Transacting on Trust: The Regulation of Trade Credit by Afghanistan's Money Exchangers

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I. INTRODUCTION

In developing and fragile states, banks often have difficulties providing credit to any clients other than large and well-established businesses.[1] Small and medium-sized enterprises (SMEs) are viewed as poor creditors given the difficulties that financial institutions face in assessing their creditworthiness and ability to repay loans. Courts are also often viewed as a poor option for financial institutions, both because legal remedies may be costly and dysfunctional in such states and because a favorable outcome may do little in recuperating funds from a business that has gone bankrupt or disappeared. For this reason, financial institutions often prefer keeping funds within their

[1] Paul L. Freedman & Reid W. Click, *Banks That Don't Lend? Unlocking Credit to Spur Growth in Developing Countries*, 24 DEV. POL'Y REV. 279 (2006).

coffers rather than exposing themselves to undue risks, thereby leaving SMEs in a dilemma on how to access credit for their operations.[2]

This paper involves a case study of money currency exchangers in Afghanistan to understand how a group of market actors have been able to capitalize on the shortage of credit available to SMEs by providing the latter with credit. Money exchangers play an indispensable role within the Afghan economy by providing a variety of financial services, including loans to business. These credit transactions – locally referred to as *ograyi* – are based on relationships of trust between exchangers and their clients. Exchangers assess potential business partners based on their market reputation and prior deals. Trust develops between the two parties as they undertake credit transactions and, more importantly, depends on the debtor-business making timely repayments. Contractual compliance is ensured through the threats of both reputational damage and termination of future dealings.

This study reveals the ability of a group of financial intermediaries to carry out credit transactions within weak and unstable states by relying on relationships of trust. Various scholarly works have sought to understand how trust operates "in transition" where legal remedies for contractual breaches may not be readily accessible by the parties.[3] In such settings, parties may rely on "relational contracting"[4] where parties plan to deal with the intention of continuing their business dealings for the foreseeable future. In the day-to-day credit transactions carried out by money exchangers in the central money bazaar, trust rather than law ensures contractual compliance. While trust substitutes for legal coercion, the study shows that the state assists in the formation of trust between the parties through registration and collateral contracting. This reliance on that should not be viewed solely or even primarily as strengthening state authority; rather, it facilitates the accretion of trust between parties. The state thus allows for exchangers to rely more on relational contracting.

This study is based on fourteen months of ethnographic fieldwork in Afghanistan's central money exchange bazaar, which included some 169 interviews with money exchangers, businesses, central bank officials, lawyers, and members of the judiciary (all names have been anonymized). The ethnographic data provides a first-hand account of the microdynamics of trust-based transacting by money exchangers through a sustained study of their mundane, day-to-day transactions.

[2] *Id.*

[3] Dominika Latusek & Karen S. Cook, *Trust in Transitions*, 65 KYKLOS 512 (2012); Dominika Latusek & Tomasz Olejniczak, *Development of Trust in Low-Trust Societies*, POL. SOC. REV. 309 (2016).

[4] Ian R. Macneil, *Relational Contract: What We Do and Do Not Know*, 1985 WIS. L. REV. 483 (1985).

II. A BAZAAR SETTING

Kabul's central money exchange bazaar, *Sarai Shahzada*, is located in the heart of the old city. Its single entry-gate, manned at all times by two police officers, leads into the economic heart of the country, the central money bazaar.[5] While innumerous money exchangers – locally referred to as *sarrafs* – can be found throughout Afghanistan, the bazaar houses the most prominent and wealthy one in the country. Roughly 400 shops span the four floors of the bazaar, its open air configuration permitting ample sunlight and fresh air, though rendering it wet and frigid through the winter months. Within this simple yet vibrant setting, hundreds of millions of dollars circulate each day, making it the financial hub of the country.

