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Cultural Financial Traditions and Universal Ethics: the Case of Hawala

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ABSTRACT

Taking into account the global expansion that certain traditional financial practices like *hawala* have experienced in the last decades, it is undeniable that both cultural diversity and different moral perceptions have become relevant questions in the international financial arena. Consequently, *hawala*, an ancient financial system profoundly rooted in Islamic moral traditions, offers an extraordinary setting to explore over a real institution the theoretical debate about the potential universality of ethics. Moreover, *hawala* makes us think over the relationship among legality, formality and morality.

This paper discusses the economic, social and ethical features of *hawala*, in order to shed some light into the question of whether diverse economic phenomena may be judged under Western standards or rather it is necessary to appeal to a superior body of universal values, respectful with the different cultures and religions. The authors show that the current —legalistic— approach to *hawala* results overly partial and biased. Therefore they conclude that it is essential to bring about a change towards a more ethically, culturally and economically sensitive approach, which would enable *hawala* to develop its full potential and become a vehicle for financial and economic development. It is necessary to consider the "hyper-norms" and fundamental principles inherent to humanity, which are common to both "formal" and "informal", "Western" and "non-Western" financial practices, when designing a legal framework for these cultural financial traditions.

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Abstract

Taking into account the global expansion that certain traditional financial practices like *hawala* have experienced in the last decades, it is undeniable that both cultural diversity and different moral perceptions have become relevant questions in the international financial arena. Consequently, *hawala*, an ancient financial system profoundly rooted in Islamic moral traditions, offers an extraordinary setting to explore over a real institution the theoretical debate about the potential universality of ethics. Moreover, *hawala* makes us think over the relationship among legality, formality and morality.

This paper discusses the economic, social and ethical features of *hawala*, in order to shed some light into the question of whether diverse economic phenomena

may be judged under Western standards or rather it is necessary to appeal to a superior body of universal values, respectful with the different cultures and religions. The authors show that the current —legalistic— approach to *hawala* results overly partial and biased. Therefore they conclude that it is essential to bring about a change towards a more ethically, culturally and economically sensitive approach, which would enable *hawala* to develop its full potential and become a vehicle for financial and economic development. It is necessary to consider the “hyper-norms” and fundamental principles inherent to humanity, which are common to both “formal” and “informal”, “Western” and “non-Western” financial practices, when designing a legal framework for these cultural financial traditions.

Cultural Financial Traditions and Universal Ethics: the Case of *Hawala*

In the wake of concern for global security after 9/11, the international community and financial authorities increased their interest for informal customary financial practices —especially for *hawala*— that until then they had been virtually unregulated and unsupervised, and which became suspected of being an important channel for the financing of terrorism (Napoleoni, 2003). *Hawala* is an ancient banking practice, deeply rooted in Islamic moral traditions and based on trust that enables the transfer or remittance of money between two parties in a fast and inexpensive manner, without the direct involvement of a financial institution —such as a bank or a money transfer. Thus, in this sense, the transactions are "informal". In the last decades *hawala* has experienced a significant expansion on a global scale as a result of the globalization and the phenomena associated with it. Although there are not reliable estimates about the dimension of *hawala*, it is commonly accepted that it constitutes a widespread practice in many non-Western countries. In these regions, it prevails the perception that "*hawala* serves more than half of the world, far more than conventional banking, and serves it well" (Houssein, 2005, p. 88).

Years after the events of September 11 that launched *hawala* to the forefront of political and financial regulatory debates, *hawala* has acquired a new significance in the scenario of the global financial crisis. On the one hand, a growing body of literature has emphasized the relationships between financial crisis and poor regulation, in a broad sense of term (Cecchetti, 2009; Coval et al, 2009; Poole, 2010; Jackson, 2010). In order to prevent recurrences, there are proposals that target not only the global regulation of the formal financial system (Basel Committee on Banking

Supervision, 2009) but also the so-called shadow/informal banking system —that comprises *hawala.* On the other hand, financial institutions that are based on core tenets of Islam —namely the Islamic banking industry, even though *hawala* also falls in this category— appear to have avoided many of the most severe consequences of the crisis although they exhibit important regulatory challenges (Hassan and Dridi 2010; Mohieldin, 2012). Consequently, *hawala* calls for new effective regulations and controls, which shall respect the moral values and principles upon which the system is based. However, as Blodgett (2011) shows, the relationships between law/regulation and ethics are never easy. Difficulties increase on a global and interdependent context.

