a tanda, hui, or ayuuto? Defining money pools' (Mass Mutual, 23 September 2023) <<https://blog.massmutual.com/post/money-pools>> accessed 31 October 2023

²⁶ Rabia Khan, 'Money Talks' (*The News International*, 3 November 2020) <<https://www.thenews.com.pk/magazine/you/737097-money-talks>> accessed 12 January 2023

²⁷ 'Pakistan's Community Savings' (*Bloomberg*, January 2018) <<https://www.bloomberg.com/news/photo-essays/2013-01-17/pakistans-community-savings?leadSource=verify%20wall>> accessed 12 January 2023

²⁸ Aysha Imtiaz, 'We used a South Asian savings trick to pay for our wedding, and it helped us start our marriage debt-free' (*Personal Finance*, 3 January 2021) <<https://www.businessinsider.com/personal-finance/south-asian-committee-savings-trick-pay-for-wedding-2021-1?r=US&IR=T>> accessed 31 October 2023

²⁹ Rabia Khan, 'Money Talks' (*The News International*, 3 November 2020) <<https://www.thenews.com.pk/magazine/you/737097-money-talks>> accessed 12 January 2023

³⁰ 'Committees popular for saving/lending in Pakistan' (*Dawn*, May 2009) <<https://www.dawn.com/news/832118/committees-popular-for-saving-lending-in-pakistan>> accessed 12 January 2023

³¹ Financial Action Task Force, 'The Role of Hawala and Other Similar Service Providers in Money Laundering and Terrorist Financing' (2013) 17

³² Ibid 18

³³ Nicolas Passas, 'Law Enforcement Challenges in Hawala-related Investigations' (2004) 12(2) *Journal of Financial Crime* 116

³⁴ Aysha Imtiaz, 'We used a South Asian savings trick to pay for our wedding, and it helped us start our marriage debt-free' (*Personal Finance*, 3 January 2021) <<https://www.businessinsider.com/personal-finance/south-asian-committee-savings-trick-pay-for-wedding-2021-1?r=US&IR=T>> accessed 31 October 2023

amount.³⁵ Therefore, those who receive the initial amounts receive credit and those who receive towards then end have in essence saved up to this lump sum.

This study will be identifying and exploring the Kamaitee system which exists within the Pakistani community in West Yorkshire. It will be identifying how the system functions, why people choose this form of financing and to identify the potential legal implications it could potentially have. It is important to have a clear understanding of any system which includes monetary transactions. In order to properly regulate informal banking systems there must be a clear understanding of it.³⁶ By understanding the system, potential risks can be identified, attempts to legitimise the system can be made or people can be offered other legal and regulated options.³⁷ As suggested that the informal sector exists to fill gaps which are left by the formal sector.³⁸ Furthermore, to effectively identify potential money laundering avenues or tax evasion schemes we must learn about all forms of banking this includes informal methods of banking.

This study will analyse the literature and legislation around the Hawala systems. In achieving this, the study will employ a doctrinal methodology which is supported by qualitative empirical research. The analysis seeks to provide an in depth understanding of the Kamaitee system through a series of semi structured interviews with individuals who run or participate in the Kamaitee system. The responses from interviewees will be analysed to provide an original contribution to this area of law and support the doctrinal research.

³⁵ Interview 1 QT

³⁶ Nicolas Passas, 'Law Enforcement Challenges in Hawala-related Investigations' (2004) 12(2) *Journal of Financial Crime* 116

³⁷ Deepali Fernandez, 'Understanding Informal Remittances' (*Central Banking*, 16 Jun 2022) <<https://www.centralbanking.com/central-banks/economics/data/7949526/understanding-informal-remittances>> accessed 12 January 2023

³⁸ S Floro and P Yotopoulos, *Informal Credit Markets and the New Institutional Economics: The Case of Philippine Agriculture* (1st edn, Routledge 1991) 17

Chapter One

2.1 Use of Cash

Cash has been a popular mode of transactions since coins were introduced in Asia 600 BC.³⁹ As the use of debit cards has increased, the use of cash has declined.⁴⁰ The use of cash for transactions has fallen from 55% in 2011 to 15% in 2021.⁴¹ Although, there is a decline in the amount of transactions made in cash, it is still the preferred mode of payment for 21% of the population.⁴² Informal banking systems tend to use cash⁴³ as it is untraceable.⁴⁴ Although, cash is essential, it creates opportunities for financial crimes such as money laundering,⁴⁵ tax evasion⁴⁶ and terrorist financing.⁴⁷

Despite the assumption that the use and need for cash is decreasing⁴⁸ the UK's largest banks will be subject to new Financial Conduct Authority powers which ensures the continued availability of withdrawal and deposit facilities in local communities across the UK.⁴⁹ The UK government is ensuring that they don't leave behind those who prefer or choose to use cash such as rural communities, the elderly or simply people who opt to manage personal finances using

³⁹ Chapurukha Kusimba, 'When – and why – did people first start using money?' (*The Conversation*, 20 June 2017) <<https://theconversation.com/when-and-why-did-people-first-start-using-money-78887>> accessed 16 January 2023

⁴⁰ UK Finance, 'UK Payment Summary' (2018) 3

⁴¹ UK Finance 'UK Payment Markets Summary 2022' (2022) 4

⁴² Bank of England, *Update on the Future of Wholesale Cash Distribution in the UK*, (December 2021) 3

⁴³ United Nations, 'Informal Money Transfer Systems: Opportunities and Challenges of Development Finance' (Discussion Paper, 26, 2002) 10

⁴⁴ Rose Eveleth, 'The Truth about the Death of Cash' (*BBC*, 24 July 2015)

<<https://www.bbc.com/future/article/20150724-the-truth-about-the-death-of-cash>> accessed 16 January 2023

⁴⁵ European Police Office, 'Why is Cash Still King' (2015) 18(4) *Trends in Organized Crime* <<https://link.springer.com/article/10.1007/s12117-015-9256-x/>> accessed 2 November 2023 357

⁴⁶ Ryan Hess, 'Cash and Tax Evasion' (2020) 113(1) *Proceedings Annual Conference on Taxation and Minutes of the Annual Meeting of the National Tax Association* 2

⁴⁷ HM Treasury, 'National Risk Assessment of Money Laundering and Terrorist Financing 2020' (17 December 2020) <https://assets.publishing.service.gov.uk/media/5fdb34abe90e071be47feb2c/NRA_2020_v1.2_FOR_PUBLICATION.pdf> accessed 1 February 2023, 9

⁴⁸ Rose Eveleth, 'The Truth about the Death of Cash' (*BBC*, 24th July 2015)

<<https://www.bbc.com/future/article/20150724-the-truth-about-the-death-of-cash>> accessed 24 January 2023

⁴⁹ HM Treasury, 'New powers to protect access to cash' (19 May 2022)

<<https://www.gov.uk/government/news/new-powers-to-protect-access-to-cash>> accessed 24th January 2023.

cash.⁵⁰ Furthermore, current research indicates the UK is not ready to go cashless and it would result in over 8 million adults who would struggle to cope due to their reliance on cash.⁵¹

Cash is discussed synonymously with its role in the black (illegal) and grey (informal) economies.⁵² There is evidence to show cash plays a large role in facilitating crime as it is undetectable.⁵³ A large amount of the world's cash is in the underground economy.⁵⁴ When referring to the underground economy although some of the money is from illegal activities, it also includes legal activities such as ordinary people who may hire a babysitter or a painter and pay them in cash.⁵⁵ Individuals who carry out work such as this and small cash intensive businesses prefer to be paid in cash.⁵⁶ Additionally, the use of cash is part of hiring illegal immigrants as this enables businesses to pay them lower wages due to their legal status they are forced to accept these conditions of employment.⁵⁷

Crime and the use of cash is an expensive concern for the economy as serious and organised crime has a £37 billion impact on the UK economy⁵⁸ and of those crimes the most common are fraud and tax offences.⁵⁹ As there is a clear link between cash and crime, as well as evidence which shows that countries with more cash have more crime, it is suggested that therefore by reducing the amount of cash there is the potential to reduce the amount of crime.⁶⁰

Although, the UK government is ensuring the availability of cash for its citizens there is an understanding that it is the preferred mode of payment for some, the notion that to decrease crime governments should decrease the use and availability of paper money or cash is something which makes sense to a certain degree.⁶¹ Alongside the reduction of crime there are some further

⁵⁰ Andrew Griffith, 'The Right to Access Cash Will Soon be Enshrined in Law' (*The Telegraph*, 1 January 2023) <<https://www.telegraph.co.uk/news/2023/01/01/right-access-cash-will-soon-enshrined-law/>> accessed 24 January 2023

⁵¹ The Access to Cash Review, '*Access to Cash Review*' <<https://www.accesstocash.org.uk/media/1087/final-report-final-web.pdf/>> (March 2019) 6

⁵²Ibid 7

⁵³ Colin King and others, *The Palgrave handbook of criminal and terrorism financial law*, (volume 2, Palgrave Macmillan, 2018) 141

⁵⁴ Kenneth S Rogoff, *The Curse of Cash* (first published 2016, Princeton University Press) 58

⁵⁵ Ibid

⁵⁶ Ibid

⁵⁷ Ibid

⁵⁸ HM Treasury, 'National Risk Assessment of Money Laundering and Terrorist Financing 2020' (17 December 2020)<https://assets.publishing.service.gov.uk/media/5fdb34abe90e071be47feb2c/NRA_2020_v1.2_FOR_PUBLICATION.pdf /> accessed 1 February 2023, 6

⁵⁹ Ibid 31

⁶⁰ Ibid 141

⁶¹Joseph Wilfrido Rivera , 'Potential negative effects of a cashless society: Turning citizens into criminals and other economic dangers' (2019) 22(2) *Journal of Money Laundering Control* 1-2

potential benefits of a cashless economy, these is increasing government control of the money supply, reducing an expense for the government which is the amount spent printing money, lowering theft rates, minimising corruption, and motivating those who do not use electronic payments to use them.⁶² As there is the potential for such benefits, several countries have taken steps to become a cashless economy.⁶³

Nigeria migrated to being a cashless economy and where there were benefits of this it is not all as predicted, researchers found that corruption at only a small level was reduced. Ayoola⁶⁴ described this as petty corruption such as junior level public sector workers accepting tips for carrying out services which were already services they should be carrying out as part of their jobs.⁶⁵ Corruption at a larger scale such as political corruption and the culture of corruption within the country, remained unchanged.⁶⁶ Furthermore, Nwankwo and Eze⁶⁷ discovered a negative impact the policy had which was the isolation of other groups of people.⁶⁸ Criminals are not the sole users of cash, there are many groups of people who prefer to use cash, such as people living in rural areas and poorer people, in a cashless economy these people struggled.⁶⁹

Cash is a unique financial system with characteristics unlike any other financial system.⁷⁰ The characteristics of cash include inclusivity, untraceable transactions, and the retention of value across borders.⁷¹ As cash is hard to trace and measure, it is the monetary transaction that there is the least amount of knowledge and academic literature about, for both legal and illegal uses of cash. There is also a large gap in the amount of knowledge compared to the volume of information collected within regards to electronic transactions.

⁶² Richard Wright and others, 'Less Cash, Less Crime: Evidence from the Electronic Benefit Transfer Program,' (March 2014) National Bureau of Economic Research Working Paper, <https://www.nber.org/system/files/working_papers/w19996/w19996.pdf> accessed 31 October 2023

⁶³ Joseph Wilfrido Rivera, 'Potential negative effects of a cashless society: Turning citizens into criminals and other economic dangers' (2019) 22(2) *Journal of Money Laundering Control* 2

⁶⁴ Tajudeen Ayoola, 'The effects of cashless policy of government on corruption in Nigeria' (2014) *International Review of Management and Business Research* 2(3) 682-690.

⁶⁵ Joseph Wilfrido Rivera, 'Potential negative effects of a cashless society: Turning citizens into criminals and other economic dangers' (2019) 22(2) *Journal of Money Laundering Control* 2

⁶⁶ *Ibid*

⁶⁷ Odi Nwankwo and Onyekachi Richard Eze, 'Electronic payment in cashless economy of Nigeria: problems and prospect' (2013) *Journal of Management Research*, 5(1) 138-151

⁶⁸ Joseph Wilfrido Rivera, 'Potential negative effects of a cashless society: Turning citizens into criminals and other economic dangers' (2019) 22(2) *Journal of Money Laundering Control* 6

⁶⁹ *Ibid*

⁷⁰ Rose Eveleth, 'The Truth about the Death of Cash' (*BBC*, 24th July 2015)

<<https://www.bbc.com/future/article/20150724-the-truth-about-the-death-of-cash>> accessed 24 January 2023

⁷¹ *Ibid*

The amount of cash held globally is unknown as a single method to identify the amount of cash globally has not been devised.⁷² Therefore, in order understand cash further, the main method of measuring cash is by looking at the value and demand for bank notes. However, once those notes are printed there isn't further information about how they are used. When transactions have been studied there is proof to show that only a portion of cash printed is then used for transactions⁷³ therefore, the missing amount is either being hoarded or used for illegal transactions.⁷⁴

Interviews conducted for this study maintained that the Kamaitee system operates using cash and only in rare circumstances may a person pay using a bank transfer.⁷⁵ All lump sums paid to participants are done so using cash.⁷⁶ Therefore, research surrounding cash is pertinent to this study and to create an understanding of the potential legal implications. Research has shown that certain groups of people rely on cash⁷⁷ and the government is continuing to ensure the availability of cash⁷⁸ so systems such as the Kamaitee system will continue to have the potential to exist.

2.2 Money Laundering

The opportunity to disguise the ownership of funds is referred to as money laundering, money laundering methods are used as the funds are either sourced through criminal activity⁷⁹ or sourced legally but disguised for tax purposes. Under the Proceeds of Crime Act s.340 'criminal property' is defined as 'money, all forms of property or real estate'. Therefore, cash attained through crime is included in this definition.

Money laundering comprises of three types of activities: first to conceal the origin and true ownership of proceeds, second to either directly or indirectly maintain an element of control over the proceeds and third to change the form whether that is the volume of cash or its link to

⁷² Ibid

⁷³ Colin King and others, *The Palgrave handbook of criminal and terrorism financial law*, (volume 2, Palgrave Macmillan, 2018) 138

⁷⁴ Ibid 141

⁷⁵ Interview 2 FA

⁷⁶ Interview 2 FA

⁷⁷ HM Treasury, 'New powers to protect access to cash' (19 May 2022)

<<https://www.gov.uk/government/news/new-powers-to-protect-access-to-cash>> accessed 24th January 2023.

⁷⁸ Andrew Griffith, 'The Right to Access Cash Will Soon be Enshrined in Law' (*The Telegraph*, 1 January 2023) <<https://www.telegraph.co.uk/news/2023/01/01/right-access-cash-will-soon-enshrined-law/>> accessed 24 January 2023

⁷⁹ Barry Rider, 'The price of laundering dirty money' (2006) Private Paper, Jesus College, University of Cambridge, Cambridge

underlying criminality.⁸⁰ Cash fulfils the needs as it is a bearer negotiable instrument, and it is difficult to ascertain the source or the possible beneficiary, therefore ensuring it is hard to investigate.⁸¹

As a result, a method to determine the amount of cash being used for legitimate and non-legitimate purposes has not been produced; however, it is fair to say that almost all criminals use cash at some point.⁸² Criminals then use money laundering methods to move and integrate money into the legal economy without arousing suspicion or being tracked by law enforcement.⁸³ A further issue arises if there is a requirement for money to be moved to another country as according to Cash Control Regulations 1889/2005 any cash in excess of 10,000 euros must be declared.⁸⁴ Therefore, informal value services are sometimes used to move money across borders.⁸⁵ This is beneficial to those aiming to remain undetected, as it is a transaction-based service rather than an account-based service.⁸⁶ Furthermore, it is used and run by an enclosed network of trusted brokers where they can bypass cross border movement.⁸⁷

Although, efforts have been made to penalise money launderers there are certain methods which are still a cause for concern. There are four types of businesses which are less manageable and fluid, making them favourable options for continual abuse as well as for money laundering.⁸⁸ Hawala is one of the four businesses identified as a cause for concern.⁸⁹ Literature states cash intensive businesses continue to accept a high volume of cash payments.⁹⁰ Although, some businesses operate legitimately others do not either exist at all and the business is a front or some of the reported earnings are from illegitimate sources.⁹¹

Individuals choose to use cash for a variety of reasons, a reason identified is that there is a psychological link which shows people see cash as belonging to them more than electronic money

⁸⁰European Police Office, 'Why is Cash Still King'(2015) 18(4) Trends in Organized Crime <<https://link.springer.com/article/10.1007/s12117-015-9256-x/>>accessed 2 November 2023 356

⁸¹ Ibid 357

⁸² Ibid 360

⁸³ Ibid 358

⁸⁴ Ibid 366

⁸⁵ Ibid 373

⁸⁶ Ibid 372

⁸⁷ Ibid 375

⁸⁸ Nicholas Gilmour and Nick Ridley, 'Everyday Vulnerabilities - Money Laundering Through Cash Intensive Businesses' (2015) 18(3) Journal of Money Laundering Control 295

⁸⁹ Ibid 294

⁹⁰ Ibid 295

⁹¹ Ibid 295

or money they see in their banks.⁹² The difference in attitude is also shown in the different attitudes people have towards white collar crime versus their attitude towards blue collar crime.⁹³

To combat money laundering legislation has been introduced. Money Laundering Regulations 2007 s.25 (1) state that money services must register and maintain a register under s.26. S.20 (1) that a person must establish and maintain appropriate and risk sensitive policies relating to customer due diligence, reporting, record-keeping, internal control, risk assessment and monitoring to prevent activities related to money laundering and terrorist financing.

More recently, 4AMLD (EU Directive, 2015/849) came into force to establish both effective and proportionate anti money laundering regime within the UK,⁹⁴ and then was revised by 5AMLD (EU Directive 2018/843). 4AMLD imposes an obligation on businesses to establish policy and procedures which prevent money laundering and are proportionate to the size of the business.⁹⁵ Obligated entities include a person trading with goods or cash over 10,000 euros.⁹⁶ Furthermore, this obligation was extended to anyone with a business relationship⁹⁷ or person running a service.⁹⁸

Although, there is a cloud of uncertainty around businesses who accept cash, the treasury in March 2018 published evidence which noted that most traders and businesses who take cash payments do so honestly.⁹⁹ However, there are cases where the anonymity of cash and its untraceable nature is perceived as facilitating tax evasion, hidden economic activity and money laundering.¹⁰⁰

⁹² Rose Eveleth, 'The Truth about the Death of Cash' (*BBC*, 24th July 2015) <<https://www.bbc.com/future/article/20150724-the-truth-about-the-death-of-cash>> accessed 24 January 2023

⁹³ *Ibid*

⁹⁴ Liz Campbell, 'Dirty Cash (Money Talks): 4AMLD and the Money Laundering Regulations 2017' (2018) 2 *Criminal Law Review* 102-122

⁹⁵ *Ibid*

⁹⁶ The Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) regulations 2017, s 14(1)(a)

⁹⁷ The Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) regulations 2017, s 4(1)

⁹⁸ National Crime Agency, 'National Strategic Assessment of Serious and Organised Crime' <https://www.nationalcrimeagency.gov.uk/who-we-are/publications/32-national-strategic-assessment-of-serious-and-organised-crime-2017/file/>> accessed 2 November 2023, 21

⁹⁹ The Access to Cash Review, '*Access to Cash Review*' <<https://www.accesstocash.org.uk/media/1087/final-report-final-web.pdf/>> (March 2019) 42

¹⁰⁰ *Ibid*

‘Why is Cash Still King’¹⁰¹ identifies that the use of cash is not illegal or considered as money laundering however, it enables criminals to inject illegal proceeds into legal economy with fewer risks than other systems.¹⁰² Cash smuggling is still the main form of money laundering in Europe.¹⁰³

In a 2015 report Financial Action Task Force (FATF) acknowledged cash as still being the preferred method of paying for goods and services for billions.¹⁰⁴ People use cash for many reasons: the ease of use, it is universally accepted, there are cultural considerations and the weaknesses in the banking infrastructure in some countries and regions.¹⁰⁵ Studies conducted by the central bank show that law abiding citizens tend to use cash for small cash transactions but for larger transactions they tend to use either credit, debit cards, cheques or bank transfer and people tend to hold their savings in banks.¹⁰⁶ FATF estimates the amount of cash being laundered annually through cash smuggling across international borders has reached hundreds of billions or even a trillion per year.¹⁰⁷

In a recent report by HM Treasury, it was identified that the UK continues to have close economic links with Pakistan.¹⁰⁸ This includes remittance systems equal to approximately \$1.7 billion and these systems provide the opportunity to disguise and transfer illicit funds between Pakistan and the UK.¹⁰⁹ It is common for cash to be used for money service businesses especially between the UK and countries within Asia this is due to a variety of legitimate reasons.¹¹⁰ However, it is also providing criminals with an opportunity to launder illicit funds without raising

¹⁰¹ European Police Office, ‘Why is Cash Still King’(2015) 18(4) Trends in Organized Crime
<<https://link.springer.com/article/10.1007/s12117-015-9256-x/>>accessed 2 November 2023

¹⁰² Ibid

¹⁰³ Ibid

¹⁰⁴ Financial Action Task Force, ‘Money Laundering Through the Physical Transportation of Cash’, (October 2015) 8

¹⁰⁵ Peter Sands and others, ‘Limiting the use of cash for big purchases: assessing the cash for uniform cash thresholds’(2017) Harvard Kennedy School
<https://www.hks.harvard.edu/sites/default/files/centers/mrcbg/files/80_limiting.cash.pdf>accessed 2 November 2023

¹⁰⁶ Ibid

¹⁰⁷ Financial Action Task Force, ‘Money Laundering Through the Physical Transportation of Cash’, (October 2015)8

¹⁰⁸ HM Treasury, ‘ National Risk Assessment of Money Laundering and Terrorist Financing 2020’ (December 2020)
<https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/945411/NRA_2020_v1.2_FOR_PUBLICATION.pdf /> accessed 1 February 2023, 35

¹⁰⁹ Ibid

¹¹⁰ Ibid

suspicion.¹¹¹ It is reported that the risk is exacerbated when the appropriate customer due diligence is not followed,¹¹² as a result, chapter two of this study focuses on customer due diligence.

According to the Home Office in 2017, the amount of money laundered within the UK has been estimated to exceed £90 billion a year¹¹³ which represents 4%-5% of the UK's GDP.¹¹⁴ The core aim of FATF for over 30 years has been to develop controls to detect suspicious activities relating to money laundering.¹¹⁵ Currently, these controls exist where the private sector, mostly financial institutions, act as gatekeepers and file Suspicious Act Reports (SAR) to financial intelligence where they suspect a case.¹¹⁶ Furthermore, where there has been a breach, fines have increased as in 2018 \$338m worth if fines were imposed.¹¹⁷ Although, SARs were intended to hinder money laundering it seems it has allowed it to flourish, as evidence shows financial institutions file SARs to protect themselves against criminal prosecution and sanctions.¹¹⁸ Though financial institutions file SARs for a huge array of transactions they frequently do not take steps to cease them.¹¹⁹ As SARs are confidential it is at the discretion of the institution receiving the report to investigate or not.¹²⁰

Pontes¹²¹ critically investigated the inefficiencies of existing AML framework as there is only a limited amount of empirical evidence to assess the effectiveness of the SAR process in preventing money laundering.¹²² In 2018 FATF evaluated the UK's AML framework and deemed it the most effective country when comparing it to another 107 countries.¹²³ However, when assessing the estimated value of organised crime in the UK, which was approximately £13bn

¹¹¹ Ibid

¹¹² HM Treasury, 'National Risk Assessment of Money Laundering and Terrorist Financing 2020' (December 2020) <https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/945411/NRA_20_v1.2_FOR_PUBLICATION.pdf> accessed 1 February 2023, 119

¹¹³ Home office in the Media, 'Economic Crime Factsheet' (11 December 2017)

<<https://homeofficemedia.blog.gov.uk/2017/12/11/economic-crime-factsheet/>> accessed 9 August 2023

¹¹⁴ Rafael Pontes, 'Anti-money laundering in the United Kingdom: new directions for a more effective regime' (2022) 25(2) *Journal of Money Laundering Control* 1

¹¹⁵ Ibid

¹¹⁶ Ibid

¹¹⁷ Cheri Burn, '\$814 billion of AML fines handed out in 2019, with USA and UK leading the charge' (Encompass, 13 January 2020) <<https://www.encompasscorporation.com/blog/encompass-aml-penalty-analysis-2019/>> accessed 9 August 2023

¹¹⁸ Rafael Pontes, 'Anti-money laundering in the United Kingdom: new directions for a more effective regime' (2022) 25(2) *Journal of Money Laundering Control* 1

¹¹⁹ Ibid

¹²⁰ Ibid

¹²¹ Ibid

¹²² Ibid

¹²³ Ibid

between 2015 and 2016, and then how much was recovered using the Proceeds of Crime Act 2020, only 2% was recovered.¹²⁴ Therefore, a regime where 98% of criminal funds are left with the criminals cannot be considered effective.¹²⁵ Pontes found four reasons for the ineffectiveness of the UK's AML regime: the compliance culture, the inefficiency of the AML process, the fragmentation of information across institutions and sectors and the authorities' inability to process reports.¹²⁶

Huang¹²⁷ stated that the fear of being seen as non-compliant is the motivation for AML controls¹²⁸ and financial institutions aim to self-preserve rather than being focused on combating crime.¹²⁹ As a result, institutions use resources to satisfy the regulator's requirements even if they believe that it will not have an actual effect on money laundering.¹³⁰ As AML is regarded as the burden for banks to carry, the cost outweighs the benefits and creates a burden for legitimate businesses.¹³¹ While it does not effectively reduce money laundering it is considered to punish legitimate businesses while unlawful activities continue.¹³²

Research has shown several issues with AML regulations and the ability of financial institutions to appropriately tackle money laundering. For financial institutions in the UK the cost of being AML compliant is estimated to be £2.8bn per year¹³³ and a sufficient portion of this is spent on technology to monitor and flag transactions.¹³⁴ Yet there are many efficiency issues with the technology and around 85% of alerts are deemed as false positives by analysts.¹³⁵ However, as

¹²⁴ Financial Action Task Force, 'Anti-money laundering and counter-terrorist financing measures – United Kingdom' (December 2018) <https://www.fatf-gafi.org/content/dam/fatf-gafi/mer/MER-United-Kingdom-2018.pdf>>accessed 2 November 2023

¹²⁵ Rafael Pontes, 'Anti-money laundering in the United Kingdom: new directions for a more effective regime' (2022) 25(2) *Journal of Money Laundering Control* 1

¹²⁶ *Ibid*

¹²⁷ Jimmy Yicheng Huang, 'Effectiveness of US anti-money laundering regulations and HSBC case study' (2015) 18(4) *Journal of Money Laundering Control* 5

¹²⁸ Rafael Pontes, 'Anti-money laundering in the United Kingdom: new directions for a more effective regime' (2022) 25(2) *Journal of Money Laundering Control*

¹²⁹ *Ibid*

¹³⁰ Matthew Rehead, 'Deep Impact? Refocusing the Anti-Money Laundering Model on Evidence and Outcomes' (2019) Royal United Services Institute for Defence and Security Studies, <
https://static.rusi.org/20191011_deep_impact_web.pdf> accessed 2 November 2023

¹³¹ Rafael Pontes, 'Anti-money laundering in the United Kingdom: new directions for a more effective regime' (2022) 25(2) *Journal of Money Laundering Control*

¹³² *Ibid*

¹³³ Lexis Nexis, '*Cutting cost of AML Compliance*' (2021)

¹³⁴ Rafael Pontes, 'Anti-money laundering in the United Kingdom: new directions for a more effective regime' (2022) 25(2) *Journal of Money Laundering Control*

¹³⁵ *Ibid*

transaction monitoring is required by regulators it is still something financial institutions are focused on.¹³⁶ Furthermore, the Joint Money Laundering Intelligence Taskforce was created to enable public and private sectors to share information however, the process of sharing information is slow and hinders the identification and disruption of financial crimes.¹³⁷ The Financial Institutions Union representatives and former senior officials in the UK have stated that no more than 3% of SARs are of immediate value to investigate.¹³⁸ Pontes¹³⁹ identified six key findings within regards to anti money laundering policy and procedures, these are: financial institutions do not apply a risk-based approach, information is not shared at scale and partnerships, AML is not evolving equally across different sectors, to improve the effectiveness, and there needs to be a sustainable amount of funding to create a real transformation.¹⁴⁰ As a result of the potential circumstances of jumping to incorrect conclusions financial institutes avoid adopting a risk-based approach.¹⁴¹ During research an interviewee explained to Pontes that it is not a risk-based approach which is used but simply seen as a tick box exercise.¹⁴² This section aims to create an insight into potential AML risks which may arise in the Kamaitee system.