Exchangers perform a variety of transactions, including currency exchanges, money transfers, financing, and otherwise. The high level of trade with nearby countries causes many foreign currencies to circulate in Afghanistan. Afghan merchants rely on the foreign currency provided by exchangers to acquire their goods from abroad. People in Afghanistan also regularly cross into neighboring countries, whether for work, medical services, or education, thus requiring foreign funds. Exchangers also offer loans; when a merchant has developed a relationship of trust with an exchanger, he may be able to acquire credit from the exchanger, thereby allowing him to expand the scale of his business. Money transfers are executed using a *hawala* system. A *hawala* money transfer involves the cooperation of business partners in two distant locations, both within the country and extending across the globe.[6] The combination of shops in the money bazaar forms an extensive *hawala* network covering the entire country and extending across many parts of the globe.

By no coincidence, the central money bazaar sits adjacent to the famous street of *Mandawi*, a shorthand for the market of Kabul's merchants and traders, roughly two square kilometers in size and hosting thousands of private businesses. As a landlocked country with a limited industrial and production sector, Afghanistan relies on its neighboring countries for goods. Traders and merchants ensure that every possible good is imported from abroad, from kitchen utensils, to luxury furniture, to electronics. The affairs of Afghan merchants and money exchangers are deeply entangled, as they former rely on the latter for transferring funds to and from suppliers and customers located abroad or across the country.

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[5] Kabul also has a number of small exchange bazaar, ranging in size from 5 stores to 50 stores. The main difference is that those other markets predominately engage in currency exchanging, whereas exchangers in *Sarai Shahzada* also engage in *hawala* transfers and credit financing.

[6] For example, an exchanger in the bazaar may have a partner in Tajikistan. This partner will have some clients seeking to send funds to Kabul and other clients waiting to receive funds from Kabul. Both partners will be able to offset inflows and outflows of funds, such that at the end of a given period, only a small amount of funds needs to be transferred between them. When the two need to offset funds, they could do so using bank transfers, through a trusted third-party, or even by physically transporting the funds. *Hawala* networks extend into dangerous areas of the country. Exchangers often shoulder the risk of transporting funds into these through trusted third parties. The risks associated with operating in these areas puts a premium on their services.

Exchangers provide the grease that lubricates the economy, facilitating a range of transactions that would otherwise be unavailable to businesses. This includes providing trade credit to businesses so that they may acquire goods that are subsequently sold in the market. In Afghanistan, this practice is referred to as "*ograyi*." *Ograyi* is arguably the single most important credit transaction in the market, as it permits goods to enter Afghanistan from neighboring countries and spread to every corner of the country through a chain of credit transactions. Exchangers play a crucial role in the circulation of trade credit, serving as the point of origin for a chain of subsequent transactions. The next section explains the significance of trade credit for the running of the entire Afghan economy.

III. THE CIRCULATION OF TRADE CREDIT (*OGRAYI*)

In Afghanistan, businesses often lack the requisite funds to pay their suppliers on the purchase date. Gaining access to credit is particularly difficult in Afghanistan given that the economy is stretched for resources. Potential creditors legitimately fear that their funds may disappear due to the fluctuations in the market or from a bad business decision on the part of the debtor (even if well intentioned). Furthermore, debtors may refuse to repay funds, sometimes even abscond to another country, leaving the creditor without any recourse.

In many societies with weak or inaccessible financial institutions, community-level credit mechanisms allow for people to access credit. One arrangement called a rotating savings and credit association (ROSCAs) involves a group of people agreeing to each contribute money towards a communal savings fund over a fixed period of time.[7] The total funds are then made available to each of the group members on a rotating basis, until all of the members have once been able to use the full savings.[8] Pawnbrokering is another means of providing credit and involves a broker who provides another party with credit after detaining some form of collateral from the latter, often gold, jewelry, or some other moveable item of value, thereby mitigating the risk