Thus, as global institution that is simultaneously —and partially— out of formal financial system and alien to Occidental ethical standards, *hawala* offers an extraordinary setting to project the theoretical discussion about globalization, culture and ethics. It enables to explore the debate about the potential universality of ethics, which nourishes the three-pronged argument of whether cross-cultural and timeless ethical norms exist, to which extent the search for common universal moral values is the solution to cultural diversity and what their role in the current globalization process is.

This paper offers an overview of the current position of *hawala* on the global financial scenario followed by a discussion of the ethical problems associated with it. In the last decade, there has been a growing body of research that has analyzed different aspects of *hawala* —such as, for instance, policy recommendation (Passas, 2005, 2006a; Nakhasi, 2007; Zagaris, 2007; Bowers, 2009; Wang 2011), the relationship with illicit activities (Passas, 1999, 2003, 2004; Bala, 2004; Felman, 2006;

Thompson, 2006; Keene, 2007; Van de Bunt, 2008a, 2008b) and its consequences (Glushenko, 2005)— and the so-called alternative remittance systems, but the ethical dimension of these practices has been significantly neglected in the literature. Moreover, *hawala* is an exceptional testing ground for studying issues related to the universal-particular dilemma of ethical principles. Hence, we proceed as follow. First, we depict the scenario where *hawala* is discussed today. Then, we offer an overview of the *hawala* practices; the main characteristics of the transactions, their connection with trade activity, we depict how trust and reputation become essential pillars of the system and we outline the main uses it receives. Next we discuss the ethical dimension of *hawala* in order to shed some light into the issue of whether economic phenomena from different cultures such *hawala* may be judged under Western standards or rather it is necessary to appeal to a superior body of universal values, respectful with the different cultures and religions. We conclude by highlighting some final remarks.

The context

Hawala is an Arabic term that denotes "transfer" —the root *H-w-l* means "transform" or "change". When adopted into Hindi and Urdu, it gained the additional meaning of "trust" and "reference" (Jost and Sandhu, 2000; Thompson, 2008) and when it passed into French —*Aval* (Grashoff, 1889)— the expression acquired the connotation of "guarantee".

Hawala is one of the main instruments of credit provided by Islamic commercial law. In legal terms *hawala* is understood as the payment of a debt through the transfer of a claim[1]. But this mechanism also enables to make payments in another place through an intermediary[2].

It seems puzzling that today's understanding of the mechanics of a *hawala* transaction is quite different from its legal definition. Nowadays, the standard *hawala* transaction can be described as follows. A client in a city A (CA) wants to send certain amount of money to another person that is located in a different city B (CB). Hence, the client (CA) approaches a *hawala* dealer —called *hawaladar*— (HA) to request the transfer of the money. This *hawaladar* (HA) offers to arrange the transfer applying a given exchange rate —in the case where the funds are to be delivered in a foreign currency— and usually he charges a fee for his services. If the remitting client (CA) agrees on the terms, she gives the money to the *hawaladar* (HA) in the local currency or in a different convertible currency. Then, the *hawaladar* (HA) contacts —via fax, email or by phone— with another *hawaladar* (HB) in the country of destination who organizes the delivery of the funds to the recipient (CB). The beneficiary (CB) receives the money in local currency usually within few hours since the remitting person (CA) ordered the transfer. As a result of this operation there is an outstanding debt between both *hawaladars* that will have to be cancelled in the future (see figure 1).

In fact, as El-Gamal (2006, p. 206) explains, "what is called *hawala* nowadays is much closer to the *suftaja* procedure". *Suftaja*[3] is the other main instrument of credit,

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[1] "I assign to A a claim of mine against B, in order to satisfy a claim of A against me"(Schacht, (1964) 1982, p. 149).

[2] "I owe something to A and charge B to pay my debt" (Schacht, 1982, pp. 148-149).

[3] The word *suftaja* originally comes from the Persian and it means "a bill of exchange or letter of credit" (Steingass, 1963, p.684).

usually cited along with *hawala* in Islamic legal texts. *Suftaja* is defined as a loan of money in order to avoid the risk of transport[4]. In essence, the difference between *hawala* and *suftaja* is that in former there is supposed to be an obligation[5] already existing, whereas in the latter that obligation is just created with the loan of money[6] (Schacht, 1982). In the Middle Ages the *suftaja* concept gradually disappeared from the Arabic language and the *hawala* was used instead for naming these type of transfer operations in general.

Therefore, from the perspective of today's understanding of the mechanics of *hawala*, the clients that use the system to remit funds operate according to the *suftaja* scheme whereas *hawaladars*, that compensate and consolidate obligations for the settlement of their accounts, use the *hawala* transfer of debts.