As the Kamaitee system is predominately used by the Pakistani community, it is sufficient to review financial crimes surrounding Pakistan and other underground banking systems such as Hawala and the other remittance systems currently used. Remittance received in Pakistan in 2016 was around \$20 billion and unregulated charities provide Pakistan with an estimated 650 billion Pakistani Rupees every year.¹⁴³ It is predicted that annually through unregulated foreign exchange mechanism around \$2.5 - 3 billion entered the country until 2002 and a huge sum of this is through Hawala or other informal bankers.¹⁴⁴ The informal economy in Pakistan accounts for 30% of the

¹³⁶ McGowan Joan, 'Financial Crime Management's Broken System' (*Celent*, 25 October 2018)

<<https://www.celent.com/insights/358053968>> accessed 9 August 2023

¹³⁷ Nick Maxwell, '*Expanding the Capability of Financial Information-Sharing Partnerships*' (2019) Royal United Services Institute for Defence and Security Studies

¹³⁸ Matthew Rehead, 'Deep Impact? Refocusing the Anti-Money Laundering Model on Evidence and Outcomes' (2019) Royal United Services Institute for Defence and Security Studies, <https://static.rusi.org/20191011_deep_impact_web.pdf> accessed 2 November 2023

¹³⁹ Rafael Pontes, 'Anti-money laundering in the United Kingdom: new directions for a more effective regime' (2022) 25(2) *Journal of Money Laundering Control* 1

¹⁴⁰ *Ibid*

¹⁴¹ *Ibid*

¹⁴² *Ibid*

¹⁴³ Munir Ahmed Zia and others, 'Money laundering and terror financing: issues and challenges in Pakistan' (2022) 25(1) *Journal of Money Laundering Control*

¹⁴⁴ *Ibid*

country's GDP and 20% of all transactions are carried out in the informal banking sector.¹⁴⁵ Kemal and Qasim¹⁴⁶ held that the informal economy overshadows the legal economy in Pakistan as it fluctuates between 74-91% of formal economy.¹⁴⁷ Sherani¹⁴⁸ stated it is larger than the 30-50% which is estimated.¹⁴⁹

During the empirical research for this project interviewees disclosed that the Kamaitee system “operates on a trust basis system which operates mostly with cash. It’s a way of saving and acquiring large sums of cash with no interest.”¹⁵⁰ It is unregulated through any official body but “the person keeping the Kamaitee does. You might not necessarily see them keep that record but erm they will have a very good record keeping that only they understand.”¹⁵¹ Depositing large sums of cash is a potential sign for money laundering¹⁵² and participants of the Kamaitee system may need to do deposit a large sum when they receive their lump sum.

As the interviews show there is the potential for money laundering through Kamaitee, this renders money laundering information and AML processes in both Pakistan and the UK relevant to this study. In Pakistan money laundering is being handled both through prevention and enforcement strategies.¹⁵³ The Anti-Money Laundering Act (2010) is a principal document which has been developed and implemented by the Pakistani government. Much like other countries in s.6 a financial monitoring unit is set up.¹⁵⁴ In s5 the National Executive Committee which is devised of 4 federal ministers to combat money laundering is established, their primary role is to formulate counter strategies.¹⁵⁵ Research has provided a number of reasons for the poor

¹⁴⁵ Ibid

¹⁴⁶ M.Ali Kemal and Ahmed Qasim, ‘Precise Estimates of the Unrecorded Economy’ (2012) 51(4) The Pakistan development Review <https://econpapers.repec.org/article/pidjournal/v_3a51_3ay_3a2012_3ai_3a4_3ap_3a505-516.htm>accessed 2 November 2023

¹⁴⁷ Munir Ahmed Zia and others, 'Money laundering and terror financing: issues and challenges in Pakistan' (2022) 25(1) Journal of Money Laundering Control

¹⁴⁸ Sakib Sherani, ‘The Informal Economy’ *Dawn* (22 February 2013) <<https://www.dawn.com/news/787833/>>accessed 2 November 2023

¹⁴⁹ Munir Ahmed Zia and others, 'Money laundering and terror financing: issues and challenges in Pakistan' (2022) 25(1) Journal of Money Laundering Control

¹⁴⁹ Ibid

¹⁵⁰ Interview 1 QT

¹⁵¹ Ibid

¹⁵² HM Treasury, ‘National Risk Assessment of Money Laundering and Terrorist Financing 2020’ (17 December 2020)<https://assets.publishing.service.gov.uk/media/5fdb34abe90e071be47feb2c/NRA_2020_v1.2_FOR_PUBLICATION.pdf> accessed 1 February 2023, 6

¹⁵³ Munir Ahmed Zia and others, 'Money laundering and terror financing: issues and challenges in Pakistan' (2022) 25(1) Journal of Money Laundering Control

¹⁵⁴ Ibid

¹⁵⁵ Ibid

performance of conducting investigations.¹⁵⁶ The first is the existence of cross border wars and terrorism which is carried out by many groups.¹⁵⁷ Anti-money laundering authorities in Pakistan are aware of the issue and do attempt to combat terrorist activity.¹⁵⁸ Second, is the development of new technology, this creates new opportunities for new risks and to appropriately challenge money laundering and criminal financing the Pakistani government must be aware of all new risks and deal with them.¹⁵⁹ Third, it has already been established the extent of money which is moved in and out of Pakistan.¹⁶⁰ However, tracking international funds is difficult and time consuming which also hinders investigations.¹⁶¹ The recommendations made to improve this is that foreign remittance needs to be regulated and channelled through formal, swift and user-friendly transfer mechanisms.¹⁶²

Unlike the UK, Pakistan has a dual banking system, where both conventional and Islamic banks operate.¹⁶³ At present there are 2589 branches of Islamic banks in Pakistan, there are 21 Islamic banking institutes and 16 conventional banks holding standalone Islamic banking branches.¹⁶⁴ There is evidence to show that Islamic banking is a means of money laundering however, research shows that Islamic banking is less prone to money laundering than conventional banks.¹⁶⁵ Existing laws equally apply to Islamic banks and complying with these could help Islamic banks.¹⁶⁶ An analysis of the effectiveness of AML legislation in Pakistan found that, although AML legislation is sufficient and comprehensive there is a lack of proper implementation and enforcement of AML laws.¹⁶⁷

The Islamic banking system is governed based on Islamic Sharia law, consequently indicating that it is fair, free of corrupt practises, transparent, and interest free.¹⁶⁸ Usmani¹⁶⁹ states

¹⁵⁶ Ibid

¹⁵⁷ Ibid

¹⁵⁹ Ibid

¹⁶⁰ Ibid

¹⁶¹ Ibid

¹⁶² Ibid

¹⁶³ Syed Saqlain Ul Hassan and others, 'The effectiveness of anti-money laundering legislation in Islamic banking of Pakistan: experts' opinion' (2022) 25(1) Journal of Money Laundering Control

¹⁶⁴ Ibid

¹⁶⁵ Ibid

¹⁶⁶ Ibid

¹⁶⁷ Ibid

¹⁶⁸ Ibid

¹⁶⁹ Muhammad Imran Ashraf Usmani, 'Meezan Bank's Guide to Islamic Banking' (2002) Darul – Ishaat Urdu Bazar Karachi-1 Pakistan <<https://islamicbankers.files.wordpress.com/2007/06/meezan-banks-guide-to-islamic-banking.pdf/>>accessed 2 November 2023 34

according to the teachings of Islam interest is seen as exploitative and investments should be based on trading and equity.¹⁷⁰ Mohammed¹⁷¹ stated although Sharia law requires funds to be legitimate and from economic activities which are permissible in Islam, corruption and money laundering are essential factors of a banks' stability and profitability.¹⁷² In a study Aish¹⁷³ studied a sample of 19 Islamic and 53 conventional banks in Pakistan and Malaysia for 6 years from 2012 to 2018.¹⁷⁴ Overwhelmingly, the research found in both countries that when looking at the profitability and stability of a bank there was no difference between Islamic and conventional banks.¹⁷⁵ The study claimed that although both banks performed the same, in a corrupt environment Islamic banks appeared to generate more profit.¹⁷⁶ Islamic banks usually have current and saving accounts and they should have a value-added service structure to avoid cleaning dirty money.¹⁷⁷ In this study it is argued that some say Islamic banks are more vulnerable to money laundering and terrorist financing.¹⁷⁸ They follow a range of investment and advances including Hawala.¹⁷⁹ El-Gamal¹⁸⁰ states they invest capital in those projects which are permissible in Islam and use a highly asset-based financial product for lending which creates the potential for it to facilitate money laundering or enable terrorists to clean their money.¹⁸¹ The purchase of an asset using dirty money and its sale to legitimate buyers is an integral element of many money laundering schemes.¹⁸² Since transactions conducted by Islamic banks revolve around the buying and selling process, this makes it simpler for those wanting to launder money.¹⁸³ An example is if an Islamic bank contracts a Hawaladar which operates without transparency and is void of all typical preventative

¹⁷⁰ Kinza Aish and others 'Do Islamic banks gain from corruption and money laundering (ML)?' (2022) 25(4) Journal of Money Laundering Control

¹⁷¹ Ahmad Rufai Mohammad and others, 'Impact of corruption on banking sector stability: evidence from Middle East and North African countries' (2019) 5(2) Journal of Economic Studies

¹⁷² Kinza Aish and others 'Do Islamic banks gain from corruption and money laundering (ML)?' (2022) 25(4) Journal of Money Laundering Control

¹⁷³ Ibid

¹⁷⁴ Ibid

¹⁷⁵ Ibid

¹⁷⁶ Ibid

¹⁷⁷ Ibid

¹⁷⁸ Ibid

¹⁷⁹ Ibid

¹⁸⁰ Mahmoud A. El-Gamal, 'Limits and dangers of Shari'a arbitrage' (2005) Islamic Finance: Current Legal and Regulatory <<https://www.ruf.rice.edu/~elgamal/files/Arbitrage.pdf>>accessed 2 November 2023

¹⁸¹ Kinza Aish and others 'Do Islamic banks gain from corruption and money laundering (ML)?' (2022) 25(4) Journal of Money Laundering Control

¹⁸² Ibid

¹⁸³ Mahmoud A. El-Gamal, 'Limits and dangers of Shari'a arbitrage' (2005) Islamic Finance: Current Legal and Regulatory <<https://www.ruf.rice.edu/~elgamal/files/Arbitrage.pdf>>accessed 2 November 2023

procedures.¹⁸⁴ Although, El Gamal¹⁸⁵ stated Islamic banks are more vulnerable to money laundering and terrorist financing there are researchers who argue against this and say they are no more vulnerable than conventional banks.¹⁸⁶ In the study conducted by Aish,¹⁸⁷ results clearly indicated that Islamic banks do gain from corruption and money laundering and the consistent effect shows the strength of the regulatory structure.¹⁸⁸ Consequently, to limit corruption and money laundering they need to ensure a stricter adherence to Sharia rules.¹⁸⁹

Diving further into Pakistan's banking systems although, both Islamic banks and commercial conventional operate parallel they are regulated differently, and commercial conventional banks charge a fixed interest rate on consumer loans.¹⁹⁰ Irrespective of a solid traditional banking sector in Pakistan, Islamic banking has risen.¹⁹¹ Islamic banks believe in profit and loss sharing instead of fixed interest rates.¹⁹² Recent data shows Islamic banking assets and deposits have doubled in 5 years and account for 17% of total assets and 18.3% of total deposits.¹⁹³ Whilst Islamic banking is growing in popularity the cost to fund is lower than conventional banks.¹⁹⁴ Conventional banks focus on debt and risk transfers whereas Islamic banking is asset-based risk sharing.¹⁹⁵ So instead of relying on cash flow and collateral or placing businesses into liquidation to recover debts Islamic banks are supposed to act as venture capitalists.¹⁹⁶

The operating and potential issues of Islamic banks are also important as government documents indicate that money laundering and terrorist financing is regularly attained through alternative remittance systems such as Hawala.¹⁹⁷ Although, Hawaladar are subject to registration

¹⁸⁴ Kinza Aish and others ' Do Islamic banks gain from corruption and money laundering (ML)? ' (2022) 25(4) Journal of Money Laundering Control

¹⁸⁵ Mahmoud A. El-Gamal, 'Limits and dangers of Shari'a arbitrage' (2005) Islamic Finance: Current Legal and Regulatory <<https://www.ruf.rice.edu/~elgamal/files/Arbitrage.pdf>>accessed 2 November 2023

¹⁸⁶ Kinza Aish and others ' Do Islamic banks gain from corruption and money laundering (ML)? ' (2022) 25(4) Journal of Money Laundering Control

¹⁸⁷ Ibid

¹⁸⁸ Ibid

¹⁹⁰ Feisel Khan, 'How Islamic is Islamic Banking?' (2010) <<https://www.sciencedirect.com/science/article/pii/S0167268110001940?via%3Dihub>>accessed 2 November 2023

¹⁹¹ Ibid

¹⁹² Ibid

¹⁹³ Ibid

¹⁹⁴ Ibid

¹⁹⁵ Ibid

¹⁹⁶ Ibid

¹⁹⁷ United States Department of State (Bureau of International Narcotics and Law Enforcement Affairs) International Narcotics Control Report (March 2008) 2 <<https://2009-2017.state.gov/documents/organization/100922.pdf>> accessed 27 November 2023

and must meet certain requirements to operate, there are still Hawaladar who illegally operate.¹⁹⁸ Authorities have made minimal effort to identify those who are operating illegally.¹⁹⁹ The majority of illegal funds are transferred through unlicensed Hawaladar however, there are still over 5 million Pakistanis living around the world and post 2001 most of their funds are sent through the formal banking sector.²⁰⁰ To combat financial crimes, Pakistan took a series of key steps. This includes signing certain agreements such as in 2003 they signed the UN Convention Against Corruption set up by the Financial Intelligence Unit and in 2010 they passed the Anti Money Laundering Act alongside some others.²⁰¹

Although, Pakistan made an effort to tackle financial crimes, in particular money laundering, research shows that poorer countries such as Pakistan struggle to comply with AML provision. Sharman²⁰² stated AML provision which written by FATF are mostly for first world countries such as the UK, Canada, and the USA. As a result poorer countries struggle to comply as they are not appropriate or relevant to the people in their countries.²⁰³ In order for the policies and rules written by FATF to take effect citizens must open bank accounts, to do this they need to prove their identity again third world countries do not have the same record keeping or official documents that wealthier countries possess.²⁰⁴ Therefore, opening a bank account or acquiring official documents to prove a person's identity is not as simple in less developed countries as it is in wealthier and more developed countries.²⁰⁵ Sharman²⁰⁶ said over 70% of adults in developing countries do not have access to formal financial systems this can be explained through the lack of financial infrastructure and the preference of using cash.²⁰⁷ Research shows psychologically people view digital money is not as real which can result in individuals behaving more

¹⁹⁸Ibid

¹⁹⁹Ibid

²⁰⁰ Ibid

²⁰¹ Muahammad Subtain Raza and others, 'The Hawala System in Pakistan: a catalyst for Money Laundering and Terrorist Financing' (2017) 5(4) Forensic Research and Criminology International Journal 2

²⁰² JC Sharman, *The Money Laundry: Regulating Criminal Finance in the Global Economy,* (Cornell University Press, 2011)

²⁰³ Joseph Wilfrido Rivera, 'Potential negative effects of a cashless society: Turning citizens into criminals and other economic dangers' (2019) 22(2) Journal of Money Laundering Control 7

²⁰⁴ Ibid

²⁰⁵ Ibid

²⁰⁶ JC Sharman, *The Money Laundry: Regulating Criminal Finance in the Global Economy,* (Cornell University Press, 2011)

²⁰⁷ Joseph Wilfrido Rivera, 'Potential negative effects of a cashless society: Turning citizens into criminals and other economic dangers' (2019) 22(2) Journal of Money Laundering Control 7

inappropriately because it seems more remote.²⁰⁸ Also, where citizens use underground financial institutes, the government is unable to track or control the money and this hinders the effectiveness of AML laws.²⁰⁹

Whilst discussing the economy of another country it is important to consider the societal and cultural implications; however, there is a lack of research dealing with culture, values and financial crime.²¹⁰ Tsakumi et al²¹¹ and Bame-Aldred et al²¹² looked at the effect of cultural values on tax avoidance.²¹³ Yamen et al²¹⁴ scrutinised cultural deterrents of AML.²¹⁵ Overall, these studies highlighted the significant role of culture in dissuading crimes.²¹⁶

Mejri et al²¹⁷ investigated the influence of tightness-looseness has on financial crimes across 66 countries from 2012 to 2018. For this investigation she used Uz²¹⁸ indicators for tightness-looseness for the national culture and then Basel AML Index as a measure of financial crimes. Uz²¹⁹ defined a tight culture as a culture which is characterised by persuasive norms and the sanctions for deviance from norms.²²⁰ In a tight society individuals' norms for values and conducts are identical.²²¹ Basel AML Index was used as all financial crimes need concealment, money legitimacy and freedom for the individual to use the money.²²² Mejri et al²²³ found that there was a positive effect of tightness/looseness culture on financial crime and the absence of

²⁰⁸ Ibid

²⁰⁹ Ibid

²¹⁰ Mariem Mejri and others, 'Effect of cultural tightness-looseness on money laundering: a cross-country study' (2022) 25(2) *Journal of Money Laundering Control* 1

²¹¹ George T Tsakumi and others, 'The relation between national cultural dimensions and tax evasion' (2007) 16(2) *Journal of International Accounting, Auditing and Taxation*

²¹² Charles W Bame-Aldred, 'National culture and firm level tax evasion' (2013) 66(3) *Journal of Business Research*

²¹³ Mariem Mejri and others, 'Effect of cultural tightness-looseness on money laundering: a cross-country study' (2022) 25(2) *Journal of Money Laundering Control* 1

²¹⁴ Ahmed Yamen and others, 'The impact of national culture on financial crime' (2019) 22(2) *Journal of Money Laundering Control*

²¹⁵ Mariem Mejri and others, 'Effect of cultural tightness-looseness on money laundering: a cross-country study' (2022) 25(2) *Journal of Money Laundering Control* 1

²¹⁶ Ibid

²¹⁷ Ibid

²¹⁸ Irem Uz, 'The index of cultural tightness and looseness among 68 countries' (2015) 46(3) *Journal of Cross Cultural Psychology*

²¹⁹ Ibid

²²⁰ Mariem Mejri and others, 'Effect of cultural tightness-looseness on money laundering: a cross-country study' (2022) 25(2) *Journal of Money Laundering Control* 1

²²¹ Ibid

²²² Ahmed Yamen and others, 'The impact of national culture on financial crime' (2019) 22(2) *Journal of Money Laundering Control*

²²³ Mariem Mejri and others, 'Effect of cultural tightness-looseness on money laundering: a cross-country study' (2022) 25(2) *Journal of Money Laundering Control* 1

variables such as violence, political stability, control of corruption, voice and accountability all had a negative impact on financial crimes.²²⁴ Mejrj et al²²⁵ focused on cultural orientation and identified that the national culture matters when explaining financial crime.²²⁶ Mejrj et al found that evidence suggested financial crimes increase in countries with higher cultural looseness orientation levels.²²⁷

Yamen²²⁸ examined the impact of cultural values on money laundering across 78 nations. He used Geert Hofstede taxonomy to support predictions and Basel AML index as a measure for financial crimes.²²⁹ Empirical findings showed that money laundering increases with a nation which is characterised as low collectivism, low femininity, low uncertainty avoidance and intense short-term orientation.²³⁰

This section has demonstrated the importance of culture and values on crime and interviews conducted for this study also reiterated this as many participants referenced culture and tradition when explaining their reasons for using the Kamaitee system.²³¹

2.3 Tax Evasion

According to Slemrod²³² measuring tax evasion is very difficult, as in order to evade tax, taxpayers have an incentive to conceal their behaviour.²³³ There are economists and public policy makers who argue that cash facilitates tax evasion as it is difficult to trace and the general belief that small businesses avoid tax by underrepresenting income, although there is no way of proving this.²³⁴ Allingham and Sandmo²³⁵ developed a theory that a reduction in cash circulation would cause an

²²⁴ Mariem Mejrj and others, 'Effect of cultural tightness-looseness on money laundering: a cross-country study' (2022) 25(2) *Journal of Money Laundering Control* 1

²²⁵ Ibid

²²⁶ Ibid

²²⁷ Ibid

²²⁸ Ahmed Yamen and others, "'The impact of national culture on financial crime' (2019) 22(2) *Journal of Money Laundering Control*

²²⁹ Ibid

²³⁰ Mariem Mejrj and others, 'Effect of cultural tightness-looseness on money laundering: a cross-country study' (2022) 25(2) *Journal of Money Laundering Control* 1

²³¹ Interview 2 FA, Interview 4 MA, Interview 6 QZ

²³² Joel Slemrod, 'Tax compliance and enforcement' (2019) *Journal of Economic Literature*, 57(4)

²³³ Ryan Hess, 'Cash and Tax Evasion' (2020) 113(1) *Proceedings Annual Conference on Taxation and Minutes of the Annual Meeting of the National Tax Association* 10

²³⁴ Ibid

²³⁵ Michael G. Allingham, Agnar Sandmo, 'Income tax evasion: a theoretical analysis' (1972) 1 (3-4) *Journal of Public Economics*

increase in tax compliance.²³⁶ This theory supports the idea that taxpayers' compliance is affected by the perceived probability of detection. Since cash is anonymous and virtually untraceable it reduces the probability of detection, therefore increasing the probability of tax evasion whilst using cash.²³⁷

Cash is described as anonymous and difficult to trace, as a result cash transactions significantly facilitate tax evasion.²³⁸ Furthermore, a single cash note can be underreported numerous times as taxpayers exchange cash numerous times annually.²³⁹ In some countries the primary driver of the tax gap is the evasion of tax using cash.²⁴⁰ An example from within the EU is the annual reported loss of 160 billion euros through VAT.²⁴¹ A large proportion of this loss was through individuals purchasing items using cash and then the businesses either under reporting or not reporting at all.²⁴²

As a result, in essence this is enough information to qualify a reduction of cash in circulation as a policy objective.²⁴³ Despite the rise of alternative transaction methods, cash is still a prominent payment method therefore it is important to explore the possible tax evasion with cash payments.²⁴⁴ Cash is largely confined to in person payments which provides a greater opportunity for tax evasion as there is no paper trail making it easier to hide from enforcement agencies.²⁴⁵

As it is still the chosen method for many people there will be an impact particularly for those who are less familiar with technological options; consequently, it vital to reduce cash whilst

²³⁶ Ryan Hess, 'Cash and Tax Evasion' (2020) 113(1) Proceedings Annual Conference on Taxation and Minutes of the Annual Meeting of the National Tax Association 10

²³⁷ Ibid

²³⁸ Randall Wright and Kiyotaki Nobuhiro, 'On Money as a Medium of Exchange' (1989) 97(4) Journal of Political Economy 1

²³⁹ Ryan Hess, 'Cash and Tax Evasion' (2020) 113(1) Proceedings Annual Conference on Taxation and Minutes of the Annual Meeting of the National Tax Association 3

²⁴⁰ Peter Sands and others, 'Limiting the use of cash for big purchases: assessing the cash for uniform cash thresholds' (2017) Harvard Kennedy School

<https://www.hks.harvard.edu/sites/default/files/centers/mrcbg/files/80_limiting.cash.pdf>accessed 2 November 2023

²⁴¹ Ibid

²⁴² Ibid

²⁴³ Flaviano Russo, 'Cash Thresholds, Cash Expenditure and Tax Evasion' (2022) 43(4) Fiscal Studies 387