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[7] *See* Timothy Besley, Stephen Coate & Glenn Loury, *Rotating Savings and Credit Associations, Credit Markets and Efficiency*, 61 REV. ECON. STUD. 701 (1994); Nicole Woolsey Biggart, *Banking on Each Other: The Situational Logic of Rotating Savings and Credit Associations*, 84 ADVANCES QUAL. ORGAN. RES. 129 (2001); F.J.A. Bouman, *Indigenous Savings and Credit Societies in the Third World. A Message*, 1 SAV. DEV. 181–219 (1977); F. J. A. Bouman, *Rotating and accumulating savings and credit associations: A development perspective*, 23 WORLD DEV. 371–384 (1995). ROSCAs have been the object of study for several decades. *See* Shirley Ardener, *The Comparative Study of Rotating Credit Associations*, 94 J. ROYAL ANTHROPOLICAL INST. GR. BRIT. IR. 201 (1964); Clifford Geertz, *The Rotating Credit Association: A "Middle Rung" in Development*, 10 ECON. DEV. CULTURAL CHANGE 241 (1962). Recent research has also focused on the governance of ROSCAs through the interplay of official laws and community practices. See Gebreyesus Abegaz Yimer et al., *The interplay between official and unofficial laws in rotating savings and credit associations (Eqqub) in Tigray, Ethiopia*, 50 J. LEGAL PLURALISM UNOFFICIAL L. 94 (2018).

[8] See *id.*

of nonpayment.[9] Both ROSCAs and pawnbrokers allow for parties to avoid the bureaucracy associated with formal institutions[10] and credit evaluations.[11]

Afghan society hosts a number of practices bearing functional similarities to ROSCAs and pawnbrokering. The sharing of credit amongst a group of people is often accomplished through one's personal community, sometimes referred to as their *qawm*. Wealth is often maintained within these communities as members will support each other with loans if a member requires assistance.[12] While a *qawm* may provide a minimum social safety net for its members, it often lacks the necessary wealth for businesses to be able to scale up their activities. Pawnbrokering in Afghanistan is accomplished through the practice of *gerawi*, which involves the pledge of property – usually land – to a creditor in exchange for financing.[13] During this period, the creditor benefits from the use of the land, whether for his own use or in leasing it out to a third party.[14] One of the limitations of *gerawi* is that the level of credit provided is normally much less than the value of the land detained. Thus, while both the sharing of resources within the *qawm* and practice of *gerawi* allow people to access their immediate needs, the size of credit they make available is highly circumscribed, and the activities of businesses would be severely limited if only these two means of gaining credit were available to them. For this reason, many market participants have come to rely on informal trade credit, referred to as *ograyi*.

In Afghanistan, wholesalers are mindful that the businesses seeking to buy their goods often lack sufficient funds to make a purchase outright. Rather, these businesses will slowly accrue funds over a period of time by selling the goods in the market. Such businesses ask for an *ograyi* arrangement, where goods are sold with a supply-side line of credit, thereby allowing them to receive the goods and pay the outstanding debt through period installments, usually weekly. While several credit mechanisms exist in Afghanistan, *ograyi* specifically relates to credit circulating amongst businesses to facilitate the

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[9] F. J. A. Bouman & R. Houtman, *Pawnbroking as an Instrument of Rural Banking in the Third World*, 37 ECON. DEV. CULT. CHANGE 69–89 (1988); John P. Caskey, *Pawnbroking in America: The Economics of a Forgotten Credit Market*, 23 J. MONEY CREDIT BANK. 85–99 (1991); MARIE EILEEN FRANCOIS, A CULTURE OF EVERYDAY CREDIT: HOUSEKEEPING, PAWNBROKING, AND GOVERNANCE IN MEXICO CITY, 1750-1920 (2006).

[10] Biggart, *supra* note 7.

[11] Michael Skully, *The Development of the Pawnshop Industry in East Asia*, *in* FINANCIAL LANDSCAPES RECONSTRUCTED: THE FINE ART OF MAPPING DEVELOPMENT (F.J.A. Bouman & Otto Hospes eds., 1994).

[12] Stefan Schütte, *Informal (In)security in Urban Afghanistan*. 42 IRANIAN STUDIES 465, 485 (2009).

[13] FLOORTJE KLIJN, INFORMAL CREDIT PRACTICES IN RURAL AFGHANISTAN: CASE STUDY 1: HERAT 17 (2006); Haroun Rahimi, *The Customary Practice of Gerawee in Afghanistan: A Case for Transitioning to Real Equity-Based Finance*, 2 INDONES. J. INT'L. COMP. L. 743, 744 (2015).