There is no clear reference of when the concept of *hawala* first appeared. Razavy (2005) and Thompson (2008) advocate that the practice existed before its codification in Islamic law, which is in the line with Schacht's (1955, p. 28) observation: "Islamic law was created by Islam, but the raw material out of which it was formed was to a great extent non-Islamic".

Hawala became a common practice in the extensive medieval Islamic commercial activity but it gradually lessened its popularity when Islamic countries fell under the influence of West European countries in the colonialism era. Yet, *hawala* never ceased to exist and throughout history, it has shown a great capacity to adapt to a variety of circumstances, such as wars, economic crisis, blockades, different political

[4] "I lend an amount to B, in order that he may pay it to A in another place"(Schacht, 1982, pp. 149)
[5] Of B towards me.
[6] By a payment which I make to B.

regimes or failed states, and it has been a powerful resource whenever the formal and public institutions were dysfunctional or nonexistent. In the last decades, globalization —particularly the migratory movements, the development of communication technologies, and the ease of engagement in the international economy and the global financial system— has enabled the renaissance and expansion of *hawala* networks on a global scale.

In the aftermath of the terrorist attacks of September 11, *hawala* became related to terrorist financing. Although there was "no evidence that the 9/11 conspirators employed *hawala* as a means to move the money that funded the operation" (9/11 Commission, 2004, p. 499), the system became stereotyped as an illicit financial structure linked to Islamic fundamentalism and terrorism. Since then, *hawala* has remained in the eye of the storm for international financial regulation. On October 2001, the Financial Action Task Force (FATF) realized the special recommendations on terrorist financing —that complement the 40 recommendations against money laundering—, one of which was intended to combat the abuse of the so-called "alternative remittance systems" such as *hawala*. In particular, Recommendation VI states that: "Each country should take measures to ensure that persons or legal entities, including agents, that provide a service for the transmission of money or value, including transmission through an informal money or value transfer system or network, should be licensed or registered and subject to all the FATF Recommendations that apply to banks and non-bank financial institutions. Each country should ensure that persons or legal entities that carry out this service illegally are subject to administrative, civil or criminal sanctions" (FATF, 2001, p.3).

Nowadays, ten years after this wave of concern for Anti-Money Laundering and Combating the Financing of Terrorism (AML/CFT), it is evident that the actions taken by countries to meet international standards and reporting requirements have created a huge burden, for low income countries without the appropriate capacity and resources in particular, and for the banking industry in general, while overall compliance with international standards is low (Verdugo, 2011). Consequently several authors (Passas, 2006c; Nakhai, 2007; Bowers, 2009) have stressed the necessity to find alternative strategies to achieve the objectives of AML/CFT policies and change the international approach towards *hawala.* An analogous debate has sprung up recently in an utterly different setting; on that of the global financial crisis.

The global financial crisis is acknowledged to be the most severe economic downturn since the 1930s. For the first time since the Great Depression, the issues at stake have questioned the underpinning behavioral, moral and cultural aspects (Melé et al., 2011; Boddy, 2011; Fassin and Gosselin, 2011; Brown, 2010) and even the legitimacy of the financial system (Chomsky, 2011).

As opposed to the conventional banking industry, Islamic banks seems to have avoided many of the most cruel consequences of the crisis, they have exhibited stronger resilience and they constitute one of the fastest growing segments in the global financial industry (Hassan and Dridi, 2010). One of the distinctive features that has enabled such performance has been the close bond that exists between financial practices and the real economy, which reduces the contribution to excesses and bubbles. This close relationship is just the result of the compliance with the precepts of *Shariah* —the legal code of Islam— in the performance and design of financial practices that essentially prohibits *riba* —interest from money—, *maysir* —gambling, speculation—, *gharar* —unreasonable uncertainty— and it requires investment to be undertaken on the basis of *halal* —permitted— activities. These principles upon which financial life is structured make justice the core principle of Islamic economic system and, in this sense, justice has religious and ethical basis.

In a similar fashion, *hawala* is a *Shariah*-compliant financial practice that ensures a close link with the real economy, especially through the financing of trade and the exchange of goods and services. Therefore, just like Islamic banking is, *hawala* constitutes a practical alternative approach to conventional finance (Tripp, 2006). However, it is necessary to address important governance issues and develop an effective legal framework for this specific type of systems in order to display their full potential (Mohieldin, 2012).

Hawala operations

Hawala transactions are characterized by speed, low costs, cultural convenience, versatility, reliability and potential anonymity:

- **Speed.** *Hawala* transactions are usually completed within 24 hours. Remittances between the main international cities take an average of 6 to 12 hours (El Qorchi et al., 2003; Maimbo, 2003, 2005), although payments due in remote rural areas usually require more time, and they may take up to 48 hours (Passas, 2004). Sometimes *hawaladars* offer “express services” and they are able to deliver funds within very few hours.