²⁴⁴ Ryan Hess, 'Cash and Tax Evasion' (2020) 113(1) Proceedings Annual Conference on Taxation and Minutes of the Annual Meeting of the National Tax Association 2

²⁴⁵ Susan B Long and Judyth A Swingen, 'Taxpayer Compliance: Setting New Agendas for Research' (1991) 5(3) Law and Society Review

<[28](https://www.jstor.org/stable/3053731?sid=primo&saml_data=eyJzYW1sVG9rZW4iOiI3ZTkzYTYzOS01ZDM3LTRjMmItYWZmOC1jOGQyODc3YjJjNmEiLCJlbWFpbCI6Imx3eml6QGxlZWVzLnVrIiwiaW5zdGl0dXRpb25JZHMiOiI3ZTkzYTYzYzAtMDA5My00ZWZjLWVzOGUtMDg2ZmJkZjVhNWQ4Ii19/>accessed 2 November 2023</p></div><div data-bbox=)

also minimising the impact on those affected.²⁴⁶ Sands et al²⁴⁷ argues that an effective way to reduce tax evasion and limit money laundering is through cash thresholds.²⁴⁸ Placing cash thresholds which ceases an individuals' ability to pay for large transactions with cash as this may not affect those who use cash as harshly as removing cash altogether.²⁴⁹ Since cash is more convenient for small transactions there is an assumption that if an individual chooses to use cash for larger transactions, they are attempting to benefit from cash being untraceable.²⁵⁰ This perception is consistent with HMRC's operational evidence as it further indicates that cash is a problem for tax compliance.²⁵¹ A plausible reason is taxpayers find it difficult to keep accurate records of all their transactions.²⁵² In other cases, cash is used to hide or disguise their taxable income by not reporting or under reporting what they earn.²⁵³ Although, many countries have introduced cash thresholds there is no presence of definitive evidence to show impact of cash thresholds on the economy.²⁵⁴

The loss of tax revenue from cash in hand payments is damaging to society and digital payments could bring financial transactions back into the tax system.²⁵⁵ However, some people work legally in cash economies, such as window cleaners and gardeners who work below the tax threshold.²⁵⁶ Literature expresses that crime will always find a way, the removal of cash in prisons has resulted in bartering of goods.²⁵⁷ However, applying this theory to cash and tax evasion would result in people simply finding other methods to avoid tax.²⁵⁸ Such as concealing large amounts of cash to evade tax or simply finding other methods is not always a possibility as evading tax is not

²⁴⁶ Flaviano Russo, 'Cash Thresholds, Cash Expenditure and Tax Evasion' (2022) 43(4) Fiscal Studies 387

²⁴⁷ Peter Sands and others, 'Limiting the use of cash for big purchases: assessing the cash for uniform cash thresholds'(2017) Harvard Kennedy School <https://www.hks.harvard.edu/sites/default/files/centers/mrcbg/files/80_limiting.cash.pdf>accessed 2 November 2023

²⁴⁸ Flaviano Russo, 'Cash Thresholds, Cash Expenditure and Tax Evasion' (2022) 43(4) Fiscal Studies 388

²⁴⁹ Ibid 387

²⁵⁰ Bjorn Fisher and others, 'The Demand for Euro Area Currencies: Past, Present and Future,' (2004) European Central bank, Working Paper 330, 11 <https://papers.ssrn.com/sol3/papers.cfm?abstract_id=526993/>accessed 2 November 2023

²⁵¹ The Access to Cash Review, '*Access to Cash Review*' <<https://www.accesstocash.org.uk/media/1087/final-report-final-web.pdf>> (March 2019) 42

²⁵² Ibid

²⁵³ Ibid

²⁵⁴ Ibid

²⁵⁵ Ibid 7

²⁵⁶ Ibid

²⁵⁷ Ibid

²⁵⁸ Ibid

easy, especially for larger corporations.²⁵⁹ There isn't any monetary transaction method which is as safe or as liquid as cash.²⁶⁰

To identify whether cash thresholds are a positive possible policy the other policy options must be identified and explored. Policies usually focus on large transactions and the movement of large volumes of cash.²⁶¹ First, eliminating high denomination notes has already been mentioned in 'Why is Cash Always King,'²⁶² and in May 2016 the European Central Bank announced that the 500-euro note will no longer be issued from the end of 2018 due to the concerns that the note could facilitate illicit activities.²⁶³ This decision was made as a result of the Paris attacks and an international concern surrounding terrorist financing.²⁶⁴ The argument to support this decision is that high denomination notes are increasingly used for illegitimate purposes, and the 500-euro note is the note which has the largest outstanding stock, around 300 billion euros, and there is plenty of evidence to show it is used for drug trafficking and other crimes.²⁶⁵ High denomination bank notes are disproportionately used for illegal activities and a share of large cash transactions are connected to illegal activities.²⁶⁶ While countries strengthen their anti-money laundering policies, criminals who hold, move and transact large volumes of cash, are finding it increasingly difficult to launder money.²⁶⁷ Therefore, through the purchase of high value goods they are still able to inject their illegal funds into the legal economy.²⁶⁸ UK law requires the registration of the acceptance of high value cash payments for a large quantity of low value goods, high value wholesale or retail transactions and a single high value transaction made in installments or on account.²⁶⁹ Second, the

²⁵⁹ Kenneth S Rogroff, *The Curse of Cash* (first published 2016, Princeton University Press) 58 edit

²⁶⁰ Ibid

²⁶¹ Peter Sands and others, 'Limiting the use of cash for big purchases: assessing the cash for uniform cash thresholds' (2017) Harvard Kennedy School
<https://www.hks.harvard.edu/sites/default/files/centers/mrcbg/files/80_limiting.cash.pdf>accessed 2 November 2023 8

²⁶²

²⁶³ European Central Bank, 'ECB ends issuance and production of EUR 500 note' (4 May 2016)
<<https://www.ecb.europa.eu/press/pr/date/2016/html/pr160504.en.html>>accessed 2 November 2023

²⁶⁴ Peter Sands and others, 'Limiting the use of cash for big purchases: assessing the cash for uniform cash thresholds' (2017) Harvard Kennedy School
<https://www.hks.harvard.edu/sites/default/files/centers/mrcbg/files/80_limiting.cash.pdf>accessed 2 November 2023 16

²⁶⁵ Ibid

²⁶⁶ Ibid 15

²⁶⁷ Ibid 15

²⁶⁸ Ibid 15

²⁶⁹ HM Revenues and Customs, 'Money Laundering Supervision for High Value Dealers' (10 August 2022)
<<https://www.gov.uk/guidance/money-laundering-regulations-high-value-dealer-registration/>>accessed 2 November 2023

policy to impose reporting requirements on bulk cash movement, as the number of countries who introduced this is far more than the number of countries who introduced cash thresholds.²⁷⁰

The most likely largest holding of cash domestically is the underground economy which includes all types of residents who engage in legal activities but avoid paying tax.²⁷¹ Evidence shows these people view their tax transgressions as morally wrong but say that if the law can't be easily enforced it's meant to be pliable.²⁷² Tax evaders also rely on 'parallel cash economies' to hide their income.²⁷³ This occurs when a business does not report cash revenue and the associated expenses.²⁷⁴ They then use the cash to purchase inventory or other business activities, this creates the idea that cash is being misreported from business to business or person to person.²⁷⁵

Richardson and Sawyer²⁷⁶ developed a summary of factors which affect tax compliance and found the most important determining factor was the source of income,²⁷⁷ which further strengthens the notion that tax compliance and crime are linked. Therefore, there are possible benefits of reducing cash such as lowering crime and an increase in tax revenues, it is important not to demonise those who use cash as many do not have a choice.²⁷⁸ An alternative solution and one which has been adopted in Sweden to bring the grey economy into formal economy by offering tax breaks and peer to peer payments technology thereby isolating the black economy to attack it more directly.²⁷⁹

There are still clear concerns about the hidden economy, which is when the entire source of income is not declared to HMRC for tax purposes, as HMRC estimates that the hidden economy has around two million pounds and around two million people who use it.²⁸⁰ Therefore, HMRC

²⁷⁰ Peter Sands and others, 'Limiting the use of cash for big purchases: assessing the cash for uniform cash thresholds'(2017) Harvard Kennedy School
<https://www.hks.harvard.edu/sites/default/files/centers/mrcbg/files/80_limiting.cash.pdf>accessed 2 November 2023 16

²⁷¹ Kenneth S Rogroff, *The Curse of Cash* (first published 2016, Princeton University Press) 58

²⁷² Ibid

²⁷³ Ryan Hess, 'Cash and Tax Evasion' (2020) 113(1) Proceedings Annual Conference on Taxation and Minutes of the Annual Meeting of the National Tax Association 13

²⁷⁴ Ibid 14

²⁷⁵ Ibid 14

²⁷⁶ Maryann Richardson and Adrian J Sawyer, 'A Taxonomy of the Tax Compliance Literature: Further Findings, Problems and Prospects' (2001) Australian Tax Forum 16(2)

²⁷⁷ Ryan Hess, 'Cash and Tax Evasion' (2020) 113(1) Proceedings Annual Conference on Taxation and Minutes of the Annual Meeting of the National Tax Association 11

²⁷⁸ The Access to Cash Review, '*Access to Cash Review*' <<https://www.accesstocash.org.uk/media/1087/final-report-final-web.pdf>> (March 2019) 7

²⁷⁹ Ibid

²⁸⁰ HM Revenue and Customs Research Report, *The Hidden Economy in Great Britain* (Law Com No 478, 2017)

continues to spend money to encourage people to join the formal economy.²⁸¹ However, there are still specific job areas which are still a cause for concern and if people are detected HMRC can impose a 100% fine of the tax owed.²⁸² As a result of the work to advertise and encourage people to declare their tax owed there was an increase as more than 45 000 people who came forward in 2007.²⁸³ Since 2003 the department has detected around 30,000 hidden economy cases a year.²⁸⁴ The department has a large and growing backlog of tax evasion cases which are awaiting investigation.²⁸⁵ Unable to accurately predict how much tax is lost through hidden economies.²⁸⁶

Cash economies are included in a list of reasons for potential tax evasion and that an economy which is predominately cash based it is both easy and safe to conceal income.²⁸⁷ As shown in the interviews during this study both through the interviews of participants and an operator of the Kamaitee network, the Kamaitee system operates using cash and therefore the general concerns which exist surrounding tax evasion and cash apply to the Kamaitee system. There is clearly a potential for tax evasion to occur through the Kamaitee system as if a person earns in cash then uses the cash to save through the Kamaitee system and then receives a lump sum back in cash and spends it without depositing it there is the potential for that cash to never enter the formal economy.

2.4 Terrorist financing

Cash plays a role in terrorist financing as the anonymity and lack of transactional records help terrorists evade detection.²⁸⁸ Most recently the risk of a terrorist attack taking place in the UK has risen to severe and it is deemed that a terrorist attack is highly likely.²⁸⁹ However, from a financial viewpoint terrorist financing is not a huge risk as only small amounts are being sent and most

²⁸¹ Ibid

²⁸² Ibid

²⁸³ Ibid

²⁸⁴ Ibid

²⁸⁵ Ibid

²⁸⁶ Ibid

²⁸⁷ Sheikh Sajjad Hassan, *Tax Audit Techniques in Cash Based Economies* (2nd edn, Commonwealth Association of Tax Administrators 2010)

²⁸⁸ Peter Sands and others, 'Limiting the use of cash for big purchases: assessing the cash for uniform cash thresholds'(2017) Harvard Kennedy School
<https://www.hks.harvard.edu/sites/default/files/centers/mrcbg/files/80_limiting.cash.pdf>accessed 2 November 2023 16

²⁸⁹HM Treasury, 'National Risk Assessment of Money Laundering and Terrorist Financing 2020' (17 December 2020)<https://assets.publishing.service.gov.uk/media/5fdb34abe90e071be47feb2c/NRA_2020_v1.2_FOR_PUBLICATION.pdf /> accessed 1 February 2023, 47

attacks are low-cost attacks.²⁹⁰ Recent attacks within the UK haven't required any external funding as money has been raised within the UK legitimately.²⁹¹ Furthermore, methods to move money have been opportunistic and depend on the personal or shared knowledge of the individuals and the end destination of the funds, this includes simply carrying cash out of the country, bank transfers or money service businesses.²⁹² There does not appear to be a clear link between terrorist financing and informal services therefore it does not possess legal implications for the Kamaitee system.

2.5 Conclusion

This chapter has provided clear evidence to demonstrate the potential crimes which are committed as a result of the use of cash, and the strong connection between both cash and other crimes such as money laundering, tax evasion and terrorist financing. As interviews conducted for this research clearly identified that the vast majority of payments in the Kamaitee system are made using cash²⁹³ there are potential legal implications. There is the potential for future study to identify and question participants about specific legal implications. All participants were aware that the Kamaitee system was illegal as it was not registered but they were unaware about other legal implications such as money laundering or tax evasion.²⁹⁴

²⁹⁰Ibid 48

²⁹¹Ibid 48

²⁹²Ibid 48

²⁹³ Interview 1 QT, Interview 2 FA, Interview 3 FZ, Interview 4 MA, Interview 5 SA, Interview 6 QZ

²⁹⁴ Ibid

Chapter Two

3.1 Customer Due Diligence

In chapter one it has been established that the use of cash by money service businesses may be for legitimate reasons it does also provide criminals with the opportunity to launder illicit funds,²⁹⁵ and this risk is exacerbated when the appropriate customer due diligence is not carried out.²⁹⁶ Customer due diligence is a central concept used internationally for Anti Money Laundering (AML) measures.²⁹⁷ As such due diligence is a requirement by law under the Money Laundering Regulations 2007.²⁹⁸ The aim of the regulations is to deny money launderers access to the financial system, this includes a duty to carry out customer due diligence (CDD).²⁹⁹ These obligations apply to those institutes where amounts of cash could be passed through, therefore potentially laundered.³⁰⁰ The rationale behind CDD is that it denies the offender access to financial and other services until their information has been checked and validated.³⁰¹ Firms must conduct ongoing monitoring of business relationships, although there is no responsibility to report ongoing monitoring to a specific authority body unless there is a potential threat.³⁰²

Customer due diligence means identifying the beneficial owner and executing reasonable measures to verify the person's identity and nature of the business relationship.³⁰³ The necessity to comply with CDD arises when a bank establishes an ongoing business relationship, carries out transactions over 15000 euros, suspects a customer of money laundering, terrorist financing or

²⁹⁵ HM Treasury, 'National Risk Assessment of Money Laundering and Terrorist Financing 2020' (December 2020) <https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/945411/NRA_20_v1.2_FOR_PUBLICATION.pdf> accessed 1 February 2023, 35

²⁹⁶ HM Treasury, 'National Risk Assessment of Money Laundering and Terrorist Financing 2020' (December 2020) <https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/945411/NRA_20_v1.2_FOR_PUBLICATION.pdf> accessed 1 February 2023, 119

²⁹⁷ Robert Stokes and Anu Arora, 'The duty to report under the money laundering legislation within the United Kingdom' (2004) 1(4) *Journal of Business Law* 332-356

²⁹⁸ Anu Arora, *Banking Law* (1st edn, Pearson 2014) 478

²⁹⁹ *Ibid*

³⁰⁰ *Ibid*

³⁰¹ The Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017, s21(7)(a)

The Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017, s33(1)

³⁰² HM Revenues and Customs, '*Your Responsibilities Under Money Laundering Supervision*' (4 August 2021) <<https://www.gov.uk/guidance/money-laundering-regulations-your-responsibilities>> accessed 2 November 2023

³⁰³ The Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) regulations 2017, s 4(1)

where there are doubts about the veracity of the information provided.³⁰⁴ The duty to carry out CDD falls upon financial institutes who must maintain policies and procedures which ensure compliance with CDD as well as ongoing monitoring and record-keeping requirements.³⁰⁵ There are different levels of due diligence which are applied depending on the risk.³⁰⁶

The standard approach to customer due diligence in the UK, is formed from a general rule arising from the Money Laundering Regulation 2017, through this approach measures are performed when establishing a business relationship between customers and financial institutions.³⁰⁷ These measures should be performed where institutions are suspicious of money laundering activities or when there is a belief that the customer has provided unreliable information.³⁰⁸ The standard approach is mandatory for all financial institutions in the UK, this includes establishing customer identity, identifying any beneficial owners and verifying the nature and aim of the business relationship between the customer and financial institution.³⁰⁹ To verify the identity of a customer, financial institutions must obtain a list of details including the customer's name, address and date of birth.³¹⁰ This can be done through a variety of official documents including a passport, driving license, a firearm certificate or any other reliable document which can be used.³¹¹ Verification procedures are carried out for all customers including those who do not pose a high money laundering risk.³¹² A customer's profile provides financial institutes with information to implement customer due diligence measures appropriately and continuous monitoring forms part of the standard approach of CDD in the UK.³¹³ Ongoing monitoring includes risk evaluation, ensuring transactions conform to the risk profile and updating records within regards to information collected during the CDD process.³¹⁴ Where a financial

³⁰⁴ Anu Arora, *Banking Law* (1st edn, Pearson 2014) 478

³⁰⁵ *Ibid*

³⁰⁶ HM Revenues and Customs, '*Your Responsibilities Under Money Laundering Supervision*' (4 August 2021) <<https://www.gov.uk/guidance/money-laundering-regulations-your-responsibilities> />accessed 2 November 2023

³⁰⁷ Money Laundering Regulations 2017, s 27(1)(a)

³⁰⁸ Money Laundering Regulations 2017, s 27(1)(a)-(e)

³⁰⁹ *Ibid*

³¹⁰ *Ibid*

³¹¹ *Ibid*

³¹² Money Laundering Regulations 2017, s 28(3)(b)

³¹³ Howard Chitimira and Sharon Munedzi, 'An evaluation of customer due diligence and related anti-money laundering measures in the United Kingdom' (2023) 26(7) *Journal of Money Laundering Control* <https://www.emerald.com/insight/content/doi/10.1108/JMLC-01-2023-0004/full/pdf?title=an-evaluation-of-customer-due-diligence-and-related-anti-money-laundering-measures-in-the-united-kingdom/>>accessed 2 November 2023

³¹⁴ *Ibid*

institute fails to apply standard CDD measures they are unable to establish business relationships.³¹⁵ The aim of applying the standard approach is to reduce money laundering and where it does occur this process allows financial institutes to tackle it effectively.³¹⁶

A simplified approach to customer due diligence involves the complete absence of CDD measures.³¹⁷ This approach is applied in exceptional circumstances,³¹⁸ as it exists for those customers who possess little or no money laundering risks.³¹⁹ In order to waiver CDD measures, the financial institute involved must conduct a low-risk evaluation.³²⁰ An exceptional circumstance could include conducting business with a local authority, although CDD will not be carried out, financial institutes must still carry out ongoing monitoring.³²¹ This suggests that although due diligence processes are not required because entities such as local authorities are subject to different laws and regulations,³²² it still implies that institutes should still monitor transactions to identify any inconsistencies, threats or money laundering risks.³²³

The next approach is referred to as comprehensive or enhanced customer due diligence³²⁴ this is applied when financial institutes are dealing with those individuals who pose a high risk of money laundering.³²⁵ The Money Laundering Regulation 2017 states that this approach should be applied to non-face to face customers, so this is someone who is not physically present for identification or a politically exposed person.³²⁶ The physical presence of a customer is essential for verification so documents can be scrutinised to decide if the customer resembles a true likeness

³¹⁵ Ibid

³¹⁶ Ibid

³¹⁷ Money Laundering Regulations 2017, s 36

³¹⁸ Ibid

³¹⁹ Howard Chitimira and Sharon Munedzi, 'An evaluation of customer due diligence and related anti-money laundering measures in the United Kingdom' (2023) 26(7) Journal of Money Laundering Control <https://www.emerald.com/insight/content/doi/10.1108/JMLC-01-2023-0004/full/pdf?title=an-evaluation-of-customer-due-diligence-and-related-anti-money-laundering-measures-in-the-united-kingdom/>>accessed 2 November 2023

³²⁰ Ibid

³²¹ Ibid

³²² Money Laundering Regulations 2017, s 36

³²³ Howard Chitimira and Sharon Munedzi, 'An evaluation of customer due diligence and related anti-money laundering measures in the United Kingdom' (2023) 26(7) Journal of Money Laundering Control <https://www.emerald.com/insight/content/doi/10.1108/JMLC-01-2023-0004/full/pdf?title=an-evaluation-of-customer-due-diligence-and-related-anti-money-laundering-measures-in-the-united-kingdom/>>accessed 2 November 2023

³²⁴ Money Laundering Regulations 2017, s 33(1)

³²⁵ Ibid

³²⁶ Ibid

to the photographic documents which have been submitted.³²⁷ However, a politically exposed person, someone occupying a public position, or their families can be regarded as high-risk customers³²⁸ and for these individuals to establish relationships with financial institutes, the institutions must gain permission from senior management.³²⁹

The main beneficiaries of corruption are politically exposed persons (PEP) and as the international cost of corruption is 3.6 trillion dollars³³⁰ it is important to negate as many potential risks as possible.³³¹ Although not all PEPs are involved in corrupt activities, they do pose a greater risk of money laundering as they have the ability to abuse their position or influence for personal gain.³³² Approximately 1.1 trillion illicit financial flows take place annually from developing countries to developed countries and in response to this CDD is promoted by local AML regulations and FATF standards.³³³ For CDD to be effective and successful customer identification must take place.³³⁴

As mentioned in the previous chapter, when exploring a new topic, it is important to discuss and identify important issues relating to it in the context of Pakistan. As the Kamaitee system is used by the Pakistani diaspora and there is plenty of evidence to show financial transactions which occur between the UK and Pakistan. Taking into account the potential risks, Pakistani regulators developed Anti-Money Laundering (AML) regulations for establishing business relations with customers including PEPs.³³⁵ However, reports show there are still huge concerns overall with AML regulations in Pakistan, particularly with CDD measures and practices.³³⁶ As a developing country, Pakistan has suffered partially due to the abuse of PEPs and it has continued to be placed

³²⁷ Howard Chitimira and Sharon Munedzi, 'An evaluation of customer due diligence and related anti-money laundering measures in the United Kingdom' (2023) 26(7) *Journal of Money Laundering Control* <https://www.emerald.com/insight/content/doi/10.1108/JMLC-01-2023-0004/full/pdf?title=an-evaluation-of-customer-due-diligence-and-related-anti-money-laundering-measures-in-the-united-kingdom/>>accessed 2 November 2023

³²⁸ Ibid

³²⁹ Money Laundering Regulations 2017, s 14(4)(a)

³³⁰ Nasir Sultan, 'Challenges faced by financial institutes before onboarding politically exposed persons in undocumented Eastern economies: a case study of Pakistan' (2023) 26(3) *Journal of Money Laundering Control* <<https://plus.lexis.com/uk/document/?pdocfullpath=%2Fshared%2Fdocument%2Fbooks-journals-uk%2Furn%3AcontentItem%3A683R-42Y3-RWXP-444N-00000-00&selectedTocLevelKey=TAABAABAACAABAAF&crd=778b4cfe-d9b1-40d5-9e0e-2167efa68088&federationidp=V2PNTN59413&cbc=0%2C0%2C0/>>accessed 2 November 2023

³³¹ Ibid

³³² Ibid

³³³ Ibid

³³⁴ Ibid

³³⁵ Ibid

³³⁶ Ibid

in the higher quartile for corrupt countries for four decades.³³⁷ Whilst several former presidents and other government officials are on trial for corruption and money laundering, Pakistan has also been urged to bring back the 200 billion dollars held in Swiss banks which could pay off all its external debt.³³⁸ Clear evidence shows financial institutes are abused to anonymously transfer funds internationally and as a result many Pakistani banks operating in the US have closed their offices.³³⁹ In developing countries local PEPs have the power to abuse as an advantage over other criminals.³⁴⁰ The United Nations Convention comprehensively defined PEPs as individuals who hold office in a legislative, judicial, administrative or executive capacity, an individual who is elected/appointed, permanent/temporary, paid/unpaid, irrespective of seniority and an international public servant.³⁴¹ Furthermore, United Nations Convention Against Corruption (UNCAC) in article 52(1) includes family members and close associates, although family members are defined differently throughout the world the different definitions encompass them all.³⁴² Until September 2020 Pakistan defined PEPs as individual with prominent public functions and this definition did not include anyone who previously held a position, as a result there was a poor standard of compliance according to international standards.³⁴³ Therefore, the government intended to revise the definition however, it still did not include a range of individuals including armed personnel, intelligence agencies, middle or junior ranked officials and the reason for this pertains to the political situation of Pakistan where financial institutions are more focused on politicians.³⁴⁴ Part B defines close associates as individuals with joint beneficial ownership of legal person and an arrangement which is business related or set up for the benefit of a PEP.³⁴⁵ Furthermore, it includes a person who is intricately connected with the PEP for any other reason which includes socially or professionally.³⁴⁶ This definition creates uncertainty as there is no clarity as to whether it includes partners who work at the same corporation or partners who conduct business together.³⁴⁷ Furthermore, it is more difficult to determine this in societies which are cash

³³⁷ Ibid

³³⁸ Ibid

³³⁹ Ibid

³⁴⁰ Ibid

³⁴¹ Ibid

³⁴² Ibid

³⁴³ Ibid

³⁴⁴ Ibid

³⁴⁵ Ibid

³⁴⁶ Ibid

³⁴⁷ Ibid

based.³⁴⁸ Additionally, in Eastern societies, families can be more diverse as there is the possibility for polygamy and a fragile domestic registration system which makes it difficult to ascertain relationships and the level of familiarity.³⁴⁹ This definition is not exhaustive or localised and most respondents considered it as a poor attempt to copy and paste the previous definition. While the definition included foreign PEPs but not many PEPs will open a bank account in Pakistan as it is not perceived to possess a robust financial centre, but foreign PEPs are included in the definition to satisfy international requirements.³⁵⁰ Respondents explained that when meeting with a FATF assessor it was evident that foreign PEPs were perceived to be of a higher risk to local PEPs and local PEPs were influential, so reporters of local PEPs could face serious consequences.³⁵¹ PEPs are unwilling to share comprehensive and accurate information with financial institutions.³⁵²