[14] The *gerawi* arrangement is highly flexible and may take a number of configurations. The creditor may occupy the pledged land for his own use; he may lease the land for his own use at a highly discounted price; he may lease out the land to a third party; he may allow the debtor to remain on the land and collect rents from the debtor. See e.g. Rahimi, *id*.

purchase and sale of goods.[15] Unlike other forms of credit available to parties, *ograyi* is generally unsecured and thus exposes the creditor to significant risks. *Ograyi* is the most common mode of financing for traders and merchants who import goods from abroad. Because of the limited capacity of the local industrial and production sectors in Afghanistan,[16] the country has become deeply reliant on goods brought into the country by these itinerant Afghan businessmen.

The supply chain of particular goods may involve several *ograyi* arrangements. For example, an initial supplier – possibly in China – may provide *ograyi* to a wholesaler in Kabul, who then provides *ograyi* to another business in Kabul, who subsequently provides *ograyi* to a smaller store in the neighboring province of Parwan (and his lay customers may even acquire the goods for personal use on *ograyi*). *Ograyi* thus facilitates goods being distributed widely throughout the country. At each level, buyers repay their immediate supplier through installment payments. This network of connections created by *ograyi* may entail greater potential for profits since parties are not confined to cash transactions. However, it carries with it greater risks, since delays in payment by any debtor will have a cascading effect upwards in the supply chain. This risk is partially counterbalanced by the fact that creditors at each stage are generally better capitalized than their debtors. Furthermore, the different creditors often diversify their debtors, helping them to hedge against the potential damage from a delay in repayment by any one particular debtor.

Ograyi may take two general forms: (i) supply-side credit; and (ii) cash credit from a money exchanger for the purchase of specified goods. In both instances, the creditor reaps a profit from the transaction. Supply-size credit is common when both businesses are located within Afghanistan provided the supplier possesses sufficient capital to be able to accept delayed repayments. Being in the same country and normally within close geographic proximity allows the supplier to monitor his debtor through regular interactions, including weekly visits to collect installments. The supplier profits not just from the sale of its goods but also from the line of credit, since goods are sold to debtors at a markup.[17]

The second form of *ograyi* becomes necessary when the supplier is unwilling or unable to provide credit, and thus a third party must be introduced to finance the transaction. Many businesses only accept full payments for goods being sought. Suppliers in neighboring countries without a presence in Afghanistan may be particularly reluctant to provide goods on credit as they are unable to continuously monitor debtors and thus would be

[15] Two other credit arrangements are *gerawi* and *sar qulfi* (a deposit by businesses to the building owner for the right to use the shop location). Both of these arrangements are secured with collateral.

[16] OECD, *Boosting Private Sector Development and Entrepreneurship in Afghanistan* (2019).

[17] This behavior technically (or arguably) avoids interest since the seller is simply setting a higher price for his goods when the repayment is in the future.

particularly exposed to the risks of credit transactions. In these instances, Afghan money exchangers play a crucial role in facilitating the transaction. Exchangers can provide credit to businesses for the acquisition of goods from abroad for their business. The exchanger rather than the supplier assumes the risk of the transaction in the event of a default.[18] While central bank regulations prohibit exchangers from engaging in *ograyi* transactions,[19] the challenge of strict financial oversight has allowed for the practice to flourish with minimal state interference.

Ograyi allows for exchangers to keep their capital in circulation, thereby generating profits.[20] The exchanger benefits from the service charges associated with the credit transaction (similar to interest)[21] while the debtor acquires goods for his business. Furthermore, when an exchanger provides credit through an *ograyi* arrangement, the transaction is often combined with other services. As the supplier is often located abroad, the exchanger facilitates the *hawala* transaction, which has a separate fee. The exchange rate for the foreign funds being sent abroad to purchase those foreign goods will be set by the exchanger and will include an additional profit margin.[22] For the exchanger, the gains from these various services quickly accumulate, especially if the business regularly requests new transactions.