- **Cost.** The volume of the transaction, the currency of exchange, the destination of the funds or the relationship between the remitter and the hawaladar are important features that may influence the cost of a *hawala* transaction. However *hawala* cost are always much lower than the fees charged in the formal banking system (see Table 2 for an example). El Qorchi et al. (2003) state that the cost of a *hawala* transaction averages around 2 to 5 percent of the total amount of the funds involved, although Maimbo (2005) report that these fees averaged 1 to 2 percent in Afghanistan. Passas (1999) offers several examples where *hawaladars* offer free services to their compatriots, in the corridor Australia-Africa.

- **Anonymity.** This is the feature that has raised more concerns for western financial authorities, however it is not a specifically designed strategy but rather the outcome of the principles that rule *hawala*. The anonymity of the system is guaranteed by the fact that *hawaladars'* records are not accessible to third parties and there are no standard document requirements for the clients who use the system. *Hawaladars* record all their transactions but with an eminently practical purpose, just to keep track of the state of their finances and their books are not intended to be opened to external auditors. On the other hand, the reputation of an individual is considered to be a sufficient guarantee of his honesty and so requirements such as Know Your Customer (KYC) are sometimes perceived as a pointless imposition by a foreign power (Razavy and Haggerty, 2009). Furthermore, in some regions where *hawala* operates, personal identification and documentation were never widely used, as it happens in Somalia (Houssein, 2005; Lindley, 2009).

- **Cultural convenience.** *Hawala* is frequently used as a remittance system for emigrants to send money to their families in their countries of origin. Many times these workers suffer cultural barriers —language difficulties, low levels of education or even illiteracy— in their host country that difficult their access to formal banks and also often the family in the home country is located in unbanked remote villages. Religious considerations are also an important reason why many users choose *hawala* over other remittance systems. *Hawala* is a *Shariah*-compliant mechanism —in contrast with conventional Western banking— and so it is a widespread practice in countries with Islamic traditions and among their expatriates.
- **Versatility.** *Hawaladars* have always maintained their operations under extreme circumstances even when sometimes the formal banking system has not been able to adapt and ceased to operate. For instance, in Somalia after the Siad Barre government was deposed in 1991, commercial banks collapsed and *hawala* was the only financial system in the country (Houssein, 2005; Lindley, 2009). Similarly during the Taliban period in Kabul, the country's formal banking system was not operational and *hawaladars* were the only active financial operators (Maimbo, 2005). These extreme circumstances show how in the context of institutional collapse, informal structures such as *hawala* may constitute a source of regulatory order.
- **Reliability.** The reliability on *hawala* derives from the trust that governs the system and the versatility that it exhibits.

Hawala practices have always been embedded in trade activity. Yet this relationship seems to have been disregarded by outsiders since the system is portrayed as a mere remittance vehicle forgetting that trade has been its core function from its medieval origins right until the present time (Martin, 2009). *Hawaladars* are not exclusively dedicated to their remittance activities; rather they are usually entrepreneurs and small business owners —ranging from small ethnic shops, convenient stores, import/export businesses and even other formal financial activity. *Hawala* transactions and settlement operations are usually intermingled with their business activity (Jost and Sandhu, 2000; Passas, 2006b). This embeddedness is highly efficient for two main reasons. On the one hand the business activity provides the pool of cash that *hawaladars* need for their daily operation —out of which they make the payments due to complete the *hawala* transactions. And, on the other hand, the complementary businesses activities bring over the connections that *hawaladars* need; the network of partners and it is also the main source of clients.

The organization of *hawala* has always followed the organization of commercial activity. Therefore, there is no formal hierarchy so that each individual is at the center of a particular web of relationships. The overall informal —in the sense of unstructured and personal in nature— organization results from the maze of individual relationships, which could bond a large number of people. The relations between the different members are personal and not uniform in intimacy and intensity. As Schramm and Taube (2003), Ballard (2005) and Schaeffer (2008) detail, a reputation mechanism enables to uphold cooperation within *hawala* networks. Every *hawaladar* has to put effort to construct a reputation of trustworthiness and competence in order to develop stable and reciprocal relations with his partners. The reputation of honest person actually permits an individual to credibly commit himself ex ante not to betray his partners ex post. Dishonest behavior is punished with ostracism —that entails economic losses— and the correspondent damage to reputation —that also involves social sanctions.