Research in Pakistan shows although financial institutions do complete checks through the available databases,³⁵³ however, these checks are not conducted in a timely manner and therefore to achieve a complete and precise identification is a challenge for money laundering prevention.³⁵⁴ In conjunction with time a further issue arises during CDD for PEPs in Pakistan, when the process of name screening is completed as it difficult to carry this out on international databases.³⁵⁵ This is due to the different variations of spellings for the same name.³⁵⁶ Furthermore, there are politicians with common names, therefore, plenty of other people with the exact same name this results in difficulty identifying the correct person on a database.³⁵⁷ Also, names are sometimes based on the caste system, religious affiliations and suffixes for aliases.³⁵⁸ As a result of the potential issues customer screening is a time-consuming process.³⁵⁹ Combined with name screening, the high-cost datasets for financial institutes, results in many institutions being unable to incur this cost but to meet the regulatory requirement small or medium sized financial institutes are known to purchase datasets which were less authentic or contain fewer records of local PEPs.³⁶⁰

³⁴⁸ Ibid

³⁴⁹ Ibid

³⁵⁰ Ibid

³⁵¹ Ibid

³⁵² Ibid

³⁵³ Ibid

³⁵⁴ Ibid

³⁵⁵ Ibid

³⁵⁶ Ibid

³⁵⁷ Ibid

³⁵⁸ Ibid

³⁵⁹ Ibid

³⁶⁰ Ibid

As a result, the quality of information is compromised, to overcome this financial institutes will have to place extra effort into physical verification and hire or train specialised staff.³⁶¹ Furthermore, the use of different datasets increases the overall costs, creates disparity in screening and results in the verification of PEPs not being conducted through a singular mechanism.³⁶² Respondents noted that the requirement to seek high management approval for a PEPs was simply a formality which undermines the effectiveness of this process.³⁶³ This identifies that PEPs are able to conceal the source of money effortlessly through undocumented economies which makes identification, verification and prosecution difficult.³⁶⁴

As previously mentioned, officials were more concerned with politics and respondents indicated that the definition was purposefully created with loopholes to create an environment where all PEPs are treated equally regardless of the level of risk they may pose.³⁶⁵ Politics further hinders the process as there is political interference when hiring senior bankers which creates a hurdle when implementing CDD measures.³⁶⁶ Research shows that as officials did begin to adopt robust measures, tension arose between financial institutes and PEPs.³⁶⁷ However, local PEPs proved more powerful and international pressure did not have a long-term impact.³⁶⁸ Due to societal norms pressure from PEPs affects everyone living in Pakistan and financial institutions work hard to maintain their integrity and reputation but this is difficult for smaller private banks or banking systems.³⁶⁹ Financial institutions sometimes stop establishing relationships with PEPs and politicians due to political pressure and so this leads to an increase in the undocumented economy and encourages ill practice by bankers, and to tackle this, heavy fines for bankers have been introduced.³⁷⁰ Respondents discussed the limitations of the current legal framework, which was developed to tackle money laundering however, it is evident that PEPs clearly abuse their power when legislation is being created and developed to ensure immunity for themselves.³⁷¹ An example is the Protection of Economic Reforms Act 1992 s4 which allows any person to carry

³⁶¹ Ibid

³⁶² Ibid

³⁶³ Ibid

³⁶⁴ Ibid

³⁶⁵ Ibid

³⁶⁶ Ibid

³⁶⁷ Ibid

³⁶⁸ Ibid

³⁶⁹ Ibid

³⁷⁰ Ibid

³⁷¹ Ibid

cash without any formal declaration and since 1992 this has not been changed or appealed.³⁷² This undermines and complicates the efforts to tackle money laundering.³⁷³ Further to this Income Tax Ordinance of 2001 111 (4) provides another level of immunity for foreign remittance.³⁷⁴ The large volume of Hawala used by Pakistanis means there is a huge amount of money which is being moved with complete immunity.³⁷⁵ This also allows for the potential for cash raised through other systems such as Kamaitee to also be moved undetected both into and out of the UK.³⁷⁶ This is a real potential threat with legal implications as during my interviews when asked about how issues are resolved the participant replied in the initial stages everything is set out clearly and when deciding the order of recipients a person may request the money at a particular time and provide a reason such as 'I would like mine at this time because I am travelling to Pakistan.'³⁷⁷ There is clearly the potential to acquire sums of cash and Pakistan's legal situation is allowing it to be taken in and out of Pakistan undetected by PEPs.

The importance of international cooperation is essential to tackle this issue effectively and the current lack of genuine relationships being created between Pakistan and the international community is a concern as money laundering is a transnational issue.³⁷⁸ This is emphasised in Article 7 of the Vienne Convocation where global cooperation is encouraged.³⁷⁹ However, although Pakistan has many laws which encourage mutual legal assistance, it also stated in the Mutual Legal Assistance Act 2020 s3 that mutual assistance is not required for a political offence and this law can only be used where a criminal act is involved.³⁸⁰ As political offences and corruption have been removed from this act it is clear that the act was created to protect the political elite.³⁸¹

³⁷² Ibid

³⁷³ Ibid

³⁷⁴ Ibid

³⁷⁵ Ibid

³⁷⁷ Interview 1 QT

³⁷⁸ Nasir Sultan, 'Challenges faced by financial institutes before onboarding politically exposed persons in undocumented Eastern economies: a case study of Pakistan' (2023) 26(3) Journal of Money Laundering Control <<https://plus.lexis.com/uk/document/?pddocfullpath=%2Fshared%2Fdocument%2Fbooks-journals-uk%2Furn%3AcontentItem%3A683R-42Y3-RWXP-444N-0000-00&selectedTocLevelKey=TAABAABAACAABAAF&crid=778b4cfe-d9b1-40d5-9e0e-2167efa68088&federationidp=V2PNTN59413&cbc=0%2C0%2C0/>>accessed 2 November 2023

³⁷⁹ Ibid

³⁸⁰ Ibid

³⁸¹ Ibid

It is evident that protecting the elite and societal pressures make it difficult to not only operate appropriately, but respondents also agreed that whistleblowing would have consequences which is a reason for the lack of people or institutes willing to challenge PEPs.³⁸² There are many examples of threats, changes of investigators, or investigators leaving the country during an investigation which led observers to believe that threats are real and present.³⁸³ Respondents stated that individuals and financial institutes weigh up different costs, so the cost of a penalty for breaching versus the loss of expected profits, therefore a banker is more likely to focus on business targets and earn financial benefits than carry out CDD measures properly.³⁸⁴ There are clear examples where a bank chooses to gain profit rather than assessing the PEP correctly.³⁸⁵ Researchers recommend a few possible measures to improve the current state initially for regulators to completely adopt the FATF recommendations and to create a localised version of the relevant regulations, policies, and definitions.³⁸⁶ Furthermore, a formal committee with representatives should be appointed to properly define PEPs, create a coordinated list of PEPs and use them for screening and schedule meetings with quarterly updates.³⁸⁷ To maintain datasets there needs to be an increase in sharing information with the international community.³⁸⁸ Financial institutions should use third party services to verify credentials and withdraw preferential treatment of PEPs and help with reporting suspicious transactions to improve whistle blowing culture.³⁸⁹ These societal norms and issues exist within Pakistan and have the ability to exist within Pakistani communities in the UK who could then profit from a system such as the Kamaitee system. Further on in this chapter societal norms, trust and control are all explored.

Finally, enhanced customer due diligence is relaxed on a person a year after they leave office but whilst they are still subject to enhanced CDD it is important to identify the source of wealth.³⁹⁰ As part of enhanced CDD customers may be asked to provide additional data or

³⁸² Ibid

³⁸³ Ibid

³⁸⁴ Ibid

³⁸⁵ Ibid

³⁸⁶ Ibid

³⁸⁷ Ibid

³⁸⁸ Ibid

³⁸⁹ Ibid

³⁹⁰ Howard Chitimira and Sharon Munedzi, 'An evaluation of customer due diligence and related anti-money laundering measures in the United Kingdom' (2023) 26(7) *Journal of Money Laundering Control* <https://www.emerald.com/insight/content/doi/10.1108/JMLC-01-2023-0004/full/pdf?title=an-evaluation-of-customer-due-diligence-and-related-anti-money-laundering-measures-in-the-united-kingdom/>>accessed 2 November 2023

documents,³⁹¹ this information must be proportionate to the money laundering risk they pose,³⁹² and this information can be requested from another financial institute who are subject to the same measures in the UK.³⁹³ The purpose of collecting additional information is to help financial institutions to detect and combat money laundering,³⁹⁴ however, this does not insinuate that a high-risk person is laundering money and equally someone could be a money launderer and yet be classified as a low-risk person.³⁹⁵

In all three types of customer due diligence on-going monitoring measures are applied, this is to monitor the transactions and activities of customers.³⁹⁶ Ongoing monitoring is conducted to combat money laundering and involves a continued approach of updating data which was initially submitted during the identification and verification process.³⁹⁷

The final approach is referred to as a risk-sensitive approach and Money Laundering Regulations 2017 state CDD measures must be proportionate to the risk established.³⁹⁸ This approach is a series of steps, the first is to identify the money laundering risk, next to assess the risk, then to design risk controlling measures, next to implement the measures, to monitor the effectiveness and finally to keep a record of the measures used.³⁹⁹ The purpose of the different approaches available is to help save on costs⁴⁰⁰ as this allows resources to be allocated to high-risk situations and to apply customer due diligence measures differently for different customers.⁴⁰¹

Although, CDD measures are formed to prevent AML, literature surrounding AML regulations mostly focuses on the banking sector and shows how money launderers relocate their

³⁹¹ Ibid

³⁹² Ibid

³⁹³ Money Laundering Regulations 2017, S 14(2)(a)-(c)

³⁹⁴ Howard Chitimira and Sharon Munedzi, 'An evaluation of customer due diligence and related anti-money laundering measures in the United Kingdom' (2023) 26(7) Journal of Money Laundering Control <https://www.emerald.com/insight/content/doi/10.1108/JMLC-01-2023-0004/full/pdf?title=an-evaluation-of-customer-due-diligence-and-related-anti-money-laundering-measures-in-the-united-kingdom/>>accessed 2 November 2023

³⁹⁵ Ibid

³⁹⁶ Money Laundering Regulations 2017, s 28(11)

³⁹⁷ Money Laundering Regulations 2017, s 39

³⁹⁸ Money Laundering Regulations 2017, s 18(1)

³⁹⁹ Money Laundering Regulations 2017, s33(1)(a)

⁴⁰⁰ Financial Action Task Force, 'Criminalising Terrorist Financing, Recommendation 5' (October 2016)

⁴⁰¹ Money Laundering Regulations 2017, s 33(1)(a)

activities to sectors which aren't subject to due diligence measures or only partially obligated.⁴⁰² Therefore, a study was carried out to explore how money launderers avoid AML regulations.⁴⁰³ The study discovered that launderers frequently mentioned underground banking systems and other types of underground networks such as currency exchange networks.⁴⁰⁴ The study found that currency exchange was used by the criminal community to obscure the origins of funds.⁴⁰⁵ Furthermore, it found that there are other underground currency exchange systems operating such as 'Hawala' which also provide money launderers with the same opportunities.⁴⁰⁶ The question that arose was whether Hawaladar operators refrain from carrying out CDD purposefully this has not been answered in the current literature.⁴⁰⁷ Some authors suggest that Hawaladars charge a higher rate for criminal transactions, however, existing research has not found concrete evidence for this.⁴⁰⁸

CDD is an area that informal transfer systems use to their advantage against their formal counterparts.⁴⁰⁹ In Recommendation 5 it clearly states that a financial institute cannot conduct transactions without the appropriate identification.⁴¹⁰ However, there is a common sense approach which provides the understanding that even without proper identification within communities where informal transfer systems operate the operators have a much deeper knowledge of those they are conducting business with than bank officer would have.⁴¹¹ When considering these issues for the Kamaitee system in the interviews conducted it was established that not only do the

⁴⁰² Fabian Maximilian Teichmann and Marie-Christin Falker, 'Money laundering via Underground Currency Exchange Networks' (2021) 29(1) *Journal of Financial Regulation and Compliance* <<https://www.proquest.com/docview/2533675805/fulltextPDF/B8661A1AB5B04E88PQ/1?accountid=14664/>> accessed 2 November 2023

⁴⁰³ Ibid

⁴⁰⁴ Ibid

⁴⁰⁵ Ibid

⁴⁰⁶ Ibid

⁴⁰⁷ Ibid

⁴⁰⁸ Melvin Soudjin, 'Hawala and Money Laundering: Potential use of Red Flags for Persons Offering Hawala Services' (2015) *European Journal on Criminal Policy and Research* <https://www.researchgate.net/publication/266853713_Hawala_and_Money_Laundering_Potential_Use_of_Red_Flags_for_Persons_Offering_Hawala_Services/> accessed 2 November 2023

⁴⁰⁹ Anand Ajay Shah, 'The International Regulation of Informal Value Transfer Systems (2007) *Utrecht Law Review* 2 <https://heinonline.org/HOL/Page?collection=journals&handle=hein.journals/utrecht3&id=372&men_tab=srchresults/> accessed 2 November 2023

⁴¹⁰ Ibid

⁴¹¹ Ibid

operators know the participants well but also that different operators know each other.⁴¹² An interviewee disclosed

“usually, people who run the Kamaitee system kind of have a good network, so you know word travels around not to let a certain person to partake because they don’t meet the requirements, so they missed out on payment for example.”⁴¹³

This informal knowledge of individuals allows operators a much more personalised profile of their clientele.⁴¹⁴ The scope for further questioning arises to identify whether there is a process of due diligence within the Kamaitee system, are there different practices for different people, do they operate differently for PEPs and how would they complete due diligence or relevant checks for a completely new participant.

CDD includes ongoing monitoring and record keeping. Recommendation 10 states the minimum standard which should be maintained is records should be kept for 5 years and when requested by authorities that information can be provided quickly.⁴¹⁵ Also, the information must be presented in a manner which makes it accessible to the local authority; therefore, the format and language must match the country.⁴¹⁶ For Hawala it is commonly known that record keeping is poor or coded.⁴¹⁷ During interviews for this study it was identified that the Kamaitee operator does keep a record. Although, “You might not necessarily see them keep that record but erm they will have a very good record keeping that only they understand”⁴¹⁸ and another interviewee stated that Kamaitee operators would keep a dual record.⁴¹⁹ One which was kept with participants and second that they kept themselves so every time an installment was paid, they made a note on both records.⁴²⁰ This shows a clear variation in the standard of record keeping which currently exists within the Kamaitee system and is entirely at the operator's discretion.

⁴¹² Interview 1 QT

⁴¹³ Ibid

⁴¹⁴ Ibid

⁴¹⁵ Anand Ajay Shah, ‘The International Regulation of Informal Value Transfer Systems (2007) Utrecht Law Review 2

<https://heinonline.org/HOL/Page?collection=journals&handle=hein.journals/utrecht3&id=372&men_tab=srchresults/>accessed 2 November 2023

⁴¹⁶ Ibid

⁴¹⁷ Ibid

⁴¹⁸ Interview 1 QT

⁴¹⁹ Interview 3 FZ

⁴²⁰ Ibid

3.2 Relationship Building and Trust

Although, the Hawala system does not originate from Sharia law it does originate from the Arab world and therefore is steeped in religious and cultural theology and ethics. Islamic finance differs from conventional finance in many ways, as Shariah places an emphasis on the importance of justice, brotherhood, and social welfare.⁴²¹ Therefore, the Hawala system complies with these principles and many researchers suggest it operates based on these principles.⁴²²

A key principle within minority communities and Islamic finance is a common trust amongst members of the community.⁴²³ It is shown that trust is of paramount importance in informal financial regional social networks.⁴²⁴ It plays a pivotal role in rotating credit and saving operations.⁴²⁵ Trust is also seen as a salient component of international value transfer system known as Hawala,⁴²⁶ therefore, many researchers propose that trust is the basis of Hawala⁴²⁷ as it plays an integral role in informal social mechanisms which regulate monetary exchange.⁴²⁸ It is believed that trust alleviates the concern over the delivery of cash and a sense of confidence in the system in the absence of records and allows for imbalances without the request for immediate settlement.⁴²⁹

⁴²¹ Anwer Zaheer, 'Islamic Venture Capital Style – Opportunities and Challenges' (2019) 10(3) *Journal of Islamic Marketing* <<https://www.proquest.com/docview/2287502783?pq-origsite=primo&accountid=14664/>>accessed 2 November 2023

⁴²² Ibid

⁴²³ Ibid

⁴²⁴ Michel Ferrary, 'Trust and social capital in the regulation of lending activities' (2003) 31(6) *Journal of Socio-Economics* <<https://www.sciencedirect.com/science/article/pii/S1053535702001452/>>accessed 2 November 2023

⁴²⁵ Siwan Anderson and Jean-Marie Baland, 'The Economics of Roscas and Intrahousehold Resource Allocation' (2002) *Quarterly journal of economics* <<https://web.s.ebscohost.com/ehost/pdfviewer/pdfviewer?vid=0&sid=c178352d-1cc1-4852-9fd5-1ee7fe7c6e4a%40redis/>>accessed 2 November 2023

⁴²⁶ Maryam Razavy and Kevin D Haggerty, 'Hawala Under Scrutiny: Documentation, Surveillance, and Trust' (2009) *International Political Sociology* <https://academic.oup.com/ips/article/3/2/139/1846800?login=true/>>accessed 2 November 2023

⁴²⁷ Claudius Gräbner and others, 'Trust and Social Control: Sources of Cooperation, Performance, and Stability in Informal Value Transfer Systems' (2021) 58(4) *Computational Economics* <<https://www.proquest.com/docview/2596813233?pq-origsite=primo&accountid=14664/>>accessed 2 November 2023

⁴²⁸ Michel Ferrary, 'Trust and social capital in the regulation of lending activities' (2003) 31(6) *Journal of Socio-Economics* <<https://www.sciencedirect.com/science/article/pii/S1053535702001452/>>accessed 2 November 2023

⁴²⁹ Claudius Gräbner and others, 'Trust and Social Control: Sources of Cooperation, Performance, and Stability in Informal Value Transfer Systems' (2021) 58(4) *Computational Economics* <<https://www.proquest.com/docview/2596813233?pq-origsite=primo&accountid=14664/>>accessed 2 November 2023

The Hawala system, which is sustained through social cohesion, cultural similarities and common beliefs among its members, is dependent on trust to preserve stability within the system, despite the lack of formal security.⁴³⁰ Research shows that informal economic groups create their own social norms and arrangements to stop people from shirking obligations and adopting rules.⁴³¹ These social regulations hold weight in monetary operations such as rotating credit and saving associations.⁴³² Literature shows that it isn't simply trust but also control which ensures people stick to the financial commitments they make.⁴³³ Breaking the commitment, they've made could result in the loss of reputation, breaking social bonds and destroying opportunities for continuing economic activity within traditional communities.⁴³⁴ It is difficult to have control without trust, therefore depending on the organisation control either replaces or compliments trust.⁴³⁵

Recent literature aims to decipher the roles of trust or control within the Hawala system.⁴³⁶ Trust is defined as something which we learn to do and can be applied to interactions with strangers whereas social control is the ability to influence someone's behaviour through sanctions.⁴³⁷ A sanction within the Hawala system is the exclusion of a person from future interactions and the potential of being ostracised from the community which outweighs the potential for opportunistic behaviour.⁴³⁸ Research has found that both trust and control are equally essential as without one it is impossible for the system to operate.⁴³⁹ Trust is needed for a system to be set up, but social control is required for protection.⁴⁴⁰

⁴³⁰ Maryam Razavy and Kevin D Haggerty, 'Hawala Under Scrutiny: Documentation, Surveillance, and Trust' (2009) *International Political Sociology* <https://academic.oup.com/ips/article/3/2/139/1846800?login=true/>>accessed 2 November 2023

⁴³¹ Siwan Anderson and Jean-Marie Baland, 'The Economics of Roscas and Intrahousehold Resource Allocation' (2002) *Quarterly journal of economics* <
<https://web.s.ebscohost.com/ehost/pdfviewer/pdfviewer?vid=0&sid=c178352d-1cc1-4852-9fd5-1ee7fe7c6e4a%40redis/>>accessed 2 November 2023

⁴³² Alexander Lascaux, 'Crowding Out Trust in Informal Monetary Relationships: The Curious Case of Hawala System' (2015) 44(1) *The Forum for Social Economics* <
<https://www.tandfonline.com/doi/full/10.1080/07360932.2014.954250/>>accessed 2 November 2023

⁴³³ Ibid

⁴³⁴ Ibid

⁴³⁵ Ibid

⁴³⁶ Claudius Gräbner and others, 'Trust and Social Control: Sources of Cooperation, Performance, and Stability in Informal Value Transfer Systems' (2021) 58(4) *Computational Economics* <
<https://www.proquest.com/docview/2596813233?pq-origsite=primo&accountid=14664/>>accessed 2 November 2023

⁴³⁷ Ibid

⁴³⁸ Ibid

⁴³⁹ Ibid

⁴⁴⁰ Ibid

There is evidence to show that it is a combination of trust not just with each other but also a lack of trust towards the authorities and that western agencies underestimate the significance and value of trust.⁴⁴¹ Building relationships within the Hawala system naturally occurs between people from the same community or ethnic group, however there is the potential for people from different communities to use their connections to connect and develop relationships with a person from a different community.⁴⁴² Therefore, money can move to multiple countries before ending up at its final destination.⁴⁴³ Irrespective of the definite amount of social control and mutual trust used, deals are successfully made, large payments made without any real security or bookkeeping as all parties know the potential cost of cheating or breaking Hawala norms.⁴⁴⁴ Norms of trust become redundant where social control reigns.⁴⁴⁵

The element of trust associated with Hawala networks provides low transaction costs, cultural friendliness, quick service and increased network efficiency.⁴⁴⁶ There are 4 types of trust; earned trust, verifiable trust, reciprocal trust and calculative trust.⁴⁴⁷ First earned trust is the willingness to rely on an exchange partner who you have confidence in.⁴⁴⁸ Second, verifiable trust where the intention to accept vulnerability is based on the positive expectation from the behaviour of one another.⁴⁴⁹ Third, reciprocal trust where there is reliance on another party to act in circumstances where such action makes one dependent on the other party.⁴⁵⁰ Finally, calculative trust which is the expectation of an outcome based on the expected action of another.⁴⁵¹ The most common type of trust found in a recent study is reciprocal trust.⁴⁵² Respondents identified that parties would only enter a working relationship if they knew the other parties as Hawala networks

⁴⁴¹ Nikos Passas, 'Law enforcement challenges in Hawala Related Investigations' (2004) 12(2) *Journal of Financial Crime* < <https://www.proquest.com/docview/236007509?pq-origsite=primo&accountid=14664/>> accessed 2 November 2023

⁴⁴² *Ibid*

⁴⁴³ *Ibid*

⁴⁴⁴ Alexander Lascaux, 'Crowding Out Trust in Informal Monetary Relationships: The Curious Case of Hawala System' (2015) 44(1) *The Forum for Social Economics* < <https://www.tandfonline.com/doi/full/10.1080/07360932.2014.954250/>> accessed 2 November 2023

⁴⁴⁵ *Ibid*

⁴⁴⁶ Khurram Sharif and others, 'Evolution of Trust in Hawala Networks – Business Relationship Analysis from Inception to Maturity' (2022) 16(1)

⁴⁴⁷ *Ibid*

⁴⁴⁸ *Ibid*

⁴⁴⁹ *Ibid*

⁴⁵⁰ *Ibid*

⁴⁵¹ *Ibid*

⁴⁵² *Ibid*

run on the credibility of people.⁴⁵³ Therefore, it is clear trust is important and exchanges are conducted with tried and tested parties.⁴⁵⁴

The first type of trust is earned trust.⁴⁵⁵ Earned trust is the concept that the right to information has been earned therefore, Hawaladar operators would prove their worth before being exposed to information and ensuring they maintain a level of confidentiality.⁴⁵⁶ Social interactions provide opportunities to identify the trustworthiness of a person as people are party to information in the Hawala newsroom and can show they are able to be trusted.⁴⁵⁷ It is influenced by a person's hard work and how they transact with people as there is the expectation of dealing.⁴⁵⁸ Although, Hawala is a business due to the heavy community links and deep trust it is seen as different to other types of businesses.⁴⁵⁹

The second type of trust is verifiable trust.⁴⁶⁰ Verifiable trust places equal importance on the reputation of a person, their financial conduct and social conduct.⁴⁶¹ A person's community ties are used as evidence to show a person trustworthiness.⁴⁶² There are indications that a person's financial and non-financial performances are inspected to substantiate their trust eligibility.⁴⁶³

The third type of trust is reciprocal trust.⁴⁶⁴ Reciprocal trust is fundamentally dependent on nobility, which includes respect, reputation, community status and religious standing.⁴⁶⁵ Alongside this a person's business and social relationships are inspected to identify whether relationships are managed honourably, amicably and ethically.⁴⁶⁶ Untested Hawaladars are subject to strict financial controls before qualifying for a higher trust position.⁴⁶⁷ They are monitored cautiously, and transactions are limited.⁴⁶⁸ The expectation and earning of noble values stem from honour,

⁴⁵³ Ibid

⁴⁵⁴ Ibid

⁴⁵⁵ Ibid

⁴⁵⁶ Ibid

⁴⁵⁷ Ibid

⁴⁵⁸ Ibid

⁴⁵⁹ Ibid

⁴⁶⁰ Ibid

⁴⁶¹ Ibid

⁴⁶² Ibid

⁴⁶³ Ibid

⁴⁶⁴ Ibid

⁴⁶⁵ Ibid

⁴⁶⁶ Ibid

⁴⁶⁷ Ibid

⁴⁶⁸ Ibid

religious involvement, family prominence and charitable behaviour and these are used as an instrument to increase trust.⁴⁶⁹

The final type of trust is calculative trust.⁴⁷⁰ Calculative trust depends on your social connections.⁴⁷¹ It depends on a person's personal ties which then impacts the different amounts of information they are privy to.⁴⁷²