Ograyi became particularly widespread in Afghanistan after 2002 when significant international military presence was followed by prolonged state-building efforts.[23] Khaleq, a veteran exchanger with 32 years of experience remarked, "*Ograyi* was not big during the Taliban. But it increased during the regime of Karzai because a lot of money was entering into Afghanistan."[24] In the 1970s, it was estimated that exchangers financed some 50% of Afghanistan's foreign trade, though the total volume of trade was nominal compared with its present levels.[25] Significant international presence in Afghanistan along with the steady return of Afghan refugees commencing in late 2001 helped jumpstart the Afghan economy. By 2010, former President

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[18] An employee of the currency exchanger office will then visit the debtor each week to collect payments.

[19] Money Exchanger Regulation, 2019.

[20] Businesses throughout Kabul often keep a deposit of funds with exchangers; subsequently, an exchanger can utilize these funds for other transactions, such as providing certain customers' credit.

[21] The similarities between this transaction and interest are discussed in the Choudhury (forthcoming).

[22] In this way, the exchanger can avoid directly charging interest by incorporating the profit level into the exchange rate. The *hawala* transfer also entails a separate fee.

[23] For the effects of foreign aid on the Afghan economy, see e.g. Nematullah Bizhan, *Aid and state-building, Part II: Afghanistan and Iraq*, 39 THIRD WORLD Q. 1014–1031 (2018); ASTRI SUHRKE, WHEN MORE IS LESS: THE INTERNATIONAL PROJECT IN AFGHANISTAN (2012).

[24] Interview with Khaleq, executive of the exchanger Union, in the money bazaar (Dec. 2017).

[25] MAXWELL J. FRY, THE AFGHAN ECONOMY: MONEY, FINANCE, AND THE CRITICAL CONSTRAINTS TO ECONOMIC DEVELOPMENT (1974 (noting Afghanistan's imports in 1970 was USD $167 million) 217, 242.

Obama announced his Afghanistan strategy, which entailed transforming the country into a functioning democracy with western-style state institutions.[26] Subsequently, the volume of imports mushroomed, between 2009 and 2012, the level of imports increased by over 50%.[27] Exchangers played an essential role in ensuring funds could be quickly dispersed to countries abroad as well as across the country, thereby enabling the movement of goods on credit with the limited assistance of banks.

The country's economy took a drastic downturn after 2014 when US troops began phasing out of the country and foreign funding rapidly dried up. Between 2014 and 2016, the level of imports shrunk by nearly 25%.[28] Less foreign money entering the country resulted in a significant reduction in the demand for goods in the economy. Many exchangers saw their reserve of capital shrink, whether due to businesses unable to repay their debts or investors who had pulled out their funds. As the economy slowed after 2014, people lost their general confidence in the market, and exchangers became much more cautious when providing *ograyi* to businesses.

IV. AGREEMENTS IN THE SHADOW OF DISTRUST

Societies vary in the amount and type of trust circulating amongst people. Studies across various countries have found greater levels of trust in high-income rather than low-income countries, with lower trust being correlated with slower economic growth.[29] Trust here refers to the level of trust one holds towards strangers.[30] Closer to the low-trust end of the spectrum are familistic societies like Afghanistan, where trust circulates amongst family, kinship, tribes, and clans.[31] While such macro-level studies on generalized trust may shed insights on the nature of impersonal interactions, they do not negate – and may even facilitate – strong personal trust networks since people seek to embed themselves within a wider social safety net in society.

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[26] Geoffrey Swenson, *Why U.S. Efforts to Promote the Rule of Law in Afghanistan Failed*, 42 INT. SECUR. 114–151 (2017), at 115.

[27] Between 2005 to 2012, imports increased by a staggering 184%. Data based on World Bank statistics.

[28] By 2012, the US had announced its intended pullout from Afghanistan. Between 2012-2016, the volume of imports shrunk by 36%.