The set of norms, customs, mores and traditions shared by the community also contributes to enforce the sustainability of this system based on trust. In this respect, Islam becomes remarkably imperative. The *Shariah* prohibition of *gharar* —ambiguous contracts or deals— discourages excessive uncertainty in contracts, and proscribes all forms of deception. In addition, Islam upholds contractual obligations and the disclosure of information as a sacred duty. This feature is intended to reduce the risk of asymmetric information and moral hazard.

According to Udotvicht (1979) the prominence of status and personal relations and the social-personal relationships on which commercial and financial activities were embedded, have restrained the expansion of the networks beyond the social context of the local community for a long time. Yet, in the last decades, the migratory movements and the easy of communications that characterized the globalization process, have enabled the development of *hawala* networks on a global scale, while they still rely on a social construct founded on trust and status.

At present, *hawala* is used for a wide variety of ends that exhibit different degrees of legitimacy and legal condition. Remittances from migrant workers are the most popular use of *hawala*. However, beyond working as a mere remittance mechanism, *hawala* has also helped to preserve social ties between a country and its diaspora (Thompson, 2011) through continuous interactions. *Hawaladars* constitute "a link between home and abroad" (Rahman and Yeoh, 2008).

In addition, different organizations and governments use *hawaladars* for the movement of aid money for humanitarian, emergency, and relief projects in conflict-torn countries such as, for instance, Somalia (Lindley, 2009) or Afghanistan (Maimbo, 2003; Thompson, 2011).

In sum, *hawala* meets the financial needs of those who are excluded from the coverage of conventional banking system and in that sense it alleviates the financial exclusion of the minorities.

However, *hawala* is also well tailored for other illegal ends. For instance, the system permits to circumvent capital and exchange controls, evade taxes and to transfer the proceeds from smuggling operations (El Qorchi et al., 2003) and from other illegal activities. As a matter of illustration, Thompson (2011) reports the close relationship of *hawaladars* and opium traders in Afghanistan. She conveys that *hawaladars* are aware that that their money transfers are intermingled with illegal activities, but for them that is an inevitable aspect of doing business in the region. *Hawaladars* view themselves "simply as a facilitator, transacting whenever the most profit will be generated" (p. 228). And in that sense, trade of illegal commodities provides a guaranteed source of liquidity. Moreover, *hawaladars'* perception of what is "illicit" or "criminal" may differ from the that of global regulators, especially in contexts where many activities deemed criminal by the Western world, form what Goodhand (2005) has identified as the "coping" or "survival" economy. Thompson (2006) estimated that, in relation to drug trafficking, roughly 800USD million are remitted through *hawala* annually in Helmand (South Afghanistan) and in the range of 300-500 USD million in Herat (West Afghanistan).

The main source of profit for *hawaladars* is the foreign exchange arbitrage between formal and parallel markets. Beyond local currencies, *hawaladars* use hard currencies —mostly the U.S. Dollar— for their operations mainly because they do not fluctuate excessively in the short run, they serve as a hedge against inflation and they are easily convertible to other currencies.

Because *hawaladars* simultaneously emit and receive orders to deliver payments, each of them stays in a constantly shifting position of debit or credit with respect to other *hawaladars* operating within the *hawala* network (Ballard, 2005). Therefore *hawaladars* do not cancel outstanding debts individually, they rather compensate all claims and liabilities with a given partner and when the asymmetry between both positions is large enough, they clear off the resulting balance.

When it comes to the settlement strategies, the most straightforward are reverse *hawala* transactions, that is, remittances or payments going in the opposite direction (El Qorchi et al. 2003). However, this kind of operations does not always occur since remittance flows are very asymmetrical and so other forms of settlement become more important. *Hawaladars* also turn to cash delivery by couriers to cancel their debts, although more often they use different types of formal financial instruments (Passas, 2004) and trade operations —such as the misinvoicing of imported or exported goods, bogus invoices for services or smuggling (El Qorchi et al., 2003; Passas, 2004; Schaeffer, 2008)— to make compensatory payments to their creditors.

The ethical dimension of hawala

The moral legitimacy of *hawala* stems from the goal it pursues, the means employed to achieve it, the circumstances that surround the activity of *hawaladars* and the outcomes or consequences of their operations.

When it comes to the ends of *hawala,* it is much complex than it seems to determine which goal provides moral justification for the activity of *hawaladars*. It is necessary to consider first the social contribution of *hawala*, and then the justification for the concern that these financial practices exhibit for international financial authorities.

Hawala serves legitimate needs that cannot be met in other ways. On the one hand, *hawaladars* offer financial services to people that otherwise would be excluded from the system or would have to bear excessive costs to access to it. And on the other hand, *hawala* has proved to be the only practical alternative in the event of institutional collapse in many countries.