Research shows trust is the principal eliminator of bureaucracy and formality.⁴⁷³ Trust is developed through 4 elements.⁴⁷⁴ First it is a network environment which is a person's independence and mutual interest.⁴⁷⁵ Second, it is network goals, this is developed through a person's cooperation, communication and flexibility.⁴⁷⁶ Third, it is network values this is developed through social acquaintances, behavioural congruence and ethical similarities.⁴⁷⁷ Fourth, is network culture which is developed through motivational, risk reduction and sharing.⁴⁷⁸

In the early stages of a relationship verifiable and calculative trust are prevalent.⁴⁷⁹ This is as a result of social equity being the main driver for a cost-efficient, close knit and reliable Hawala business. Therefore, relationships and social exchanges are a substantial part of developing trust⁴⁸⁰ and a prominent position in society is used as a trust building instrument.⁴⁸¹ As well as strong community ties which are perceived to be an asset as positive social visibility indicates trustworthiness therefore creating a greater customer base for Hawaladars.⁴⁸² The nature of information shared is dependent on the type of trust present.⁴⁸³ At early stages where calculative or verifiable trust is present it was shown that restricted information was shared.⁴⁸⁴ As higher levels of trust such as reciprocal or earned trust where present higher level of information was shared both informal and formal.⁴⁸⁵

⁴⁶⁹ Ibid

⁴⁷⁰ Ibid

⁴⁷¹ Ibid

⁴⁷² Ibid

⁴⁷³ Ibid

⁴⁷⁴ Ibid

⁴⁷⁵ Ibid

⁴⁷⁶ Ibid

⁴⁷⁷ Ibid

⁴⁷⁸ Ibid

⁴⁷⁹ Ibid

⁴⁸⁰ Ibid

⁴⁸¹ Ibid

⁴⁸² Ibid

⁴⁸³ Ibid

⁴⁸⁴ Ibid

⁴⁸⁵ Ibid

A higher level of trust also increased mutual dependence as in the absence of legal cover it was this trust that became the safety net⁴⁸⁶. Trust and community ties led to a greater sense of shared responsibility during financial hardship members pooled money together to help one another.⁴⁸⁷ The camaraderie created a safety net for difficult times.⁴⁸⁸ There was a strong expectation that favours are returned in different members' hour of need, therefore, there is shared interest and greater cooperation.⁴⁸⁹ Collective trust creates a legal umbrella and replaces the formalities, bureaucracy and monitoring instead it is a flexible and efficient system.⁴⁹⁰ A suggestion is made that formal financial institutions could learn and benefit from learning about the trust which exists in Hawala networks and how they help to keep this network running.⁴⁹¹

As previously mentioned, social status and community relationships are key in the smooth operating of Hawala systems alongside creating unwritten benefits for all parties. To understand how social exchanges and relationships impact the Hawala system literature looks at the influence the social exchange theory has on informal value transfer networks.⁴⁹² It is a popular theory used to understand business exchanges, making it an appropriate theory to employ to analyse informal value transfer networks such as the Hawala system.⁴⁹³

Social exchange theory is the concept that all relationships possess two components, the first is the cost which is the negative value of the relationship and the second is the reward which is the positive value of the relationship.⁴⁹⁴ Social exchanges create an environment where parties predictably behave in a mutually beneficial manner and protect mutual interest.⁴⁹⁵ It provides Hawala networks with a structure and develops a clear shape after repeated mutually beneficial interactions.⁴⁹⁶

⁴⁸⁶ Ibid

⁴⁸⁷ Ibid

⁴⁸⁸ Ibid

⁴⁸⁹ Ibid

⁴⁹⁰ Ibid

⁴⁹¹ Ibid

⁴⁹² Khurram Sharif, and others, 'Analyzing informal value transfer networks through the lens of social exchanges' (2021) 17(3) < <https://www.emerald.com/insight/content/doi/10.1108/SBR-05-2021-0059/full/html>> accessed 2 November 2023

⁴⁹³ Ibid

⁴⁹⁴ Ibid

⁴⁹⁵ Ibid

⁴⁹⁶ Ibid

Hawala operations are reliant on personal relationships, social affiliation, trustworthiness and social status.⁴⁹⁷ Alongside this the adherence to religious and cultural values form the basis of the business code for Hawala networks.⁴⁹⁸ Social closeness and connections are a core value which bind the Hawaladar and service users for a longer period.⁴⁹⁹ This familiarity and closeness usually leads to further trust and a reduced risk of opportunism.⁵⁰⁰ Furthermore, in the instance of fraud or cheating by a Hawala member complete social isolation is exercised.⁵⁰¹ Social exchange theory sets out that members enter relationships, and the desired outcome is unachievable on their own.⁵⁰² Therefore, dependence and reliance are reflected in this relationship.⁵⁰³

Through social exchange theory it is portrayed that the main driver in Hawala networks is trust, with the growth of trust the risks are minimised.⁵⁰⁴ Hawala networks are groups of individuals who engage in economic and non-economic exchanges which are driven by network values.⁵⁰⁵ Network values are founded on the development of close relationships which are based on social, ethnic or behavioural similarities.⁵⁰⁶ The success of Hawala networks is linked to acting as one family with similar norms, ethos and values.⁵⁰⁷

Researchers found respondents were reluctant to speak with interviewers and interviewers had to be careful not to criticise their professional conduct, instead they focused on how they interacted and transacted as part of the Hawala network.⁵⁰⁸ Answers were then evaluated first to find similarities and differences between different respondents' answers to find common themes.⁵⁰⁹ The researchers found that respondents endorsed the importance of trust as even minor suspicions would interrupt business deals and confirmed that exchanges were conducted with tried and tested people.⁵¹⁰ Before creating partnerships members considered social, cultural, ethical and religious elements to find an appropriate fit.⁵¹¹

⁴⁹⁷ Ibid

⁴⁹⁸ Ibid

⁴⁹⁹ Ibid

⁵⁰⁰ Ibid

⁵⁰¹ Ibid

⁵⁰² Ibid

⁵⁰³ Ibid

⁵⁰⁴ Ibid

⁵⁰⁵ Ibid

⁵⁰⁶ Ibid

⁵⁰⁷ Ibid

⁵⁰⁸ Ibid

⁵⁰⁹ Ibid

⁵¹⁰ Ibid

⁵¹¹ Ibid

Respondents highlighted the importance of information, as the base of developing a relationship was reciprocation.⁵¹² They highlighted the critical role of steady performance establishing a long-term relationship, as well as monitoring some members who rely on the credibility of tested parties.⁵¹³ The study confirmed the notion of a Hawala network behaving as one body, although members are independent, there is a reciprocal nature where members are united to perform mutually beneficial actions.⁵¹⁴ This creates watertight arrangements which are unaffected by threats.⁵¹⁵

Social or communal similarities play as an adverse risk and create efficient Hawala transactions.⁵¹⁶ Social and religious values and norms which are built over hundreds of years to create strong roots and anchor a stable and secure network.⁵¹⁷ Religious and familial ties lay the foundation for deep trust, reciprocity and dependence.⁵¹⁸ Within set-ups there are accepted behaviours and expected attitudes which are clearly defined; therefore, going against them is a rarity.⁵¹⁹ Furthermore, earned trust is a fundamental attribute of the system and the backbone of the system.⁵²⁰ Therefore, there is a heavy cost for those who are perceived to betray those who run or use the system.⁵²¹ Through shared cultural values predictable demeanour is formed which minimises risk.⁵²²

Hawala members' philosophy is not just about money it is to create a social wealth which automatically leads to monetary benefits.⁵²³ Religious values paved the route for Hawala success, and the good intentions of its members are what maintained the system.⁵²⁴ Hawaladars are valued for their adherence to serving Islam through sincere conduct.⁵²⁵ A method of earning trust is through respect which is to act in a manner which aligns with Islamic values to preserve their 'hear after' by how they deal with people and their business relationships.⁵²⁶

⁵¹² Ibid

⁵¹³ Ibid

⁵¹⁴ Ibid

⁵¹⁵ Ibid

⁵¹⁶ Ibid

⁵¹⁷ Ibid

⁵¹⁸ Ibid

⁵¹⁹ Ibid

⁵²⁰ Ibid

⁵²¹ Ibid

⁵²² Ibid

⁵²³ Ibid

⁵²⁴ Ibid

⁵²⁵ Ibid

⁵²⁶ Ibid

Clan based comradery is seen as a positive attribute and advertising is mostly conducted through the use of word-of-mouth recommendations.⁵²⁷ It attracts new clientele and enhances the business.⁵²⁸ Hawala can provide tailored services and is the only option for those who can't access formal banks.⁵²⁹ The support amongst its members includes warnings about potential danger or threats are seen as the responsibility of the whole network and seen as a goodwill gesture and this gesture is then owed back.⁵³⁰ Saving gestures is of high value and reflective of the good and loyal disposition of members.⁵³¹ The golden principle of Hawala is a zero tolerance of dishonesty and even minor offences are nipped in the bud.⁵³²

Respondents described Hawala as no hassle, cost efficient and quick nature where they don't have to deal with procedural difficulties of traditional services.⁵³³ Hawala is seen as a practical and convenient choice where money is transferred with minimum fuss.⁵³⁴

Trust is developed in two stages.⁵³⁵ The first is cognitive trust which is based on the credibility and knowledge of a person combined with the intention linked to the faith of members.⁵³⁶ At this stage the cost and ratio are looked at with inherent relational vulnerability.⁵³⁷ The second stage is where behavioural trust is dominant although it coexists with cognitive trust.⁵³⁸ It is based on social exchanges with that person.⁵³⁹ Members transfer to behavioural trust once the good intentions of members have been confirmed.⁵⁴⁰

A second model is considered when evaluating the Hawala network.⁵⁴¹ This is the social reality model and there are 4 classes of people.⁵⁴² First it is the workers who dominates social forces in the environment.⁵⁴³ In a Hawala network this would be the major beneficiaries of the

⁵²⁷ Ibid

⁵²⁸ Ibid

⁵²⁹ Ibid

⁵³⁰ Ibid

⁵³¹ Ibid

⁵³² Ibid

⁵³³ Ibid

⁵³⁴ Ibid

⁵³⁵ Ibid

⁵³⁶ Ibid

⁵³⁷ Ibid

⁵³⁸ Ibid

⁵³⁹ Ibid

⁵⁴⁰ Ibid

⁵⁴¹ Ibid

⁵⁴² Ibid

⁵⁴³ Ibid

system who use it as it is a cheaper and easier method.⁵⁴⁴ Second, it is the warriors who dominate society through financial and political force.⁵⁴⁵ In the Hawala network this would be those people who are trying to police or curtail change usually sponsored by the government.⁵⁴⁶ Third, intellectuals seek to understand society through religious, philosophical or scientific frameworks.⁵⁴⁷ In the Hawala network these are the academics who are involved with ensuring change and development occurs in the Hawala system.⁵⁴⁸ Finally, it is the accumulators who use the social classes to create economic and financial value.⁵⁴⁹ In Hawala networks these would be the formal banks and financial services.⁵⁵⁰

For the Kamaitee system most interviewees when asked how the system operates included the word trust in their answer, one interviewee responded with “the system operates on a trust basis mostly with cash,”⁵⁵¹ this shows the integral role of trust throughout the Kamaitee system. When questioned about what happens when a member does not meet the requirements or expectations most respondents were not personally involved in such a situation but had heard a story but maintained it was rare.⁵⁵² One interviewee responded with “I’ve not come across a case where that happened.”⁵⁵³ When exploring what would happen if someone did default on payments

“I would imagine if it did happen them once they’ve done they wouldn’t be trusted and once they done it they wouldn’t be allowed to partake in the Kamaitee system and usually people who run the Kamaitee system kind of have a good network so you know word travels around not to let a certain person to partake because they don’t meet the requirements so they missed out on payment for example.”⁵⁵⁴

The common theme of community trust and community reputation comes up and was pivotal in interviewees’ responses.

Another aspect was the trust in the Kamaitee operator

⁵⁴⁴ Ibid

⁵⁴⁵ Ibid

⁵⁴⁶ Ibid

⁵⁴⁷ Ibid

⁵⁴⁸ Ibid

⁵⁴⁹ Ibid

⁵⁵⁰ Ibid

⁵⁵¹ Interview 3 FZ

⁵⁵² Ibid

⁵⁵³ Ibid

⁵⁵⁴ Interview 1 QT

“Obviously the Kamaitee person who is running it must make it work and find someone else to replace the person who has left or a person within that Kamaitee system will just put in money every week. And then just take out the money at the end and mathematically work it out. Ultimately, if the Kamaitee operator was unable to replace that person they would make up the amount themselves because the trust and reputation works both ways for participants and operators.”⁵⁵⁵

Lastly,

“I think another thing to bear in mind is that you wouldn’t put a Kamaitee in with people you did not know and err like I mentioned at the start it is all based on relationships and based on trust. So, there is very little, from my personal experience, there is every little room for misunderstanding or miscommunication. The other thing is that there is a Kamaitee holder who is responsible for negotiating and speaking to those people who they are doing the Kamaitee with.”

These responses show the important role that trust, societal reputation and community influence play in the operational functioning of the Kamaitee system.

3.3 Conclusion

This chapter has outlined the different approaches to CDD and that irrespective of which approach is adopted this is the requirement for ongoing monitoring and appropriate identification.⁵⁵⁶ This chapter then highlights the importance understanding the community and how it operates this means there is not a need for procedures such as formal identification when participants have such a personalised knowledge of their clientele.⁵⁵⁷ Within communities such as the Pakistani community in West Yorkshire, the interviews highlighted, that there is depth to the familiarity with the participants as different operators are known to each other, therefore able to share information.⁵⁵⁸ Due to a lack of information this chapter highlights the scope for further

⁵⁵⁵ Ibid

⁵⁵⁶ Anu Arora, *Banking Law* (1st edn, Pearson 2014) 478re

⁵⁵⁷ Anand Ajay Shah, ‘The International Regulation of Informal Value Transfer Systems (2007) *Utrecht Law Review* 2

<https://heinonline.org/HOL/Page?collection=journals&handle=hein.journals/utrecht3&id=372&men_tab=srchresults>accessed 2 November 2023

⁵⁵⁸ Interview 1 QT

questioning to identify whether there is a process of due diligence within the Kamaitee system and what would an appropriate form of CDD for the Kamaitee appear to be.

Alongside monitoring and record keeping, Recommendation 10 states the minimum standard for records.⁵⁵⁹ Existing literature finds that Hawala it is commonly known to have a poor or coded standard of record keeping.⁵⁶⁰ Through interviews carried for this study it was identified that record were kept but there was no universal format or rule for the length of time they are kept for as many of these details are left to the discretion of the operator.⁵⁶¹

The second part of this chapter explores the different forms of trust which exist within informal financial services and how these are developed.⁵⁶² Furthermore, it highlights academic evidence to show that although there is an assumption that it is simply an inherent sense of trust which is relied upon but actually there is a further layer of control which exists in minority communities.⁵⁶³ An in depth understanding of such a community and its inner working is vital to formulate appropriate legal measures and understand legal implications.

⁵⁵⁹ Anand Ajay Shah, 'The International Regulation of Informal Value Transfer Systems (2007) Utrecht Law Review 2 <https://heinonline.org/HOL/Page?collection=journals&handle=hein.journals/utrecht3&id=372&men_tab=srchresults/>accessed 2 November 2023

⁵⁶⁰ Ibid

⁵⁶¹ Interview 1 QT

⁵⁶² Khurram Sharif and others, 'Evolution of Trust in Hawala Networks – Business Relationship Analysis from Inception to Maturity' (2022) 16(1)

⁵⁶³ Khurram Sharif, and others, 'Analyzing informal value transfer networks through the lens of social exchanges' (2021) 17(3) <<https://www.emerald.com/insight/content/doi/10.1108/SBR-05-2021-0059/full/html/>>accessed 2 November 2023

Chapter Three

4.1 Criminal Financing

The term ‘proceeds of crime’ is used for money or assets which are gained through the course of criminal activity.⁵⁶⁴ Within the UK, authorities such as the Crown Prosecution Service (CPS) possess powers to confiscate any proceeds of crime with the aim to portray an image that crime does not pay.⁵⁶⁵ By removing monetary gain or profits the goal is to disrupt the cycle and prevent further offences. The CPS works alongside a range of authorities.⁵⁶⁶ In a recent report by the HM Treasury, it is a clear goal for the government to develop a better understanding of the threat posed by economic crime.⁵⁶⁷

The current legislation requires employees to report suspicious transactions to a money laundering reporting officer who then decides whether a Suspicious Activity Report (SAR) needs to be filed with the National Crime Agency (NCA) who analyse and investigate the report to determine whether there is a legitimate claim.⁵⁶⁸ If a person knows or suspects that an individual is engaged in money laundering and the information has come to them during the course of their business they are required to report it under the Proceeds of Crime Act 2002.⁵⁶⁹ The information provided through SARs is vital in identifying criminal financial activity.⁵⁷⁰ An example is given in a NCA report in 2020 where the information provided in a SAR led investigators to believe that the subject under investigation may be part of a wider organised crime group and they are employing business accounts to launder money.⁵⁷¹

There is an inherent link between criminal financing and money laundering which receives a lot of attention, but there are other types of crimes associated with financial crimes.⁵⁷² Mazumder

⁵⁶⁴ Crown Prosecution Service, ‘Proceeds of Crime’ <<https://www.cps.gov.uk/crime-info/proceeds-crime/>> accessed 2 November 2023

⁵⁶⁵ Ibid

⁵⁶⁶ Ibid

⁵⁶⁷ Treasury Committee, ‘*Economic Crime*’ (2022) part 23

⁵⁶⁸ CILEx Regulation, ‘Your Anti-Money Laundering Obligations and the Reporting of Suspicious Activity’ (2018) <https://cilexregulation.org.uk/wp-content/uploads/2018/11/Cilex-doc-8-Your-Anti-money-Laundering-Obligations-and-the-Reporting-of-Suspicious-Activity-1.pdf>> accessed 27 November 2023

⁵⁶⁹ Ibid

⁵⁷⁰ Ibid

⁵⁷¹ National Crime Agency, ‘SARs Reporter Booklet’ (March 2020)

⁵⁷² Rabia Muhammad Amjad, ‘Non-linear impact of globalization on financial crimes: a case of developing economies’ (2022) 25(2) *Journal of Money Laundering Control* <<https://plus.lexis.com/uk/document/?pdocfullpath=%2Fshared%2Fdocument%2Fbooks-journals-uk%2Furn%3AcontentItem%3A65C6-DHD3-GXF6-80B9-00000->

et al (2017)⁵⁷³ acknowledges several other types of crimes linked to financial crimes these are terrorist financing, bribery, corruption, sanction breaches and insider trading.⁵⁷⁴ Global efforts to combat financial crimes involve many organisations such as the UN, World Bank and the International Monetary Fund helping to create stricter regulations.⁵⁷⁵ With their participation FATF, an intergovernmental institution initially recognised in 1989, was established to ensure the implementation of regulations and laws which combat crimes that are a danger to the international financial system.⁵⁷⁶ When created FATF published 40 general recommendations, and then some further special recommendations for terror financing, which if governments did not comply with, they would be blacklisted.⁵⁷⁷ In 2011 a United Nations Office on Drugs and Crime (UNODC) report showed that the sale of illegal drugs was the highest crime being committed, followed by money laundering and then the crime of smuggling.⁵⁷⁸ This point is reiterated when researching the cross-border flow of capital where the funds are generated from criminal activity as the highest amount is generated from the sale of drugs, counterfeit goods, counterfeit money, human trafficking, illegal arms trade, smuggling and racketeering.⁵⁷⁹ The same research concluded that a third of money acquired through illegal activities is generated from criminal activities, but two thirds is generated from activities that are commercial in nature.⁵⁸⁰ This shows that although the majority of research focuses on money laundering there are other crimes which generate a larger amount.⁵⁸¹

With regards to financial crimes, Thakkar⁵⁸² states the effects of financial crimes are vast as many problems are caused when illegal money is made to look legitimate it encourages criminals to continue to operate for a large profit.⁵⁸³ Financial crimes disrupt the flow of the

00&selectedTocLevelKey=TAACAABAADAABAABI&crid=69634139-8144-49e6-97b0-64056a48a6e4&federationidp=V2PNTN59413&cbc=0%2C0 />accessed 2 November 2023

⁵⁷³ Ibid

⁵⁷⁴ Ibid

⁵⁷⁵ Ibid

⁵⁷⁶ Ibid

⁵⁷⁷ Ibid

⁵⁷⁸ Ibid

⁵⁷⁹ Ibid

⁵⁸⁰ Ibid

⁵⁸¹ Ibid

⁵⁸² Lowell Christopher Matthews and Bharat S Thakkar, 'The Impact of Globalization on Cross-Culture Communication' in Hector Cuadra-Montiel (ed), *Globalization - Education and Management Agendas* (Intech Open 2012)

⁵⁸³ Rabia Muhammad Amjad, 'Non-linear impact of globalization on financial crimes: a case of developing economies' (2022) 25(2) *Journal of Money Laundering Control* <
<https://plus.lexis.com/uk/document/?pdocfullpath=%2Fshared%2Fdocument%2Fbooks-journals->

financial system because the sale of drugs increase the general rate of crime in society and finances terrorist organisations.⁵⁸⁴ The global economy depends on financial institutes to operate and the responsibility of financial institutions to operate ethically has a direct impact on their reputation.⁵⁸⁵ If financial institutes are dealing in illegitimate activities, it impacts their integrity which leads to a risk of bringing their reputation into disrepute.⁵⁸⁶ Financial crimes depend on investors who are rewarded financially which heightens crime in society whilst legitimising funds and concealing their origin, this can affect the accuracy of data leading to unsuitable policies being developed.⁵⁸⁷ Elliott⁵⁸⁸ reported that the opportunity for criminals to conduct illicit affairs was extended due to globalisation and has made it difficult to detect.⁵⁸⁹ A study pertaining to Pakistan found that criminal activities influence money laundering which has a negative impact on the economy as it devalues capital, reduces economic growth, changes the rate of interest, causes inflation and encourages fewer investments.⁵⁹⁰

With regards to informal financial systems, research shows that it is difficult to regulate informal systems without sending the systems further underground.⁵⁹¹ As a result, there is a view that the international community must show informal finance transfer operators and participants

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⁵⁸⁴ Ibid

⁵⁸⁵ Ibid

⁵⁸⁶ Lowell Christopher Matthews and Bharat S Thakkar, 'The Impact of Globalization on Cross-Culture Communication' in Hector Cuadra-Montiel (ed), *Globalization - Education and Management Agendas* (Intech Open 2012)

⁵⁸⁷ Rabia Muhammad Amjad, 'Non-linear impact of globalization on financial crimes: a case of developing economies' (2022) 25(2) *Journal of Money Laundering Control* <

<https://plus.lexis.com/uk/document/?pdocfullpath=%2Fshared%2Fdocument%2Fbooks-journals-uk%2Furn%3AcontentItem%3A65C6-DHD3-GXF6-80B9-00000-00&selectedTocLevelKey=TAACAABAADAABAABI&crd=69634139-8144-49e6-97b0-64056a48a6e4&federationidp=V2PNTN59413&cbc=0%2C0> />accessed 2 November 2023

⁵⁸⁸ Kimberley Ann Elliott, 'Corruption as International Policy Problem' in Arnold I. Heidenheimer and Michael Johnston (eds) *Political Corruption Concepts and Context* (Routledge, 2017)

⁵⁸⁹ Rabia Muhammad Amjad, 'Non-linear impact of globalization on financial crimes: a case of developing economies' (2022) 25(2) *Journal of Money Laundering Control* <

<https://plus.lexis.com/uk/document/?pdocfullpath=%2Fshared%2Fdocument%2Fbooks-journals-uk%2Furn%3AcontentItem%3A65C6-DHD3-GXF6-80B9-00000-00&selectedTocLevelKey=TAACAABAADAABAABI&crd=69634139-8144-49e6-97b0-64056a48a6e4&federationidp=V2PNTN59413&cbc=0%2C0> />accessed 2 November 2023

⁵⁹⁰ Ibid

⁵⁹¹ Bruce Zagaris, 'Problems applying traditional anti-money laundering procedures to non-financial transactions, "parallel banking systems" and Islamic financial systems' (2007) 10(2)

<https://www.proquest.com/docview/235884477?accountid=14664&pq-origsite=primo&parentSessionId=FLhuegwTFDJ23B41B7%2BMmD740qU2nfyXdCTLwVbvbWM%3D/>>accessed 2 November 2023

that the benefits of regulation outweigh the costs.⁵⁹² Furthermore, the supervisory and regulatory guidelines must consider local circumstances therefore they may need to use multiple approaches to promote formal options.⁵⁹³ Although academics have identified that most funds within the Hawala system are from legitimate means, it provides a potential opportunity for criminals to launder their funds.⁵⁹⁴ Investigations by the NCA identified an informal value system which had been used to launder funds and around £100,000 has been obtained.⁵⁹⁵ Therefore, ideally through appropriate forms of licensing or suitable registration processes this opportunity should be minimised.⁵⁹⁶ Furthermore, the current information is reflective of the Hawala system, which creates a lack of academic literature and information specifically relevant to the Kamaitee system.