[29] WILLIAM EASTERLY, THE WHITE MAN'S BURDEN: WHY THE WEST'S EFFORTS TO AID THE REST HAVE DONE SO MUCH ILL AND SO LITTLE GOOD (Rept. ed., Penguin Press2007), at 70. Further explained in Stephen Knack, *Trust, Associational Life and Economic Performance*, UNIV. LIBR. MUNICH GER. 1–43 (2001).

[30] Francis Fukuyama refers to "low trust societies" as those with weak levels of associations that bind people with one another. If societies are viewed on a spectrum that goes from low-trust to high trust societies, Russia and former communist countries would represent the former as they are highly individualistic societies, whereas Japan, German and the US would represent the latter as they possess "rich network[s] of voluntary associations and community structures to which individuals have subordinated their narrow views[.]" FRANCIS FUKUYAMA, TRUST: THE SOCIAL VIRTUES AND THE CREATION OF PROSPERITY (1996), at 29.

[31] *Id.* at 29.

Money exchangers are acutely aware of the risks involved in entrusting their funds with another business. A variety of studies consider the ways in which a party calculates whether or not to trust another in a transaction.[32] The long and short of it is that "misplaced trust typically entails a large loss, while forgone trust entails only a small loss."[33] Russell Hardin provides a simple example on the asymmetry between misplaced trust and distrust, which readily applies to the logic of many money exchangers.[34] If an exchanger provides a business with a loan of $1000, the exchanger may make a profit of $100.[35] If the exchanger distrusts the business, he foregoes the possibility of the $100 gain.[36] However, if he trusts the business, and the latter absconds with the funds, then he loses the full $1000.[37] A missed opportunity is thus always preferable to an opportunity that goes sour. For this reason, one exchanger remarked, "In this business, you have no friends. You always need to be cautious."[38] Exchangers have every reason to be suspected of any transaction where their funds are entrusted with another party, as potential losses far outweigh potential gains.

This calculus on the asymmetry between misplaced trust and distrust is by no means unique to money exchangers. Indeed, it applies to virtually all contractual transactions in any society where one party places trust in another. However, in Afghanistan institutional trust is weak. According to Transparency International, which ranks countries according to perceptions of public sector corruption, Afghanistan has consistently ranked amongst the ten most corrupt countries globally each year over the past twelve years, several times taking the second lowest position just ahead of Somalia.[39] Numerous works, both theoretical[40] and empirical,[41] strongly associate corruption with institutional distrust, as government services are not based on principles of fairness toward citizens but rather on personal ties.[42]

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[32] Russell Hardin, *Distrust*, 81 B. U. L. REV. 495–522 (2001).

[33] *Id.* at 497, citing JAMES COLEMAN, FOUNDATIONS OF SOCIAL THEORY (1994), at 100-1.

[34] Hardin *supra* note 32, at 497.

[35] *Id.*

[36] *Id.*

[37] *Id.*

[38] Interview with Zaibullah, money exchanger, in Kabul (Oct. 2017).

[39] *Corruption Perception Index 2019*, TRANSPARENCY INT'L (2019).

[40] CORRUPTION AND DEMOCRATISATION, (Alan Doig & Robin Theobald eds., 2000); ROBIN THEOBALD, CORRUPTION, DEVELOPMENT AND UNDERDEVELOPMENT (1989); ROBERT A. DAHL, POLYARCHY: PARTICIPATION AND OPPOSITION (1971).

[41] Christopher J. Anderson & Yuliya V. Tverdova, *Corruption, Political Allegiances, and Attitudes Toward Government in Contemporary Democracies*, 47 AM. J. POL. SCI. 91–109 (2003); DISAFFECTED DEMOCRACIES: WHAT'S TROUBLING THE TRILATERAL COUNTRIES?, (Susan J. Pharr & Robert D. Putnam eds., 2000).

[42] For another body of scholarship, though highly criticized, argues that corruption may strengthen trust see e.g. David Bayley, *The Effects of Corruption in a Developing Nation*, 19 W. POL. Q. 719–732 (1967).