As El Qorchi (personal interview, 13th December 2011, Washington D.C) claims, *hawala* fills the gap between the rich and the poor, the developed and less developed countries and it serves those segments of the population that are not targeted by the conventional banking —either because they lack economic appealing or because the system has not the capacity to service them. *Hawala* is unbeatable among "low profile" migrants and the financially excluded. In this context, AML/CTF regulation towards financial practices like *hawala* have produced the opposite from desired effects, including higher remittance costs, fewer options for remitters, unnecessary criminalization of economic sectors and ethnic groups, etc. (Passas, 2006a). In this sense, the regulation of *hawala* money transfers does not fit with ideas of "making the best of globalization" or "making globalization work for the poor" (Watkins, 2002; Stiglitz 2006).

It is not easy to measure the social results or consequences of *hawala* given the informal nature of its modus operandi, yet *hawaladars* actually perform a chief role as a catalyst for the economic development and the reduction of poverty of local communities (Pieke et al., 2005, 2007; Lindley, 2009) —especially through the financing of trade activity and the transfer of flows of remittances or humanitarian aid and relieve money.

Nevertheless, good intentions or positive social results are not sufficient in themselves; like in any human organization, *hawaladars* must also observe ethical criteria in their decisions, that is, in the means they make use of.

Hawala constitutes a financial practice that is compliant with the precepts of the *Shariah*. The Islamic law, essentially communitarian, moral and religious, fosters the principles of justice, moral rectitude, obedience to God and the welfare of the *ummah* —community—, which all come together in the practice of *hawala*. *Hawala* is one of the few financial practices that are founded on a religious doctrine, therefore when adopting a position towards this system, it becomes imperative to think about ethical values beyond any other standards.

The secrecy and opacity that surrounds *hawala* transactions have triggered the fear and mistrust of the West. Financial authorities (FATF, 2005) claim that informal financial practices like *hawala* could be easily misused for transmitting ill-gotten money, generated by different kinds of criminal, illegal and unethical activities. However, *hawala* is vulnerable to criminal abuse, just like all other financial institutions (Passas, 2005), and more serious crimes are being committed through formal channels, including trade and financial intermediaries. Moreover, terrorist operations are often cheap as "a great deal of serious harm can be accomplished with just a few hundred US dollars, which are extremely easy to hide from anyone complying strictly with all current rules" (Passas, 2006a, p. 324). However this is not an excuse to leave *hawaladars* operate without any sort of control or surveillance. As it was clearly stated in the Abu Dhabi Declaration on *Hawala* (U.A.E Central Bank, 2002), it is vital to ensure that the system is not abused by money launderers and terrorist financiers.

Nevertheless it is important to notice that *hawala* has many of the features the formal banking system aspires to achieve —low cost, speed, cultural convenience, reliability and versatility. Furthermore, "reliance on trust and reputation which are now portrayed (…) as deviant aspects of informal and criminal finance, have always played an important part in Western banking itself" (de Goede 2003, p. 516). The key difference is that nowadays trust is enforced differently in the formal financial sector —through formal rules; judiciary and bureaucratic— and in traditional practices like *hawala*. From this perspective, it was straightforward that the current regulatory approach towards *hawala* and similar cultural financial practices was doomed to fail. The regulatory mentality of the West is based in the absence of trust, whereas that is not true for *hawala,* in which financial relationships are grounded on the trustworthiness and the reputation of the individual rather than contract. As Passas (personal interview, 15th December 2011, Boston, MA) states "it makes no sense to apply the same measures to formal and informal financial practices".

In order to effectively approach the activity of *hawaladars* in an ethical way it must be taken into account the complex, non-Western mechanism of economic governance that the system exhibits, as well as the particular circumstances —– economic, political and social situations—– of the communities in which *hawala* operates. It is also important to be aware of the ambiguous nature of this activity, which besides being informal from a Western point of view, it is connected with the formal economy in multiple ways. In addition, it is necessary to recognize that, just like it is true for other conventional financial practices, legitimate and illegitimate fields of action overlap in the context of *hawala.*

Consequently, could we judge *hawala* appealing to a common body of ethics that shall foster the common good and promote justice? We agree with the Declaration of Parliament of the World's Religions (1993) in the idea that rights without morality cannot long endure, and there will be no better global order without a global ethic, which could not be created or enforced by laws, prescriptions, and conventions alone. A common morality should embrace the essential values fostered both by Western and non-Western cultures, such as the respect and responsibility with regard to human dignity, personal and social responsibility, or global justice. Otherwise, such judgments would just be another disguised form of cultural imperialism. The later scenario is exemplified by the case of *hawala* in the last decades. These cultural financial practices have been tagged with labels such as "informal", "underground" or "alternative" that have contributed to their "delegitimisation" and they have been relegated to an inferior or opposing position in relation to Western financial structures, which have implicitly been constructed as the normal and legitimate space in international finance (de Goede, 2003; Thompson, 2011).