As previously stated, to tackle the potential of crimes being committed through Hawala the requirement for all Hawaladars to register was created.⁵⁹⁷ As a requirement of registration, Hawaladars must keep a record of customers, transactions and report suspicious activities.⁵⁹⁸ The failure to register or adhere to AML regulations could result in a Hawala being shut down.⁵⁹⁹ This expectation exists across Europe and the failure to do so would result in the Hawala service being rendered illegal.⁶⁰⁰ Although, there is a requirement for Hawaladars to register the standard of record keeping and accounting is very weak or nonexistent.⁶⁰¹ Passas found that records of transactions and customers were rarely kept and when they were they were not kept for a particular length of time and were written in a specific ethnic dialect.⁶⁰²

⁵⁹² Ibid

⁵⁹³ Ibid

⁵⁹⁴ Robert Looney, 'Hawala: The Terrorist's Informal Financial Mechanism' (2003) 10(1) Middle East Policy <<https://www.proquest.com/docview/203662623?pq-origsite=primo&accountid=14664/>>accessed 2 November 2023

⁵⁹⁵ National Crime Agency, 'SARs Reporter Booklet' (March 2020)

⁵⁹⁶ Robert Looney, 'Hawala: The Terrorist's Informal Financial Mechanism' (2003) 10(1) Middle East Policy <<https://www.proquest.com/docview/203662623?pq-origsite=primo&accountid=14664/>>accessed 2 November 2023

⁵⁹⁷ Ibid

⁵⁹⁸ Ibid

⁵⁹⁹ Nurhannani Fazlur Rahman, 'The viability of international anti-criminal finance frameworks' (2019) 22(3) Journal of Money Laundering Control 174 <

<https://www.proquest.com/docview/2262638849?accountid=14664/>>accessed 2 November 2023

⁶⁰⁰ EU 2015

⁶⁰¹ Bruce Zagaris, 'Problems applying traditional anti-money laundering procedures to non-financial transactions, "parallel banking systems" and Islamic financial systems' (2007) 10(2) <https://www.proquest.com/docview/235884477?accountid=14664&pq-origsite=primo&parentSessionId=FLhuegwTFDJ23B4IB7%2BMmD740qU2nfyXdCTLwVbvbWM%3D/>>accessed 2 November 2023

⁶⁰² Nurhannani Fazlur Rahman, 'The viability of international anti-criminal finance frameworks' (2019) 22(3) Journal of Money Laundering Control 12

<<https://www.proquest.com/docview/2262638849?accountid=14664/>>accessed 2 November 2023

As a result of international concern surrounding crime and Hawala, Passas (2004) devised a list of indicators which would aid a person to identify if there criminal abuse of a Hawala is taking place.⁶⁰³ The list of indicators are different recording methods for some clients, not keeping a record of certain transactions, large sums being transferred daily, large sums being from a single customer, different collection methods, transactions being divergent from the usual pattern, transfers are to traders or companies who engage in a very different type of business, transfers are made to the accounts of individuals or businesses who are involved in illegal activities, practices do not make economic sense, and the commission that is charged is different compared to the amount charged to ordinary clients.⁶⁰⁴ First, the absence of record keeping, the norms for Hawaladars was to keep a record of the client's name, amount sent, exchange rate, the name of the recipient and the Hawaladar who would receive the money.⁶⁰⁵ The length of time these records were kept varied widely but many threw it away as soon as the matter had been settled.⁶⁰⁶ This could be as the records may provide evidence of wrongdoing.⁶⁰⁷ When a Hawaladar has a method of recording it does not make sense to change it therefore a change in the method of record keeping or a lack of detail for a transaction could also be an indicator of illegal activity.⁶⁰⁸ Second, where no records are kept, or codes are used it could suggest the potential involvement of criminal activity as when large amounts are moved it would simply make sense to keep a record in case mistakes occur.⁶⁰⁹ Third, large amounts being transferred daily, whether from the same client or different, are an indicator for the same reasons as the question which arises is where such large amounts are being raised from.⁶¹⁰ In many legitimate jobs there is not a method of raising such large amounts daily, and a further point to acknowledge is that not all the money raised by an individual is sent as a business or person living has costs so the amount being sent is surplus.⁶¹¹ Therefore, this could

⁶⁰³ Nikos Passas, 'indicators of Hawala Operations and Criminal Abuse' (2004) 8(2) Journal of Money Laundering Control
<<https://www.proquest.com/docview/235909313/fulltextPDF/44AC0C54682748C5PQ/1?accountid=14664&parentSessionId=Jvvn%2Btzn3Yd3SGZTE%2FIhTND7OucdQLonBgAbQxwcfg0%3D&parentSessionId=SgFhy6eo68jUJCEPu3C%2BfPN3SKVfpAM2Bh6m0rZpjDI%3D/>>accessed 2 November 2023

⁶⁰⁴ Ibid

⁶⁰⁵ Ibid

⁶⁰⁶ Ibid

⁶⁰⁷ Ibid

⁶⁰⁸ Ibid

⁶⁰⁹ Ibid

⁶¹⁰ Ibid

⁶¹¹ Ibid

indicate that the money is earned illegally or through criminal activity.⁶¹² Fourth, different collection methods are an indicator for the same reason as the record keeping, when there is a system that works such as transferring using a bank, why would a customer transfer whilst using a different method especially if it is a large amount, there are risks with moving large amounts of cash.⁶¹³ In the report Passas uses the example of a Hawaladar receiving £700,000 in cash per day.⁶¹⁴ Alongside the physical risks, there were also questions about where the money was given to a courier, and using a courier to collect the money incurs another cost as well as the cost of sending it to Informal Value Transfer Systems (IVTS) they'll be charged the fee.⁶¹⁵ Fifth, transactions which are different from the norm raise suspicion as individuals usually send money on a regular basis.⁶¹⁶ Sixth when sending funds to traders or companies in a different business it can indicate a legitimate third-party settlement or that a transaction is an attempt to hide something.⁶¹⁷ Seventh, the transfer to the accounts of individuals involved in illegal activities could very easily be linked to illegitimate activities.⁶¹⁸ Eighth, any time a practice which does not make economic sense is indicative of illegal activity, what other purpose would there be for using a method of transfer which is expensive, burdensome and has risks involved.⁶¹⁹ Finally, the difference in the amount charged for the service could indicate as higher rate could indicate the risk being taken by the Hawaladar as individuals already pay a fee for the use of a Hawala, this raises the question why an individual would be willing to pay an even higher amount therefore raising suspicion of the legality of the funds.⁶²⁰

Analysing the Kamaitee system under the telescope of Passas's indicators shows that some are not applicable to the Kamaitee system as it operates differently to the Hawala system. During the interviews conducted for this study one of the participants was an individual who runs a Kamaitee network.⁶²¹ Using the information collected through this individual's interview it is clear that the indicators which do apply to the Kamaitee system are the different methods of recording for some clients, no recording of certain transactions, large sums from one single customer,

⁶¹² Ibid

⁶¹³ Ibid

⁶¹⁴ Ibid

⁶¹⁵ Ibid

⁶¹⁶ Ibid

⁶¹⁷ Ibid

⁶¹⁸ Ibid

⁶¹⁹ Ibid

⁶²⁰ Ibid

⁶²¹ Ibid

different collective methods, the possibility of transfers to the account of individuals who are involved in illegal activities and practices which do not make economic sense.⁶²² The interviewee was able to explain legitimate reasons for these indicators. First, different methods of recording are used for different clients due to the client's needs⁶²³

“Some clients are very good at remembering and will always pay and I do not have to speak to them much but clients are forgetful so they will forget to pay one month. To make this easier where I have forgetful clients, I will keep a record in case we need to refer to it any point but with easier customers I don't do this because I know I can rely on them.”⁶²⁴

This also explains the second indicator why a Kamaitee operator may not record certain transactions⁶²⁵ because they do not feel they will need the record at any point and feel comfortable with that client

“if a person has had a Kamaitee with me for many years and I have never had an issue then it seems normal to me that I wouldn't keep a record but if I have someone new or someone who I have had issues with before obviously I'll keep a record.”⁶²⁶

When exploring the possibility of one individual handing over a large sum of money⁶²⁷ again the Kamaitee operator explained

“a person can have more than one Kamaitee with me. So, a Kamaitee is one of the lump sums which could be £5000 or £10,000 but if a person needs more money, they can pay for more than one lump sum and receive more back. So, then I would expect them to pay £1000 for 2 if everyone else is paying £500 and sometimes people have even more than that.”⁶²⁸

⁶²² Ibid

⁶²³ Ibid

⁶²⁴ Interview 2 FA

⁶²⁵ Nikos Passas, 'indicators of Hawala Operations and Criminal Abuse' (2004) 8(2) Journal of Money Laundering Control

<<https://www.proquest.com/docview/235909313/fulltextPDF/44AC0C54682748C5PQ/1?accountid=14664&parentSessionId=Jvvn%2Btzn3Yd3SGZTE%2FIhTND7OucdQLonBgAbQxwcfg0%3D&parentSessionId=SgFhy6eo68jUJCEPu3C%2BfPN3SKVfpAM2Bh6m0rZpjDI%3D/>>accessed 2 November 2023

⁶²⁶ Interview 2 FA

⁶²⁷ Nikos Passas, 'indicators of Hawala Operations and Criminal Abuse' (2004) 8(2) Journal of Money Laundering Control

<<https://www.proquest.com/docview/235909313/fulltextPDF/44AC0C54682748C5PQ/1?accountid=14664&parentSessionId=Jvvn%2Btzn3Yd3SGZTE%2FIhTND7OucdQLonBgAbQxwcfg0%3D&parentSessionId=SgFhy6eo68jUJCEPu3C%2BfPN3SKVfpAM2Bh6m0rZpjDI%3D/>>accessed 2 November 2023

⁶²⁸ Interview 2 FA

When discussing different collective methods,⁶²⁹ the operator explained

“some people earn money legally but through cash such as shop keepers, taxi drivers, plumbers and electricians so then they pay in me cash why would they put the money in a bank and then transfer it to. I mostly pay people in cash, so this is easiest for everyone. If someone doesn’t have time to give it to me, they might send it via bank transfer but then I still would have to withdraw it and give it to whose turn it is to receive the lump sum. So again, cash just makes more sense.”⁶³⁰

When questioned about illegal funds or funds ending up in the account or in possession of a person who is involved in illegal activities⁶³¹

“well everyone who uses it I know them or someone I know knows them and all of them have proper legal jobs like the ones I mentioned but obviously when they receive the lump they could give it someone who is involved in illegal activities but I don’t have control over that. Also, they could be giving it for a legal reason, they could be paying back a loan or helping them pay or something.”⁶³²

Finally, as a saving technique Kamaitee may not make economic sense, a reason identified by academics for Kamaitee not making economic sense is that the person who ends up the money at the end gets lets due to inflation rates as the money is worth less. The operator explained

“there are ways to make more money like putting it in an investment account, but this method of saving is something people have used for generations, so people like to stick to what they know. Plus, there isn't a risk involved in this from a financial point but also because they trust me and the system. In their eyes they won't lose any physical money as they will get the complete amount they put in even if it's worth a little less.”⁶³³

⁶²⁹ Nikos Passas, ‘indicators of Hawala Operations and Criminal Abuse’ (2004) 8(2) Journal of Money Laundering Control

<<https://www.proquest.com/docview/235909313/fulltextPDF/44AC0C54682748C5PQ/1?accountid=14664&parentSessionId=Jvvn%2Btzn3Yd3SGZTE%2FIhTND7OucdQLonBgAbQxwcfg0%3D&parentSessionId=SgFhy6eo68jUJCEPu3C%2BfPN3SKVfpAM2Bh6m0rZpjDI%3D/>>accessed 2 November 2023Ibid

⁶³⁰ Interview 2 FA

⁶³¹ Nikos Passas, ‘indicators of Hawala Operations and Criminal Abuse’ (2004) 8(2) Journal of Money Laundering Control

<<https://www.proquest.com/docview/235909313/fulltextPDF/44AC0C54682748C5PQ/1?accountid=14664&parentSessionId=Jvvn%2Btzn3Yd3SGZTE%2FIhTND7OucdQLonBgAbQxwcfg0%3D&parentSessionId=SgFhy6eo68jUJCEPu3C%2BfPN3SKVfpAM2Bh6m0rZpjDI%3D/>>accessed 2 November 2023Ibid

⁶³² Interview 2 FA

⁶³³ Interview 2 FA

Furthermore, research has identified that Hawaladars relied on ethnic trust and reputation to assume security and did not require clients to identify themselves properly. The presence of cultural expectations and the ability to provide anonymity resulted in Hawaladars not registering, carrying out due diligence or reporting suspicious activities to maintain an assumed contract of trust between members of the community.⁶³⁴ Therefore, challenges are encountered whilst implementing regulations.⁶³⁵ As the informal sector has a history of being independent and possessing the ability to self-regulate, incentives for compliance are undermined by the weak and complicated nature of prosecution of financial crimes.⁶³⁶ The premise that informal systems operate themselves also exists in the Kamaitee system as an interviewee explained they are satisfied with the knowledge that the Kamaitee operator would sort out any issues or problems that may arise. When discussing someone not paying

“Obviously the Kamaitee person who is running it has to make it work and find someone else to replace the person who has left or a person within that Kamaitee system will just put in money every week. And then just take out the money at the end and mathematically work it out.”⁶³⁷

Furthermore, when explaining how it operates the interviewee responded

“the other thing is that there is a Kamaitee holder responsible for negotiating and speaking to those people who they are doing the Kamaitee with. So, for example, someone might want the Kamaitee one week but someone else might be urgent week and so they will take it that week... and then the Kamaitee member will choose a different person for that week. A lot of negotiating being open and being considerate of other people as well. And the final word is always the Kamaitee members.”⁶³⁸

⁶³⁴ Nurhannani Fazlur Rahman, ‘The viability of international anti-criminal finance frameworks’ (2019) 22(3) *Journal of Money Laundering Control* 174

<<https://www.proquest.com/docview/2262638849?accountid=14664/>>accessed 2 November 2023

⁶³⁵ Bruce Zagaris, ‘Problems applying traditional anti-money laundering procedures to non-financial transactions, “parallel banking systems” and Islamic financial systems’ (2007) 10(2) <https://www.proquest.com/docview/235884477?accountid=14664&pq-origsite=primo&parentSessionId=FLhuegwTFDJ23B4IB7%2BMmD740qU2nfyXdCTLwVbvbWM%3D/>>accessed 2 November 2023

⁶³⁶ Ibid

⁶³⁷ Interviewee 1 QT

⁶³⁸ Interviewee 1 QT

Overall, the formal financial sector's reliance on bureaucracy, the lack of knowledge and understanding of community relationships makes legal avenues counterproductive and unsustainable to regulate financial crimes, particularly when discussing mass migration.⁶³⁹ As previously mentioned Hawaladars rely heavily on social capital and reputation within the community to drive their business, therefore carrying out due diligence and know your customer protocols could harm their business.⁶⁴⁰ As a result, regulations are required to be tailored so they do not reduce the social capital of Hawaladars.⁶⁴¹ An example would be for a Hawaladar to dissuade clients from criminal financing rather than reporting suspicious activities.⁶⁴²

The reliance on the rule of law and human rights is seen as good for people and businesses; opposite values such as corruption, crime and terrorism are equally as bad for them.⁶⁴³ Criminal activities are linked to corruption and enable individuals to evade tax and undermine governments, whilst encouraging bribery of public servants and politicians.⁶⁴⁴ The weakness of the economic system and public administrators perpetuates these problems.⁶⁴⁵ A corrupt and criminal environment disturbs the legitimate options, whilst discouraging direct investments and diminishing the rate of growth.⁶⁴⁶ It creates a barrier for normal businesses operating under the rule of law.⁶⁴⁷ Although criminal money can be reinvested in the official economy, criminals are unlikely to separate their money from their methods and the business community will in essence pay a second tax which is the cost of the fight against crime and corruption.⁶⁴⁸

As well as analysing literature about Hawala systems, there are also alternative informal value systems belonging to other minority communities, we can identify issues which have arisen in those systems. The National Crime Agency (NCA) has created documents which support financial investigators to carry out any orders under the proceeds of the Crime Act 2002.⁶⁴⁹ The

⁶³⁹ Nurhannani Fazlur Rahman, 'The viability of international anti-criminal finance frameworks' (2019) 22(3) *Journal of Money Laundering Control* 174
<<https://www.proquest.com/docview/2262638849?accountid=14664/>>accessed 2 November 2023

⁶⁴⁰ Ibid

⁶⁴¹ Ibid

⁶⁴² Ibid

⁶⁴³ Patrick Hardouin, 'Banks governance and public-private partnership in preventing and confronting organized crime, corruption and terrorism financing' (2009) 16(3) *Journal of Financial Crime*
<https://www.proquest.com/docview/235999538?pq-origsite=primo&accountid=14666/>>accessed 2 November 2023

⁶⁴⁴ Ibid

⁶⁴⁵ Ibid

⁶⁴⁶ Ibid

⁶⁴⁷ Ibid

⁶⁴⁸ Ibid

⁶⁴⁹ National Crime Agency, *Chinese Underground Banking and Daigou* (October 2019)

Chinese diaspora is restricted within regards to financial movements due to State Administration of Foreign Exchange as it prevents individuals from removing the proceeds of sales from China.⁶⁵⁰ Therefore, Chinese citizens are likely to use an informal value system known as ‘Daigou’ which operates in a similar manner to the Hawala system.⁶⁵¹ The NCA identified that the growing prominence of Daigou has increased the exploitation of Her Majesty Revenues and Customs VAT (HMRC) (407) retail export scheme.⁶⁵² This scheme allows VAT to be reclaimed on goods purchased at retail stores in the UK which are purchased to be exported.⁶⁵³ The Daigou system operates similarly to the Hawala system when investigated potential crimes were identified and then changes were made.⁶⁵⁴ This allows for there to be similar concerns surrounding the Hawala system and therefore should be explored in a similar manner.

Similarly, to the Daigou system the Hawala system is an informal transfer system. In 2016 it was reported that Pakistan received 20 billion dollars through informal transfer systems.⁶⁵⁵ As the Kamaitee system is used by the Pakistani diaspora it is important to analyse the Pakistani economy and its issues with financial crimes.⁶⁵⁶ Corruption is a major challenge for developing countries.⁶⁵⁷ As Pakistan’s trade and financial systems are key channels of moving value in and out of the country it is therefore the first line of defence against the exfiltration of corrupt proceeds from Pakistan.⁶⁵⁸ This relates to both formal financial systems and informal value transfer systems known as Hawala.⁶⁵⁹ Although, Hawala is prohibited by law in Pakistan it is still

⁶⁵⁰ Ibid

⁶⁵¹ Ibid

⁶⁵² Ibid

⁶⁵³ Ibid

⁶⁵⁴ Ibid

⁶⁵⁵ Muni Ahmad Zia, ‘Money laundering and terror financing: issues and challenges in Pakistan’ (2022) 25(1) *Journal of Money Laundering Control* <https://www.proquest.com/docview/2614677484?pq-origsite=primo&accountid=14664/>>accessed 2 November 2023

⁶⁵⁶ quote from interviews

⁶⁵⁷ Tom Keatinge and Anton Moiseienko, ‘Security Through Financial Integrity: Mending Pakistan’s Leaky Sieve’, *Occasional Papers*, 23 May 2019, Royal United Services Institute for Defence and Security Studies <<https://rusi.org/explore-our-research/publications/occasional-papers/security-through-financial-integrity-mending-pakistans-leaky-sieve/>>accessed 2 November 2023

⁶⁵⁸ Tom Keatinge and Anton Moiseienko, ‘Security Through Financial Integrity: Mending Pakistan’s Leaky Sieve’, *Occasional Papers*, 23 May 2019, Royal United Services Institute for Defence and Security Studies <<https://rusi.org/explore-our-research/publications/occasional-papers/security-through-financial-integrity-mending-pakistans-leaky-sieve/>>accessed 2 November 2023

⁶⁵⁹ Ibid

widespread, therefore it is essential to increase financial crime compliance standards in regulated businesses and enforce action against Hawaladars operating illegally.⁶⁶⁰

The Kamaitee system in Pakistan has been subject to financial crimes.⁶⁶¹ Risks include situations where the person who receives the first lump sum could then default on payments or that they have the advantage as the following months will be worth less due to inflation and depreciation in the value of the currency.⁶⁶² Similarly, the final recipient will receive an amount with the purchasing power of their lump sum having substantially eroded.⁶⁶³ A specific case includes a woman known as Sidra Humaid who set up Kamaitee system using social media and then defaulted on 420 million Pakistani Rupees.⁶⁶⁴ Regardless of the possible risks, it is such a popular mode of saving that an online version has been set up to attempt to combat potential financial crimes.⁶⁶⁵

The Kamaitee system has gained its popularity among Pakistani citizens for a multitude of reasons. The most prominent being the flexibility within the system, as it is a community-based system there is scope for potential change.⁶⁶⁶ Another key reason is the absence of interest, which is expected to be paid when borrowing from a traditional bank.⁶⁶⁷ Additionally, as it operates using cash this makes it more accessible for citizens whilst simultaneously increasing potential risks.⁶⁶⁸

As there does not seem to be a reduction in the popularity of the Kamaitee system, in Pakistan there has been an attempt to use the Kamaitee system for good.⁶⁶⁹ An example is that The National Center for Medicine where they used the system to aid women to save money for health treatments.⁶⁷⁰ For a variety of reasons, in rural areas of Pakistan it is difficult access health care

⁶⁶⁰ Ibid

⁶⁶¹ Yusra Salim, 'Scam by committee: beware who you trust online' (The Express Tribune, 11 December 2022) <<https://tribune.com.pk/story/2390548/scam-by-committee-beware-who-you-trust-online/>> accessed 2 November 2022

⁶⁶² Ibid

⁶⁶³ Mutaher Khan and Halima Iqbal, 'The Fault in Our Committees' (*Dawn*, 12 December 2022) <<https://www.dawn.com/news/1725956/>> accessed 2 November 2023

⁶⁶⁴ Ibid

⁶⁶⁵ 'Oraan Committee Protection Plan', (Hemayah EFU Family Takaful, 2021) <<https://www.efuhemayahatakaful.com/wp-content/uploads/2021/02/oraan-committee-protection-plan.pdf/>> accessed 26 November 2023

⁶⁶⁶ Interview 1 QT

⁶⁶⁷ Ibid

⁶⁶⁸ Ibid

⁶⁶⁹ Barbar Tasnim Shaikh and others, 'Community based saving groups: an innovative approach to overcome the financial and social barriers in health care seeking by the women in the rural remote communities of Pakistan' (2017) 75(1) Archives of Public Health < <https://pubmed.ncbi.nlm.nih.gov/28808567/>> accessed 2 November 2023

⁶⁷⁰ Ibid

which is provided by a skilled medical professional for mothers, newborns and children.⁶⁷¹ The study set to achieve a couple of targets.⁶⁷² The first was for women to use community-based saving groups, such as the Kamaitee system, to provide the financial aid for expecting mothers to pay for their medical expenses.⁶⁷³ The system simultaneously enabled the study to train literate women within the community to be community midwives.⁶⁷⁴ This study was able to capture the perceptions, and subsequently use them to improve the lives of locals, to overcome financial barriers in seeking health care, and to inform them of services and their availability.⁶⁷⁵

Furthermore, Pakistan's economic worries center on low investment rates and savings in the country.⁶⁷⁶ Comparably with their neighboring countries they score much lower in terms of investment rates.⁶⁷⁷ Pakistan has for many years been in a loop of low savings and low rates of investment which has gravely hindered its economic growth.⁶⁷⁸ As there are low savings it means there is a low volume of investable funds, therefore low investments result in low growth or growth spurts remaining unsustainable, and low growth generates fewer savings nationally.⁶⁷⁹ Unsurprisingly, Pakistan's high growth periods correlate with inflows of foreign savings.⁶⁸⁰ Consequently, when the inflow has dried up, economic growth has slid back as domestic savings and investment were not the reason for the growth and could not maintain it.⁶⁸¹

The first reason for low saving levels is associated with income as economic literature provides the consensus that people with lower incomes have a lower tendency to save and Pakistan's low GDP growth is reason for the lower levels of savings.⁶⁸² The second reason for the low level of savings is the high inflation rates.⁶⁸³ As high inflation rates reduce the value of savings.⁶⁸⁴ In Pakistan there is clear evidence which shows the negative association between

⁶⁷¹ Ibid

⁶⁷² Ibid

⁶⁷³ Ibid

⁶⁷⁴ Ibid

⁶⁷⁵ Ibid

⁶⁷⁶ Amjad Ali, 'Saving and Investment in Pakistan' (2016) State Bank of Pakistan <https://www.sbp.org.pk/publications/staff-notes/SavingInvestmentStaffNote-Jan-16.pdf>>accessed 2 November 2023

⁶⁷⁷ Ibid

⁶⁷⁸ Ibid

⁶⁷⁹ Ibid

⁶⁸⁰ Ibid

⁶⁸¹ Ibid

⁶⁸² Ibid

⁶⁸³ Ibid

⁶⁸⁴ Ibid

inflation and saving rates.⁶⁸⁵ The third reason is the rate of return on savings as data for Pakistan suggests the national saving rates follow the real interest rates.⁶⁸⁶ While these three reasons are factors for low rate of savings there are also structural factors which have kept savings rates low in Pakistan.⁶⁸⁷ Empirical literature shows that education, financial deepening, culture, religion, and demographic of the people are major factors which affect the private savings rate.⁶⁸⁸

Although, there is low level of saving through financial institutions in Pakistan, financial systems such as the Kamaitee system are in part popular because such a sizable portion of the population do not have bank accounts.⁶⁸⁹ Pakistan has the lowest financial inclusion rates in the world with 79% of the population operating outside the formal banking system.⁶⁹⁰ Although, it is generally something which affects a substantial portion of the population it disproportionately affects women as only 13% of women have their own bank accounts whereas 23% of men have their own bank accounts.⁶⁹¹ Those who do not use formal banking methods operate in cash, borrow their money from family or friends, and use community saving groups which are built by social networks and trust.⁶⁹² It is a system developed through generations and includes local politics and family.⁶⁹³ Women must negotiate all of these to use the informal community saving systems.⁶⁹⁴ The popularity of a system which for many people belonging to the Pakistani diaspora is seen a simple, reliable and an accessible system has continued its popularity as they have moved to other parts of the world. Just as in Pakistan interviews conducted in this study show that it is continuing to be used a relied upon by the younger generation within the Pakistani community across West Yorkshire.⁶⁹⁵ This is shown through the range of interviewees who partook in this study.⁶⁹⁶

Interviews conducted for this study showed that 83% of the interviewees have formal jobs where they are employed by a single or dual employer.⁶⁹⁷ All of them are paid on a regular basis

⁶⁸⁵ Ibid

⁶⁸⁶ Ibid

⁶⁸⁷ Ibid

⁶⁸⁸ Ibid

⁶⁸⁹ Betsy Joles, 'Pakistan's Financial Gap Aggravates Chronic Poverty' (Nikkei Asia, 10 May 2023) <https://asia.nikkei.com/Spotlight/The-Big-Story/Pakistan-s-financial-gender-gap-aggravates-chronic-poverty/>>accessed 2 November 2023

⁶⁹⁰ Ibid

⁶⁹¹ Ibid

⁶⁹² Ibid

⁶⁹³ Ibid

⁶⁹⁴ Ibid

⁶⁹⁵ Interview 1 QT, Interview 2 FA, Interview 3 FZ, Interview 4 MA, Interview 5 SA, Interview 6 QZ

⁶⁹⁶ Ibid

⁶⁹⁷ Ibid

through formal financial institutions such as a mainstream bank.⁶⁹⁸ 17% of interviewees were self-employed and their businesses handled payments in cash.⁶⁹⁹ The interviewees were of a variety of ages, 50% were in their 20s and the other 50% were between the ages of 40 and 60.⁷⁰⁰ As some may assume the practice of using Kamaitee is only used by the older generation who are migrants. However, it is clear that although this system has travelled with migrants it has been adopted by the younger generation of Pakistanis born in the UK as 66% of interviewees were born in the UK.⁷⁰¹ Interviewees disclosed a range of positive reasons for using the Kamaitee system this included that it was easy, they're unable to touch the money so they are more likely to save the complete amount, and that they did not pay interest on the amount therefore saving themselves money.⁷⁰² Placing the Kamaitee system under the microscope of potential criminal financing, it is clear there are loopholes which allow for illegitimate funds to be saved or have access to large amounts of money which the individual could pay back using money raised through illegal activities.⁷⁰³ Furthermore, the inherent trust which exists in informal community-based banking systems also exists in the Kamaitee system as an interviewee clearly stated, 'the system operates on a trust basis mostly with cash'⁷⁰⁴ The trust includes all participants, and it seems unlikely that they would report to an official body, such as the National Crime Agency, if an issue was to arise.⁷⁰⁵ This is clear as when discussing the resolution of potential issues or conflicts none of the interviewees mentioned reporting to an official body.⁷⁰⁶ Instead, they referenced trust and community networks as

“usually people who run the Kamaitee system kind of have a good network, so you know word travels around not to let a certain person partake because they not meet the requirements, so they missed out on payments for example.”⁷⁰⁷

⁶⁹⁸ Ibid

⁶⁹⁹ Ibid

⁷⁰⁰ Ibid

⁷⁰¹ Interview 1 QT, Interview 3 FZ, Interview 5 SA,

⁷⁰² Interview 1 QT, Interview 2 FA, Interview 3 FZ, Interview 4 MA, Interview 5 SA, Interview 6 QZ

⁷⁰³ Ibid

⁷⁰⁴ Interview 1 QT

⁷⁰⁵ Interview 1 QT, Interview 2 FA, Interview 3 FZ, Interview 4 MA, Interview 5 SA, Interview 6 QZ

⁷⁰⁶ Ibid

⁷⁰⁷ Interview 1 QT

This links back to the point made earlier which is that informal systems seem to operate better on their own and, do not require the services of official bodies.⁷⁰⁸ Furthermore, all interviewees seemed aware to different degrees of the illegality of the Kamaitee system as one participant replied

“I do know that it’s an illegal way of holding money. Erm, large sums of cash should be declared but also, I am not too in the detail or why.”⁷⁰⁹

4.2 Conclusion

In conclusion, when considering the possibility of the presence of criminal financing within the Kamaitee and a Hawala system and the legal implications it is important to understand the role of SARs, which is a legal obligation developed to reduce financial crimes.⁷¹⁰ However, as the interviews conducted for this study all referred to internal policies and trust with the operator and within the community, it appears that potential reports would be made to the operator and not the NCA.⁷¹¹ Furthermore, research shows that several crimes are linked to financial crimes. These are terrorist financing, bribery, corruption, sanction breaches and insider trading.⁷¹² Therefore, in this chapter, through the use of Passas’s indicators it is clear which indicators are present and through the interviews participants have been able to provide explanations for the presence of those potential indicators.⁷¹³ Furthermore, not all indicators apply to the Kamaitee system as it operates differently to the Hawala system, and provides the opportunity to potentially develop a secondary

⁷⁰⁸ Bruce Zagaris, ‘Problems applying traditional anti-money laundering procedures to non-financial transactions, “parallel banking systems” and Islamic financial systems’ (2007) 10(2) <https://www.proquest.com/docview/235884477?accountid=14664&pq-origsite=primo&parentSessionId=FLhuegwTFDJ23B4IB7%2BMmD740qU2nfyXdCTLwVbvbWM%3D/>>accessed 2 November 2023

⁷⁰⁹ Interview 1 QT

⁷¹⁰ National Crime Agency, ‘SARs Reporter Booklet’ (March 2020)

⁷¹¹ Interview 1 QT

⁷¹² Rabia Muhammad Amjad, ‘Non-linear impact of globalization on financial crimes: a case of developing economies’ (2022) 25(2) *Journal of Money Laundering Control* <<https://plus.lexis.com/uk/document/?pddocfullpath=%2Fshared%2Fdocument%2Fbooks-journals-uk%2Furn%3AcontentItem%3A65C6-DHD3-GXF6-80B9-0000-00&selectedTocLevelKey=TAACAABAADAABAAI&crd=69634139-8144-49e6-97b0-64056a48a6e4&federationidp=V2PNTN59413&cbc=0%2C0/>>accessed 2 November 2023

⁷¹³ Nikos Passas, ‘indicators of Hawala Operations and Criminal Abuse’ (2004) 8(2) *Journal of Money Laundering Control* <<https://www.proquest.com/docview/235909313/fulltextPDF/44AC0C54682748C5PQ/1?accountid=14664&parentSessionId=Jvvn%2Btzn3Yd3SGZTE%2FIhTND7OucdQLonBgAbQxwcfg0%3D&parentSessionId=SgFhy6eo68jUJCEPu3C%2BfPN3SKVfpAM2Bh6m0rZpjDI%3D/>>accessed 2 November 2023

list aimed at Kamaitee. As there has not been any current research in the UK around the Kamaitee system, there cannot be a determination about whether its involved in other crimes however in Pakistan it has been linked to crime.⁷¹⁴ Therefore as it an asset being used by the citizens rather than getting rid of it there has been an attempt to use it for good⁷¹⁵

⁷¹⁴ Yusra Salim, 'Scam by committee: beware who you trust online' (The Express Tribune, 11 December 2022) <<https://tribune.com.pk/story/2390548/scam-by-committee-beware-who-you-trust-online/>>accessed 2 November 2022

⁷¹⁵ Barbar Tasnim Shaikh and others, 'Community based saving groups: an innovative approach to overcome the financial and social barriers in health care seeking by the women in the rural remote communities of Pakistan' (2017) 75(1) Archives of Public Health < <https://pubmed.ncbi.nlm.nih.gov/28808567/>>accessed 2 November 2023

Chapter Four

5.1 Conflicts and Power Dynamics

As mentioned in previous chapters, Hawala and other forms of ethnic banking all have common underlying factors which are trust, honour and the importance of family identity, this exists in many Asian cultures and is something that migrants carry with them as they travel.⁷¹⁶ The family unit is an institution maintained for economic reasons, as it is cheaper to run one house than to run more than one.⁷¹⁷ However, alongside economic benefits there is also the ability to help and support one another.⁷¹⁸ Therefore, even if families live in separate homes they are likely to live in homes near each other, this shows the importance of geographical proximity within Asian communities.⁷¹⁹ As migrant communities grow, living in the same home or close to each other is no longer viable, familial obligations are then maintained through meetings during festive seasons, family occasions and financial support.⁷²⁰ Irrespective of geographical location, most families remain close and in touch with their families.⁷²¹ Globally there is the offer of better salaries, therefore, migrants relocate in search of opportunities and then send money back to their home countries.⁷²² Worldwide remittance is an essential industry for many migrants and has increased by 5% in 2022 to \$626 billion.⁷²³ Initial earnings are relatively low as many of those who migrate do so for employed work as unskilled labourers are not paid highly and those who are educated or skilled it takes them a few years to establish themselves.⁷²⁴ Therefore, many are only in a position

⁷¹⁶ Divya Sharma, 'Historical Traces of Hundi, Sociocultural Understanding, and Criminal Abuses of Hawala' (2006) 16(2) International criminal justice review
<https://heinonline.org/HOL/Page?lname=&public=false&collection=journals&handle=hein.journals/intcrm16&men_hide=false&men_tab=toc&kind=&page=99/>accessed 2 November 2023

⁷¹⁷ Ibid

⁷¹⁸ Ibid

⁷¹⁹ Ibid

⁷²⁰ Ibid

⁷²¹ Roger Ballard, 'Coalitions of Reciprocity and the Maintenance of Financial Integrity Within Informal Value Transmission Systems: The operational Dynamics of Contemporary Hawala Networks' (2005) 6(4) Journal of Banking Regulation < <https://link.springer.com/article/10.1057/palgrave.jbr.2340200/>>accessed 2 November 2023

⁷²² Divya Sharma, 'Historical Traces of Hundi, Sociocultural Understanding, and Criminal Abuses of Hawala' (2006) 16(2) International criminal justice review
<https://heinonline.org/HOL/Page?lname=&public=false&collection=journals&handle=hein.journals/intcrm16&men_hide=false&men_tab=toc&kind=&page=99/>accessed 2 November 2023

⁷²³ 'Remittances Grow 5% in 2022, Despite Global Headwinds' (*The World Bank*, 30 November 2022)
<https://www.worldbank.org/en/news/press-release/2022/11/30/remittances-grow-5-percent-2022/>>accessed 2 November 2023

⁷²⁴ Roger Ballard, 'Coalitions of Reciprocity and the Maintenance of Financial Integrity Within Informal Value Transmission Systems: The operational Dynamics of Contemporary Hawala Networks' (2005) 6(4) Journal of Banking Regulation < <https://link.springer.com/article/10.1057/palgrave.jbr.2340200/>>accessed 2 November 2023

to send a few hundred.⁷²⁵ While transactions may be small the sheer volume of individuals sending money home is large, and therefore the overall remittance market is very big.⁷²⁶ Clearly, as people migrate, they maintain their economic and emotional ties to their home countries and families.⁷²⁷ Research shows in certain communities' individuals prefer to receive money in cash, even when there are formal banking options.⁷²⁸ Some migrants who might be working illegally or working more hours than they are permitted also prefer cash as it does not enter the system, as a result informal money transfer systems such as Hawala are more appealing to them.⁷²⁹ Furthermore, Hawala dealers are willing to make home deliveries which makes them a more convenient option.⁷³⁰

Hawala is a well-known informal banking system. However, there are many names for informal value transfer systems and Passas defined it 'as any system or network of people facilitating on a part time or full time basis the transfer of value domestically or internationally outside of the conventional regulated financial institutional systems.'⁷³¹ Value refers to something of monetary or material worth.⁷³² The conventional or regulated financial sector includes banking networks, stocks, commodities, and bond markets as well as official money service businesses such as Western Union.⁷³³ Passas redefined this in 2003 to include any network or mechanism that can be used to transfer funds or value from place to place either without leaving a formal paper trail of the entire transaction or without going through regulated financial institutions.⁷³⁴ Also, in

⁷²⁵ Ibid

⁷²⁶ Ibid

⁷²⁷ Divya Sharma, 'Historical Traces of Hundi, Sociocultural Understanding, and Criminal Abuses of Hawala' (2006) 16(2) *International criminal justice review*
<https://heinonline.org/HOL/Page?lname=&public=false&collection=journals&handle=hein.journals/intcrm16&menhide=false&men_tab=toc&kind=&page=99/>accessed 2 November 2023

⁷²⁸ Ibid

⁷²⁹ Ibid

⁷³⁰ Ibid

⁷³¹ Nikos Passas, 'Informal Value Transfer Systems and Criminal Organizations: A study into so-called underground banking systems' (2003) 5(2) *Risk Management*
<https://papers.ssrn.com/sol3/papers.cfm?abstract_id=1327756/>accessed 2 November 2023

⁷³² Anand Ajay Shah, 'The International Regulation of Informal Value Transfer Systems (2007) *Utrecht Law Review* 2
<https://heinonline.org/HOL/Page?collection=journals&handle=hein.journals/utrecht3&id=372&men_tab=srchresults/>accessed 2 November 2023

⁷³³ Ibid

⁷³⁴ Nikos Passas, 'Informal Value Systems, Terrorism and Money Laundering' (2003) 14-15
<<https://www.ojp.gov/ncjrs/virtual-library/abstracts/informal-value-transfer-systems-terrorism-and-money-laundering/>>accessed 2 November 2023

2003 it was recognised that formal financial institutes are used but sometimes only for part of the transaction, this results in never having a paper trail for the complete transaction.⁷³⁵ Furthermore, Passas acknowledges that while he provides a list of informal value transfer systems the list does not include all transfer systems.⁷³⁶

As previously mentioned, little is known about informal financial systems in general, this includes credit associations, rotating savings, and informal value transfer systems.⁷³⁷ These systems are governed by informal rules which are learnt, internalised and reinforced by group members.⁷³⁸ However, it is not known how there is an assurance that these rules will be abided by all members.⁷³⁹ As official mechanisms of sanctioning do not offer help in these situations, informal economic groups develop their own set of norms and arrangements to avoid members shirking their obligations and to ensure they abide by the collectively adopted rules of approved behaviour.⁷⁴⁰ In these systems social regulations hold great weight and are able to block opportunistic intentions of participants.⁷⁴¹ Alongside close-knit community networks and ethnic solidarity, trust is also inferred which allows the unproblematic functioning of systems such as Hawala.⁷⁴² In developing economies, trust is thought to be integral in maintaining rotating credit and saving associations.⁷⁴³ Trust is seen to uphold the mechanics of microcredit to economically disadvantaged population groups⁷⁴⁴ and is regarded to be a pertinent component of the Hawala systems too.⁷⁴⁵ As discussed at length in a previous chapter, a significant element of Hawala is

⁷³⁵ Anand Ajay Shah, 'The International Regulation of Informal Value Transfer Systems (2007) Utrecht Law Review 2
<https://heinonline.org/HOL/Page?collection=journals&handle=hein.journals/utrecht3&id=372&men_tab=srchresults>accessed 2 November 2023

⁷³⁶ Ibid

⁷³⁷ Alexander Lascaux, 'Crowding Out Trust in the Informal Monetary Relationships: The Curious Case of the Hawala System' (2015) 14(1) Forum for Social Economics
<<https://www.tandfonline.com/doi/pdf/10.1080/07360932.2014.954250?needAccess=true>>accessed 2 November 2023

⁷³⁸ Claudius Gräbner and others, 'Trust and Social Control: Sources of Cooperation, Performance, and Stability in Informal Value Transfer Systems' (2021) 58(4) Computational Economics
<<https://link.springer.com/content/pdf/10.1007/s10614-020-09994-0.pdf>>accessed 2 November 2023

⁷³⁹ Ibid

⁷⁴⁰ Alexander Lascaux, 'Crowding Out Trust in the Informal Monetary Relationships: The Curious Case of the Hawala System' (2015) 14(1) Forum for Social Economics
<<https://www.tandfonline.com/doi/pdf/10.1080/07360932.2014.954250?needAccess=true>>accessed 2 November 2023

⁷⁴¹ Ibid

⁷⁴² Ibid

⁷⁴³ Ibid

⁷⁴⁴ Ibid

⁷⁴⁵ Ibid

trust and this component ensures that it is an efficient system therefore, it is exceedingly rare for clients to lose money.⁷⁴⁶

Hawaladars place an effort to construct a reputation of both trustworthiness and competence to enable them to develop secure partnerships.⁷⁴⁷ Just as positive actions such as fulfilling responsibilities and being truthful are rewarded bad behaviour is punished, and this can be through ostracism and loss of reputation and financial loss.⁷⁴⁸ Although, positions of power exist within Hawala networks, there is not a formal hierarchy and instead is referred to a web of relationships which are based on personal and unstructured interactions.⁷⁴⁹ The relationship between different individuals within the system are not uniform and allow it to be a continuous bond and link between a country and its diaspora.⁷⁵⁰

Alongside trust, the lack of language barriers, solidarity among migrants and cultural considerations have all enhanced the development of informal financial transfer systems.⁷⁵¹ A lack of education or literacy can also pose an obstacle for migrant workers aiming to use formal banking options.⁷⁵² Furthermore, traditional male family members tend to travel for work, whilst female members stay in the home countries.⁷⁵³ Therefore, conservative Islamic families aim to limit contact between male and female nonfamily members therefore, a known and trusted Hawaladar dealer can be seen as an acceptable intermediary as he is aware of social codes.⁷⁵⁴ Informal Transfer Systems serve genuine and honest clients but features such as anonymity and lack of scrutiny makes it vulnerable to money laundering and terrorist financing.⁷⁵⁵ The current

⁷⁴⁶ Nikos Passas, 'Demystifying Hawala: A Look into its Social Organization and Mechanics' (2006) 7(1) *Journal of Scandinavian studies in criminology and crime prevention*

<<https://www.tandfonline.com/doi/full/10.1080/14043850601029083/>>accessed 2 November 2023

⁷⁴⁷ Dulce M Redin, 'Exploring the Ethical Dimension of Hawla' (2014) 124(2) *Journal of Business Ethics*

<<https://www.proquest.com/docview/1566247925?accountid=14664&pq-origsite=primo&parentSessionId=Kzs%2Fu8foON5wy5jiGrSB47Tkmgofun69GkIV33T%2FDKE%3D/>>accessed 2 November 2023

⁷⁴⁸ *Ibid*

⁷⁴⁹ *Ibid*

⁷⁵⁰ *Ibid*

⁷⁵¹ Bruce Zagaris, 'Problems applying traditional anti-money laundering procedures to non-financial transactions, "parallel banking systems" and Islamic financial systems' (2007) 10(2)

<<https://www.proquest.com/docview/235884477?accountid=14664&pq-origsite=primo&parentSessionId=FLhuegwTFDJ23B4IB7%2BMmD740qU2nfyXdCTLwVbvbWM%3D/>>accessed 2 November 2023

⁷⁵² *Ibid*

⁷⁵³ *Ibid*

⁷⁵⁴ *Ibid*

⁷⁵⁵ *Ibid*

regulations do not meet objectives and consideration of existing empirical evidence and genuine dialogue with the sector is described by Passas being indispensable.⁷⁵⁶ Furthermore, there is currently no form of regulation for systems such as the Kamaitee system.

In order to create clarity, Passas separates informal transfer systems into two categories which are differentiated and referred to as Informal Value Transfer Systems (IVTS) and Informal Financial Transfer Methods (IFTM).⁷⁵⁷ IVTS are usually systems which are legitimate operations with legitimate clients where those migrants who are working abroad are able to use these systems to send money home to family, sometimes for goods, services, education or medical treatment.⁷⁵⁸ IFTM are methods which are used by individuals, networks, and organisations to transfer money and value informally and illegally.⁷⁵⁹ IVTS operates in one of two ways: through formal financial systems without detection or through other methods and technology.⁷⁶⁰ It is run by operators who provide longstanding services which are repeatedly used and organised into loose networks through personal connections.⁷⁶¹ IFTM is a system used on an ad hoc regular basis by a person who wishes to avoid detection of personal monetary or value transfers.⁷⁶² This tends to be regarded as being illegal as they use large sums of money, much larger than IVTS where migrants are sending money home.⁷⁶³ IFTM transfers are undocumented and regularly combined with other offences such as tax evasion as it is people who are commonly avoiding formal financial options.⁷⁶⁴ IVTS has operators who use technology as part of their business, but IFTM do not.⁷⁶⁵ Little is known about both, which deprives the law of potentially valuable information and drives users further underground.⁷⁶⁶ Regarding IFTM as little is known about its vulnerabilities regulators and

⁷⁵⁶ Ibid

⁷⁵⁷ Anand Ajay Shah, 'The International Regulation of Informal Value Transfer Systems (2007) Utrecht Law Review 2

<https://heinonline.org/HOL/Page?collection=journals&handle=hein.journals/utrecht3&id=372&men_tab=srchresults/>accessed 2 November 2023

⁷⁵⁸ Ibid

⁷⁵⁹ Ibid

⁷⁶⁰ Ibid

⁷⁶¹ Ibid

⁷⁶² Ibid

⁷⁶³ Ibid

⁷⁶⁴ Ibid

⁷⁶⁵ Ibid

⁷⁶⁶ Ibid

policy makers run the risk of leaving the door open for more sophisticated value transfer methods with a higher capacity.⁷⁶⁷ IFTM is just as susceptible to be used for criminal activities as IVTS.⁷⁶⁸

The Financial Action Task Force (FATF) subdivided alternative remittance systems into two categories the first is underground banking and the second is alternative remittance.⁷⁶⁹ Underground banking is a variety of methods through which funds are available at a partner service in another country because of communication between operators.⁷⁷⁰ Alternative remittance is operators of funds from regulated financial sector coupled with techniques designed to conceal the nature of the transaction.⁷⁷¹ This definition links closely to Passas's definition of informal transfer systems without including those individuals who are transferring their own funds for unlawful purposes.⁷⁷²

As a result, of Passas's distinction between IVTS and IFTM it appears that the Kamaitee system falls into IFTM as there are many similarities. Although, there are differences such as IFTM involves two countries, the first similarity is IFTM is used on an ad hoc regular basis by a person who wishes to avoid detection of personal monetary or value transfers.⁷⁷³ Although, during the interviews conducted for this research there was not the presences of an indication that this system is used to avoid detection it was clear that it is a system is used on an ad hoc basis and avoiding detection is very easy as it is a system which operates using cash.⁷⁷⁴ Second, IFTM tends to be regarded as being illegal as they use large sums of money⁷⁷⁵ and again the Kamaitee system usually operates using thousands of pounds⁷⁷⁶ and according to legal requirements for registration and regulation it would be considered illegal.⁷⁷⁷ Third, IFTM transfers are undocumented,⁷⁷⁸ again through the interviews it is clear it is undocumented as although there may be personal records

⁷⁶⁷ Ibid

⁷⁶⁸ Ibid

⁷⁶⁹ Ibid

⁷⁷⁰ Ibid

⁷⁷¹ Ibid

⁷⁷² Ibid

⁷⁷³ Ibid

⁷⁷⁴ Ibid

⁷⁷⁵ Ibid

⁷⁷⁶ Interview 1 QT

⁷⁷⁷ Payment Services Regulation 2017 and Electronic money Regulations 2011

⁷⁷⁸ Anand Ajay Shah, 'The International Regulation of Informal Value Transfer Systems (2007) Utrecht Law Review 2

<https://heinonline.org/HOL/Page?collection=journals&handle=hein.journals/utrecht3&id=372&men_tab=srchresults/>accessed 2 November 2023

kept there is not a system of reporting to an official body. Fourth, IFTM does not use technology,⁷⁷⁹ similarly there is not any evidence to show that the Kamaitee system operating in the West Yorkshire uses technology and there are repeated references to the lack of use of technology as both the participants and operator of a Kamaitee referred to the preference of using cash. Fifth, there is little information surrounding IFTM and its vulnerabilities which affects regulators and policy makers,⁷⁸⁰ and again very little is known about the Kamaitee system especially when it comes to the academic space.