Concluding remarks

In an increasingly globalized world, cultural diversity and the existence of different moral perceptions are relevant questions not only in business ethics but also in international financial arena, as it is exemplified in the case of *hawala*. Within the debate of the existence of universal principles, *hawala* makes us think over the relationship among legality, formality and morality.

Ten years after the wave of concern for AML/CTF, cultural financial traditions like *hawala* have acquired a new significance in the context of the global financial crisis, as financial institutions grounded on core tenets of Islam seems to have weathered the storm better. Yet there are important regulatory and governance issues that need to be addressed for these systems to unfold their full potential (Hassan and Dridi 2010; Mohieldin, 2012). Moreover, it is vital to adopt the necessary measures to ensure that practices like *hawala* are not abused by terrorism and organized crime.

This paper has discussed the economic, social and ethical features of *hawala*, all of which must be taken into account when judging its operations. *Hawala* is one of the few financial practices that are founded on a religious credo, and so it becomes imperative to think about ethical values beyond any other standards when designing a legal framework for the system. It is important to point out that even though *hawala* is based on ethical values that are Islamic, they are much more general and not only confined to this religious tradition. In deed, other ethics from ancient time (McCulloch, 1863 as cited by Termes, 1995), emphasize similar principles to foster the relation between finance and the real sector.

It seems that the practice of *hawala* existed long before its codification in Islamic law in the Middle Ages and since then, it has become longstanding element of the cultural landscape of many countries in Southeast Asia, the Middle East and Africa. In the last decade *hawala* has undergone a considerable growth and the global expansion although its modus operandi still exhibits its traditional "mixed embeddedness" (Thompson, 2011, p. 140) of cultural codes, rational economic principles and social affiliations. Nowadays, the main challenge that *hawala* poses is the problem of its secrecy, in which two fundamental principles conflict with each other; the respect for individual privacy and the protection against possible illegal acts. It is obvious that *hawala*, created centuries ago, put much less emphasis on this second principle, but this does not turn the system immoral now, but in any case, more risky from the point of view of public ethics or politics.

Hawala constitutes an important institution for its clients, the local communities and the society in general. Given the analysis carried out in this paper, it seems that evidence supports the idea that *hawala* is based on an ethically right motivation; there are positive outcomes or consequences —even though there are some weaknesses that need to be amended in order to avoid any abuse—, and the circumstances in which *hawaladars* operates justify their operations. Consequently, if the practice is carried out with honesty, prudence and reasonableness, it deserved a positive ethical appraisal. Yet, it must be acknowledged that the opacity that surrounds the activity of *hawaladars* forbids the track of a financial crime when it has been already committed. Moreover, provided the informal nature of *hawala*, there may be further undesired indirect effects typical of any underground activity.

Although there is evidence that has proved the link between *hawala* and organized crime in a bunch of cases, it is very dangerous to make the association between both systems directly because, as Maimbo (personal interview, 1st December 2011, Washington D.C) insists, that would create the fake illusion that if we get to kill *hawala* that would be the end of the financing of organized crime. *Hawala* is not the panacea in the fight against organized crime; criminal money flows through the hands of *hawaladars* just as through any other conventional financial mechanism.

Hawaladars exhibit financial know-how, they are able to mobilize important sums of money, they understand local markets and they enjoy a strong reputation among the poor. Thus, they have the potential to become essential elements in the goal of "banking the unbanked", by offering the delivery of financial services to rural and remote areas that are currently outside the reach of the conventional financial system.

Hence it becomes more necessary than ever to bring about a change towards a more ethically, culturally and economically sensitive approach. There should be a greater integration of law and ethics so that the ethical purpose of the law becomes evident. In this respect, it is necessary to focus on "hyper-norms" or fundamental principles inherent to humanity which are common to both "formal" and "informal", "Western" and "non-Western" financial practices. This is the only way that *hawala* could develop its full potential and become a vehicle for financial and economic development.