5.2 Reasons for the use of Kamaitee in Pakistan

The Kamaitee system originates from Pakistan and it has begun to appear in Pakistani literature, a study in Pakistan exploring the informal finance markets found that informal savings were needed in households throughout Pakistan, particularly for those who were from poor families.⁷⁸¹ As a result of their poor financial status, they were also rationed out of formal credit markets and their need to save has led them to a variety of informal banking options with the primary option being the Kamaitee (or Committee).⁷⁸² The Committee on Rural Finance stated that savings are made through old markets and 90% of transactions are based on good credit and faith.⁷⁸³ With those engaging in the informal sector being unable to rely on legal enforcement they rely on social, political influence, or the use of a threat of force to enforce contracts or ensure a payment.⁷⁸⁴ The National Human Development Report 2003 demonstrated that those below the poverty line were more inclined to take out loans or sell assets.⁷⁸⁵ However, as they have limited access to credit and few assets, they are left to rely on transfers to supplement their income.⁷⁸⁶ This study showed that Kamaitee or also known as rotating saving and credit association, is commonly known and a group of participants contribute into a pot which is given to a member, this process is repeated until every member has received the pot, the order of recipients is decided according

⁷⁷⁹ Ibid

⁷⁸⁰ Ibid

⁷⁸¹ Adnan Qadir, 'A Study of Informal Markets in Pakistan' (2005) Pakistan Micro Finance Network <<https://www.findevgateway.org/sites/default/files/publications/files/mfg-en-paper-a-study-of-informal-finance-markets-in-pakistan-dec-2005.pdf/>>accessed 2 November 2023

⁷⁸² Ibid

⁷⁸³ Ibid

⁷⁸⁴ Ibid

⁷⁸⁵ Ibid

⁷⁸⁶ Ibid

to an auction or lottery.⁷⁸⁷ The members must wait until their turn.⁷⁸⁸ Overwhelmingly the purpose of such systems is to deploy savings to a group of borrowers in a predetermined order.⁷⁸⁹ Their monitoring and organisational costs are low, alongside their default rates being low too.⁷⁹⁰ Rotating saving and credit associations exist in almost all developing societies, and some developed countries too, whilst different names are used the essential feature of a revolving fund with a final lump sum is similar.⁷⁹¹ Commonly, it is a group if people contribute a fixed sum over a period of time, once every member has received a lump sum either the group can disband or start again.⁷⁹² Where there is a repayment over time option there is always the potential for defaulting on a payment, traditional banks tackle this risk using collateral, but Kamaitee systems do not require physical capital as collateral.⁷⁹³ Rotating Saving and Credit Associations function in societies where there is a strong presence of reciprocity relationships and ostracisation is seen as a strong deterrent.⁷⁹⁴ In this article it was suggested that with an efficient, complete, and well-structured financial system there would be no need for such saving systems and that while it is incomplete systems such as these allow a portion of the population to save and access funds for buying larger value items or sometimes financing projects.⁷⁹⁵ Although, this system is used by people from poor households in a study of 12 middle class individuals it is shown that those with access to more money also choose to use it.⁷⁹⁶ It is seen as an institution which forces people to save whilst having a dual purpose of also providing people with credit.⁷⁹⁷ So those people who receive an earlier pot for them it is a line of credit as they will pay till the end it is almost as if they are paying it back in installments which are interest free and then for those who are receiving the pot later for them it is saving service as they are made to save until they receive their pot.⁷⁹⁸ Another benefit is as this is the only interest-free credit available and they are able to change their turn if a person needs the money earlier.⁷⁹⁹ The study also explains an auction rotating saving and credit association system,

⁷⁸⁷ Ibid

⁷⁸⁸ Ibid

⁷⁸⁹ Ibid

⁷⁹⁰ Ibid

⁷⁹¹ Ibid

⁷⁹² Ibid

⁷⁹³ Ibid

⁷⁹⁴ Ibid

⁷⁹⁵ Ibid

⁷⁹⁶ Ibid

⁷⁹⁷ Ibid

⁷⁹⁸ Ibid

⁷⁹⁹ Ibid

where rather than the pot being given on a lottery basis for the order instead every month individuals will bid to see who receives the pot, however, the study found that they operated through urban markets and had a high rate of default in many cities across Pakistan.⁸⁰⁰ During the interviews conducted for this research within West Yorkshire it does not seem that an auction based Kamaitee exists.⁸⁰¹ Instead, the Kamaitee system described by all interviewees was a predetermined order for each individual to receive the lump sum.⁸⁰² The central need for low incomes savers is the ability to swap their flow of small savings for a larger lump sum which may be needed by them for a variety of reasons.⁸⁰³

When exploring informal networks, it is important to remember that none of them came into existence out of the blue, but they are heavily doused in ancestral traditions, values, and historical roots.⁸⁰⁴ Therefore, the cultural links in such systems are integral in its method of operating. In Pakistan 96.46% of the population identify as Muslim⁸⁰⁵ and Islamic finance will have an impact all elements of life. Tripp⁸⁰⁶ stated that Islamic banking and Hawala are similar as they are both practical alternatives for conventional financial services.⁸⁰⁷ However, Mohieldin⁸⁰⁸ states that it is necessary to create an effective legal framework for these systems, so they are able to display their full potential.⁸⁰⁹

⁸⁰⁰ Ibid

⁸⁰¹ Ibid

⁸⁰² Ibid

⁸⁰³ Ibid

⁸⁰⁴ Roger Ballard, 'Coalitions of Reciprocity and the Maintenance of Financial Integrity Within Informal Value Transmission Systems: The operational Dynamics of Contemporary Hawala Networks' (2005) 6(4) *Journal of Banking Regulation* < <https://link.springer.com/article/10.1057/palgrave.jbr.2340200/>>accessed 2 November 2023

⁸⁰⁵ World Population Review, 'Muslim Population by Country 2023' < <https://worldpopulationreview.com/country-rankings/muslim-population-by-country/>>accessed 2 November 2023

⁸⁰⁶ Charles Tripp and Rodney Wilson, 'Islam and the Moral Economy: The Challenge of Capitalism' (2007) 43(3) *Middle Eastern Studies*

⁸⁰⁷ Ibid

⁸⁰⁸ Mahmoud Mohieldin, 'Realizing the Potential of Islamic Finance' (March 2012) *The World Bank* < <https://openknowledge.worldbank.org/server/api/core/bitstreams/2f6e35a0-e02e-5e86-b2ec-cfb65fc370a5/content/>>accessed 2 November 2023

⁸⁰⁹ Dulce M Redin, 'Exploring the Ethical Dimension of Hawla' (2014) 124(2) *Journal of Business Ethics* <<https://www.proquest.com/docview/1566247925?accountid=14664&pq-origsite=primo&parentSessionId=Kzs%2Fu8foON5wy5jiGrSB47TkmGofun69GkIV33T%2FDKE%3D/>>accessed 2 November 2023

5.3 Conclusion

Overall, this chapter further develops an understanding of the legal implications it is important to define the Kamaitee system using existing literature. Using Passas's distinctions, this chapter has identified that the Kamaitee system falls within the definition of IFTM. Although, there are differences there are many similarities and, in the interviews, conducted for this research it was shown that the system is used on an ad hoc basis.⁸¹⁰ Furthermore, it would be regarded as being illegal as it uses large sums of money without official registration or the appropriate forms of documentation.⁸¹¹ To enhance the current understanding about how the system operates this chapter determine the dynamics which exists within the Kamaitee system as to deter conflicts, official mechanisms of sanctioning do not offer help in these situations, informal economic groups develop their own set of norms and arrangements to avoid members shirking their obligations and to ensure they abide by the collectively adopted rules of approved behaviour.⁸¹² In these systems social regulations hold great weight and are able to block opportunistic intentions of participants.⁸¹³ Research shows that ostracisation is seen as a strong deterrent in rotating saving services.⁸¹⁴ In this article it was suggested that with an efficient, complete, and well-structured financial system there would be no need for such saving systems.⁸¹⁵ Although, this chapter refers to the this system as being used by poorer households a study conducted include a group of middle class individual,⁸¹⁶ and the interviews carried out for this study show that those who choose to use it within West Yorkshire are all from a range of financial situation, but are all employed.⁸¹⁷

⁸¹⁰ Interview 2 FA

⁸¹¹ Ibid

⁸¹² Alexander Lascaux, 'Crowding Out Trust in the Informal Monetary Relationships: The Curious Case of the Hawala System' (2015) 14(1) Forum for Social Economics
<<https://www.tandfonline.com/doi/pdf/10.1080/07360932.2014.954250?needAccess=true/>> accessed 2 November 2023

⁸¹³ Ibid

⁸¹⁴ Ibid

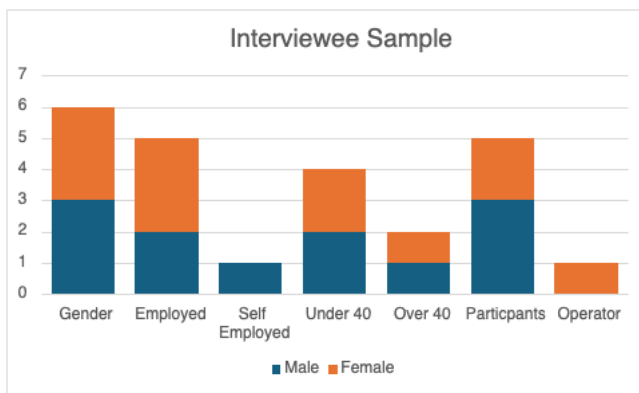
⁸¹⁵ Ibid

⁸¹⁶ Ibid

⁸¹⁷ Interview 1 QT, Interview 2 FA, Interview 3 FZ, Interview 4 MA, Interview 5 SA, Interview 6 QZ

Chapter Five

As literature in this field focuses on Hawala, in order to generate specific information about the Kamaitee system semi-structured interviews were carried out with 6 participants.⁸¹⁸ The participants ranged in age, gender and professions, however, they all belonged to the Pakistani community within West Yorkshire.⁸¹⁹ In terms of gender, 3 participants were male and 3 were female.⁸²⁰ The participants were all aged between 20 and 60, 3 participants were between the ages of 20 and 39 and 3 were between the ages of 40 and 60.⁸²¹ Within regards to professions, 5 participants are in formal jobs where they are employed and received a salary and 1 participant was self-employed.⁸²² When questioned about where they were born, 4 out of 6 participants were born in the UK.⁸²³ The role in they play in the Kamaitee system, 5 interviewees were individuals who participated in the Kamaitee system,⁸²⁴ and one interviewee was an individual who ran a Kamaitee system.⁸²⁵



Initially, interview questions were aimed to clearly establish how the Kamaitee system operates. All 6 participants described the system in a similar manner with slight variations in record-keeping.⁸²⁶ All participants explained it was a rotating saving service, where the person managing the system would collate a group of participants and every month all participants pay a set lump, then the complete amount will be given to a different participant every month until every

⁸¹⁸ Ibid

⁸¹⁹ Ibid

⁸²⁰ Ibid

⁸²¹ Ibid

⁸²² Ibid

⁸²³ Ibid

⁸²⁴ Interview 1 QT, Interview 3 FZ, Interview 4 MA, Interview 5 SA, Interview 6 QZ

⁸²⁵ Interview 2 FA

⁸²⁶ Interview 1 QT, Interview 3 FZ, Interview 4 MA, Interview 5 SA, Interview 6 QZ

participant has received the lump sum.⁸²⁷ When questioned about how the order of receiving the lump sum was decided they explained that the person running the system decides the order by asking all participants if they have a preferred time.⁸²⁸ They explained the length is dependent on the number of participants as there are some Kamaitee systems which run for a multiple number of years but the most popular choice for length of time is 10 months to a year.⁸²⁹ If a person requires a larger amount than the lump sum, they are able to receive the lump sum as many times as they desire as long as they pay the appropriate amount every month.⁸³⁰ An example of this if the standard payment is £500 a month, a participant is able to pay £1500 every month, in return they will receive the lump 3 times therefore it is not always a requirement for the number of months to correlate with the number of participants.⁸³¹

Furthermore, an analysis of the interviewees responses for further questioning established that they all described similar themes these included trust, the use of cash, lack of conflicts, interest free, and a reduced amount of mental stress.⁸³² All interviewees referred to trust as being an important determiner for the smooth operating of the system.⁸³³ The majority of trust present in the system lies with the person running the system as participants believe the operator is the individual who is receiving their money, and therefore with this transaction arises a level of trust which leads participants to believe their expectations will be met in the form of a lump sum of money.⁸³⁴ Also, there is a further layer of trust which exists, the individual managing the Kamaitee has chosen honest participants who are likely to fulfil their obligations.⁸³⁵ As discussed in an earlier chapter trust is an important element in informal financial services along with control which exists in minority communities and through the interviews conducted for this research it is also clear that it is prevalent within the Kamaitee system.⁸³⁶

The second theme commonly mentioned was a sense of security due to the lack of conflicts.⁸³⁷ As a result of the clear presence of trust instilled within the system and particularly in

⁸²⁷ Ibid

⁸²⁸ Ibid

⁸²⁹ Ibid

⁸³⁰ Ibid

⁸³¹ Ibid

⁸³² Ibid

⁸³³ Ibid

⁸³⁴ Ibid

⁸³⁵ Ibid

⁸³⁶ Ibid

⁸³⁷ Ibid

the Kamaitee operator, interviewees explained conflicts was not a topic which they were concerned by, especially as they stated that on the rare occasion there is a conflict it will be resolved as within minority communities there is always a method to resolve conflict.⁸³⁸ As literature shows informal financial services regularly do not require outside agencies assistance or formal methods of resolving issues and they are often referred to as self-sufficient.⁸³⁹

The third frequently referenced theme by interviewees was the use of cash.⁸⁴⁰ One of the interviewees was an individual who was ran a Kamaitee system and they explained that the vast majority of participants paid their monthly amount in cash, and the complete sum was also paid in cash to the appropriate recipient every month.⁸⁴¹ Therefore, in the eventuality that a participant was unable to deliver their monthly amount in cash for that month they were able to pay into the operator's bank account who would either use their own cash or withdraw the amount sent and deposit it into the lump sum with the other participants' monthly amount.⁸⁴² Literature shows that governments are committed to ensuring the availability of cash⁸⁴³ and although there is a reduction in the use of cash it is not completely disappearing.⁸⁴⁴ One of the interviewees explained that as a self-employed person they were paid in cash, and it was easier to hand over a chunk to be saved as a substitute to the task of putting into their bank account.⁸⁴⁵

The fourth common theme was the reduction in mental stress.⁸⁴⁶ The Kamaitee system can be used as both a saving system and a lending system.⁸⁴⁷ Interviewees claimed the Kamaitee system was less stressful and more manageable, especially if it was used as a lending service, they explained when deciding to participate they would only do so if they knew they would be able to pay, however if they could not then they would hope someone would help them or the person

⁸³⁸ Ibid

⁸³⁹ Bruce Zagaris, 'Problems applying traditional anti-money laundering procedures to non-financial transactions, "parallel banking systems" and Islamic financial systems' (2007) 10(2) [⁸⁴⁰ Ibid](https://www.proquest.com/docview/235884477?accountid=14664&pq-origsite=primo&parentSessionId=FLhuegwTFDJ23B41B7%2BMmD740qU2nfyXdCTLwVbvbWM%3D/>accessed 2 November 2023</p></div><div data-bbox=)

⁸⁴¹ Ibid

⁸⁴² Ibid

⁸⁴³ HM Treasury, 'New powers to protect access to cash' (19 May 2022)

<<https://www.gov.uk/government/news/new-powers-to-protect-access-to-cash>> accessed 24th January 2023.

⁸⁴⁴ Bank of England, *Update on the Future of Wholesale Cash Distribution in the UK*, (December 2021) 3

⁸⁴⁵ Interview 3 FZ

⁸⁴⁶ Interview 1 QT, Interview 3 FZ, Interview 4 MA, Interview 5 SA, Interview 6 QZ

⁸⁴⁷ Ibid

running the Kamaitee would pay of their behalf as a loan.⁸⁴⁸ Furthermore, due to the security of potential help it also alleviate the potential for legal consequences or potential damage to credit scores or a poor record.⁸⁴⁹

Although, there was a list to common themes which arose in all interviews, a difference in themes appeared when interviewees explained their reasons for using a Kamaitee, especially for those interviewees who are young, able to use online banking, received a salary into their account, and could very easily use an online savings or investment account.⁸⁵⁰ Those participants aged between 20 and 39 explained that when the Kamaitee system was used as a loan service it is in essence an interest free loan, which is a positive aspect to their religious beliefs,⁸⁵¹ also they saved a further amount by not having to pay interest.⁸⁵² Furthermore, the removal of checks such as an individual's credit score which would always be required to secure a loan from a bank and include a large amount of paperwork generates a wider opportunity of loans for certain individuals. Interviewees noted that the Kamaitee system assisted them to be able to save as they did not have access to the money until they received their lump sum, whereas employing the use of a traditional savings account provides the individuals with the possibilities to withdraw from their savings unless it was long-term savings account with specific regulations and requirements.⁸⁵³ Through the Kamaitee system they have a product which sufficiently operates for them as it allows them to save for a year or two whilst removing temptation of spending the money and is interest free.⁸⁵⁴ However, older interviewees disclosed their justifications for using the Kamaitee system, individuals between the ages of 40 and 60 explained they found it easier as it is system they have used many times, just their parents and grandparents were able to use it.⁸⁵⁵ This group of interviewees referred to it as stress free as they do not need to worry about depositing or withdrawing money from their bank accounts.⁸⁵⁶ Additionally, these individuals explained that they prefer not to use online banking and one interviewee explained that he found it difficult to

⁸⁴⁸ Ibid

⁸⁴⁹ Ibid

⁸⁵⁰ Ibid

⁸⁵¹ Muhammad Imran Ashraf Usmani, 'Meezan Bank's Guide to Islamic Banking' (2002) Darul – Ishaat Urdu Bazar Karachi-1 Pakistan <<https://islamicbankers.files.wordpress.com/2007/06/meezan-banks-guide-to-islamic-banking.pdf/>>accessed 2 November 2023 34

⁸⁵² Interview 3 FZ

⁸⁵³ Interview 1 QT, Interview 3 FZ, Interview 5 SA,

⁸⁵⁴ Ibid

⁸⁵⁵ Interview 2 FA, Interview 4 MA, Interview 6 QZ

⁸⁵⁶ Ibid

find time to get visit a branch of their bank, as in his town the opening hour had reduced significantly since Covid.⁸⁵⁷ Demonstrating that although the government is determined to ensure access to cash according to this individual it not perceived as that.⁸⁵⁸

⁸⁵⁷ Interview 6 QZ

⁸⁵⁸ Ibid

Conclusion

First, considering legal implications of a system such as the Kamaitee system through empirical research carried out for this study exposes the potential for money laundering through the Kamaitee. As interviewees for this study relayed the system ‘operates on a trust basis system which operates mostly with cash. It’s a way of saving and acquiring large sums of cash with no interest.’⁸⁵⁹ Presently, it is unregulated through any official body and regulation is administered through the Kamaitee operator.⁸⁶⁰ As members receive one lump sum, depositing large sums of cash can be indicative of money laundering.⁸⁶¹ As the study focuses on the Kamaitee system within the Pakistan community in West Yorkshire money laundering information and AML processes in both Pakistan and the UK relevant to this study.⁸⁶² Although, both countries have developed legislation to tackle money laundering neither country have developed any legislation to specifically tackle the Kamaitee system.

Furthermore, when considering the implications of the Kamaitee system on tax evasion it is important to remember that cash economies are included in a list of reasons for potential tax evasion and that when an economy is predominately cash based it is both easy and safe to conceal income.⁸⁶³ As shown in the interviews during this study both through the interviews of participants and an operator of the Kamaitee network, the Kamaitee system operates using cash and therefore the general concerns which exist surrounding tax evasion and cash apply to the Kamaitee system.⁸⁶⁴

Second, the requirement for CDD is a tactic used to prevent potential financial crimes however, informal transfer systems use a lack of adherence to CDD to their advantage against their formal counterparts.⁸⁶⁵ In Recommendation 5 it clearly states that a financial institute cannot

⁸⁵⁹ Interview 1 QT

⁸⁶⁰ Ibid

⁸⁶¹ HM Treasury, ‘National Risk Assessment of Money Laundering and Terrorist Financing 2020’ (17 December 2020) <https://assets.publishing.service.gov.uk/media/5fdb34abe90e071be47feb2c/NRA_2020_v1.2_FOR_PUBLIC_ATTENTION.pdf> accessed 1 February 2023, 6

⁸⁶² Interview 1 QT, Interview 3 FZ, Interview 4 MA, Interview 5 SA, Interview 6 QZ

⁸⁶³ Sheikh Sajjad Hassan, *Tax Audit Techniques in Cash Based Economies* (2nd edn, Commonwealth Association of Tax Administrators 2010)

⁸⁶⁴ Interview 1 QT, Interview 3 FZ, Interview 4 MA, Interview 5 SA, Interview 6 QZ

⁸⁶⁵ Anand Ajay Shah, ‘The International Regulation of Informal Value Transfer Systems (2007) Utrecht Law Review 2

<https://heinonline.org/HOL/Page?collection=journals&handle=hein.journals/utrecht3&id=372&men_tab=srchresults/> accessed 2 November 2023

conduct transactions without the appropriate identification.⁸⁶⁶ However, there is a clear understanding that identification within communities where informal transfer systems operate, the operator has a much deeper knowledge of those they are conducting business with than bank officer would have.⁸⁶⁷ When exploring CDD within the Kamaitee system during interviews for this it was established that not only do the operators know the participants very well but also that different operators know each other.⁸⁶⁸ An interviewee disclosed

“usually people who run the Kamaitee system kind of have a good network, so you know word travels around not to let a certain person to partake because they don’t meet the requirements, so they missed out on payment for example.”⁸⁶⁹

This informal knowledge of individuals allows operators a much more personalised profile of their clientele.⁸⁷⁰ The scope for further questioning arises to identify whether there is a process of due diligence within the Kamaitee system, are there different practices for different people, do they operate differently for PEPs and how would they complete due diligence or relevant checks for a completely new participant.

Exploring how PEPs are treated and possess the potential to abuse the lack of CDD in Pakistan introduced certain measures which have been implemented and provided opportunities to commit financial crimes.⁸⁷¹ An example of measures which create an opportunity for PEPs is the Protection of Economic Reforms Act 1992 s4 this allows any person to carry cash without any formal declaration.⁸⁷² This undermines and complicates the efforts to tackle money laundering.⁸⁷³ Furthermore, political pressure is known to push financial institutions not to carry out CDD due to a fear of affecting their integrity and reputation.⁸⁷⁴ This societal and political influence can also

⁸⁶⁶ Anand Ajay Shah, ‘The International Regulation of Informal Value Transfer Systems (2007) Utrecht Law Review 2
<https://heinonline.org/HOL/Page?collection=journals&handle=hein.journals/utrecht3&id=372&men_tab=srchresults>accessed 2 November 2023

⁸⁶⁷ Ibid

⁸⁶⁸ Interview 2 FA

⁸⁶⁹ Interview 1 QT

⁸⁷⁰ Interview 1 QT, Interview 2 FA, Interview 3 FZ, Interview 4 MA, Interview 5 SA, Interview 6 QZ

⁸⁷¹ Nasir Sultan, ‘Challenges faced by financial institutes before onboarding politically exposed persons in undocumented Eastern economies: a case study of Pakistan’ (2023) 26(3) *Journal of Money Laundering Control* <<https://plus.lexis.com/uk/document/?pdocfullpath=%2Fshared%2Fdocument%2Fbooks-journals-uk%2Furn%3AcontentItem%3A683R-42Y3-RWXP-444N-0000-00&selectedTocLevelKey=TAABAABAACAABAABAF&crid=778b4cfe-d9b1-40d5-9e0e-2167efa68088&federationidp=V2PNTN59413&cbc=0%2C0%2C0/>>accessed 2 November 2023

⁸⁷² Ibid

⁸⁷³ Ibid

⁸⁷⁴ Ibid

lead financial institutions sometimes stop establishing relationships with certain PEPs and this could lead to an increase in the undocumented economy and encourage ill practice by bankers, and to tackle this heavy fines for bankers have been introduced.⁸⁷⁵ This also allows for the potential for cash raised through other systems such as Kamaitee to be moved undetected both into and out of the UK.⁸⁷⁶ This potential was shown through interviews conducted for this study where participant stated in the initial stages the operational negotiations are set out including the order of recipients therefore, a person may request the money at a particular time and provide a reason such as 'I would like mine at this time because I am travelling to Pakistan.'⁸⁷⁷

Third, when analysing the potential for criminal financing within the Kamaitee system this study applied Passas's indicators and the indicators which do apply to the Kamaitee system are the different methods of recording for some clients, no recording of certain transactions, large sums from one single customer, different collective methods, the possibility of transfers to the account of individuals who are involved in illegal activities and practices which do not make economic sense.⁸⁷⁸ The interviews for this study revealed legitimate reasons for these indicators.⁸⁷⁹ Although, in relation to the Kamaitee system in the UK there were plausible reasons to explain all relevant indicators, and therefore implying a lack of criminal financing through the Kamaitee system in West Yorkshire. The Kamaitee system in Pakistan has been subject to financial crimes.⁸⁸⁰ A specific case includes a woman known as Sidra Humaid who set up Kamaitee system using social media and then defaulted on 420 million Pakistani Rupees.⁸⁸¹

Irrespective of the risks, it appears that there is no curtailing the popularity of the Kamaitee system in Pakistan⁸⁸² and interviews conducted for this study included a wide range of ages, gender, jobs, and place of birth.⁸⁸³ Prior to this study, there may be an assumption that the practice

⁸⁷⁵ Ibid

⁸⁷⁷ Interview 1 QT

⁸⁷⁸ Interview 1 QT, Interview 2 FA, Interview 3 FZ, Interview 4 MA, Interview 5 SA, Interview 6 QZ

⁸⁷⁹ Ibid

⁸⁸⁰ Yusra Salim, 'Scam by committee: beware who you trust online' (The Express Tribune, 11 December 2022) <<https://tribune.com.pk/story/2390548/scam-by-committee-beware-who-you-trust-online/>> accessed 2 November 2022

⁸⁸¹ Ibid

⁸⁸² Oraan Committee Protection Plan', (Hemayah EFU Family Takaful, 2021)

<<https://www.efuhemayahtakaful.com/wp-content/uploads/2021/02/oraan-committee-protection-plan.pdf/>> accessed 26 November 2023

⁸⁸³ Interview 1 QT, Interview 2 FA, Interview 3 FZ, Interview 4 MA, Interview 5 SA, Interview 6 QZ

of using Kamaitee is only used by the older generation who are migrants.⁸⁸⁴ However, it is clear that although this system has travelled with migrants many years ago it has been adopted by the younger generation of Pakistanis born in the UK, as 66% of interviewees were born in the UK.⁸⁸⁵

Fourth, it is clear that a core foundation for building relationship within the Kamaitee system is based on trust as all interviewees referred to this “the system operates on a trust basis mostly with cash,”⁸⁸⁶ this shows the essential role of trust throughout the Kamaitee system. When exploring how this affects potential conflicts or the appeal to default on payments interviewees maintained that such cases were rare and an interviewee responded

“I would imagine if it did happen them once they’ve done they wouldn’t be trusted and once they done it they wouldn’t be allowed to partake in the Kamaitee system and usually people who run the Kamaitee system kind of have a good network so you know word travels around not to let a certain person to partake because they don’t meet the requirements so they missed out on payment for example.”⁸⁸⁷

The common theme of community trust and community reputation was central to all interviewees’ responses.⁸⁸⁸

Additionally, trust exists not only in the system as a whole but also in the Kamaitee operator ‘Obviously the Kamaitee person who is running it must make it work. Ultimately, if the Kamaitee operator was unable to replace that person they would make up the amount themselves because the trust and reputation works both ways for participants and operators.’⁸⁸⁹

Lastly

‘I think another thing to bear in mind is that you wouldn’t put a Kamaitee in with people you did not know and err like I mentioned at the start it is all based on relationships and based on trust. So, there is very little, from my personal experience, there is every little room for misunderstanding or miscommunication.’⁸⁹⁰

⁸⁸⁴ Interview 1 QT, Interview 2 FA, Interview 3 FZ, Interview 4 MA, Interview 5 SA, Interview 6 QZ

⁸⁸⁵ Ibid

⁸⁸⁶ Interview 3 FZ

⁸⁸⁷ Interview 1 QT

⁸⁸⁸ Interview 1 QT, Interview 2 FA, Interview 3 FZ, Interview 4 MA, Interview 5 SA, Interview 6 QZ

⁸⁸⁹ Interview 1 QT Ibid

⁸⁹⁰ Ibid

These responses show the important role that trust, community influence and societal reputation play in the functioning of the Kamaitee system.⁸⁹¹

Finally, this research demonstrates the popularity of an unregulated system, in order to tackle it is vital to explore the reasons for use. When analysing interviews, it was clear that different age groups vary in the reasons for use.⁸⁹² Further research could be conducted to explore the potential development of financial products which may fulfil the needs of the participants and to submerge in further detail encompassing financial crimes and the use of cash.

⁸⁹¹ Interview 1 QT, Interview 2 FA, Interview 3 FZ, Interview 4 MA, Interview 5 SA, Interview 6 QZ

⁸⁹² Ibid

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