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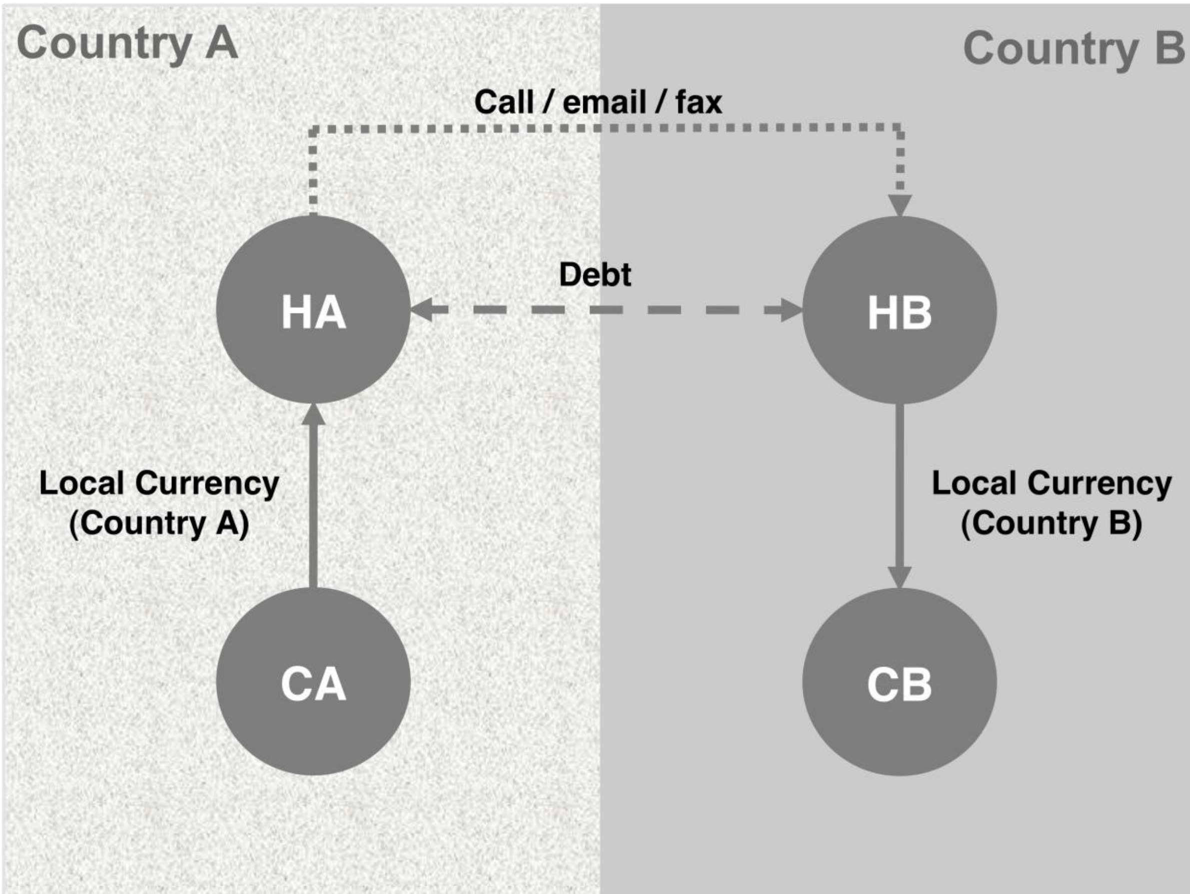
Figure 1



Country A
Country B
Call / email / fax
Debt
HA
HB
Local Currency
(Country A)
Local Currency
(Country B)
CA
CB

Table 1

Table 2.1. Comparative Cost of Sending US$100 to South Asia from Dubai, U.A.E.

Institution	Charges (US$) Draft	Charges (US$) Telegraphic Transfer	Rate of Dh/US$
Exchange house	1.36–2.722	9.52–16.33	3.6735–3.68
Bank	2.722–6.80	12.25–27.22	3.678–3.693
Western Union	9.52	—	3.7
Hawala	0	—	3.673–3.6736

Source: N. Passas.

Table 2.2. Comparative Amounts Received in Pakistan for Remittance of US$100 from Dubai, U.A.E.

Method of Remittance	Charges	Total Paid	PK Rupees Received
Draft (exchange house)	1.36–2.722	101.36–102.722	5,901–5,910
Draft (bank)	2.722–6.80	102.722–106.80	5,890
Telegraphic transfer (exchange house)	9.52–16.33	109.52–116.33	5,901–5,910
Telegraphic transfer (bank)	12.25–27.22	112.25–127.22	5,890
Western Union	9.52	109.52	5,858
Hawala	0	100	5,920

Source: N. Passas.

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Hawala	0	100	5,920

Source: N. Passas.

Tables extracted from: Passas (2005)