As Hardin explains, distrust in the state also causes individuals to distrust one another:

> Not having confidence in the state leads to not trusting other individuals in many contexts, because the state cannot be relied upon to prevent the worst possible outcomes from various joint endeavors and contractual relations. Rather than risk such outcomes, individuals may refrain from cooperating at all.[43]

When the government is viewed as being corrupt, "market participants can more easily justify and rationalize their own dishonest behavior."[44] Market transactions come to be viewed as zero-sum: If I gain, he loses, but if he gains, I lose. Individuals lack the incentive to remain honest, particularly if the state is a liability rather than a source of relief for recalcitrant behavior amongst co-contractors. This is particularly true when the one-time gain from cheating exceeds the future likelihood of profits through cooperation. When an exchanger provides hundreds of thousands of dollars to a business, the latter has the potential to make a significant gain through nonpayment, creating a sizeable hurdle for sustaining cooperation.[45] Exchangers thus have no underlying rationale for believing in the promises and good faith intentions of parties unknown to them. Exchangers have no basis for trusting strangers to repay their loans, particularly since businesses may rationally choose to shirk their obligations. A single transaction where a business is unable to repay funds could potentially destroy an exchanger.

In sum, while possessing a high level of flexibility that allows them to capitalize on new business opportunities, exchangers are perennially cautious about their customers and potential business partners. Bearing the brunt of risk in credit transactions, an exchanger will only provide a business with funds once they have adequate assurance on their trustworthiness. The emergence and maintenance of trust is thus crucial for the circulation of credit.

V. TRANSACTING ON TRUST

The possibility of significant financial loss through misplaced trust does not mean money exchangers will never trust other parties. Instead, an exchanger by default treats other parties with suspicion unless and until the latter can prove themselves to be trustworthy. Always distrusting others has its own setbacks. If an exchanger's chronic distrust of other parties prevents him from engaging in business relationships, he stands to incur substantial losses through missed opportunities. An exchanger that always distrusts will

[43] Hardin, *supra* note 31, at 513.

[44] Knack, *supra* note 29, at 4 (internal citation omitted).

[45] Richman explains how similar challenges exist in the diamond industry since diamond brokers possess extremely valuable diamonds belonging to others and could make sizeable gains by absconding with the diamond. Barak D. Richman, *How Community Institutions Create Economic Advantage: Jewish Diamond Merchants in New York*, 31 L. SOC. INQ. 383–420 (2006), at 394.

see "an aggregate of lost opportunities, each one regular and predictable."[46] Whereas trust may lead to both gains and losses, distrust will never result in gains, even if it reduces certain losses. If taken to an extreme, "it produces paralysis" [47] as anything besides an immediate reciprocal exchange, characteristic of a "flea market economy,"[48] becomes virtually impossible. Such an arrangement would be highly undesirable for an exchanger who operates in the market for an extended period where regular gains could offset occasional losses, particularly if preventative or corrective measures could be taken to minimize – or at least limit – the eventuality of a breach of trust. The entrepreneurial spirit that characterizes many money exchangers entails undertaking calculated risks with the goal of making a profit (at least more often than not). Exchangers that seek to reap the potential gains that arise in the market must be willing and able to develop relationships that inherently entail a level of uncertainty.

A. Role of Trust

Money exchangers emphasize the premium placed on trust. "Trust is an asset, like money."[49] "Trust is more than money."[50] "Money comes and goes, but trust doesn't come back."[51]

Exchangers vary in their willingness to engage in transactions requiring trust. On one side of the spectrum are those who minimally engage in transactions involving risks, particularly credit-related transactions. Exchangers occupying busy street corners, either standing or with small make-shift tables, fall into this group as they lack the funds to do much more than make simple currency exchanges. Also in this category are exchangers who possess the requisite funds but are simply risk averse, and thus prefer to engage largely in immediate exchanges and hawala transfers, provided the funds are provided upfront. These exchangers often occupy one of the several smaller money exchange bazaars in Kabul.[52] My own exchanger, Zabiullah, who safe-kept my funds during my fieldwork worked in one of these bazaars. In his nineteen years as an exchanger, he spent the first nine manning a small make-shift stall on the main road until he gained enough capital to acquire a shop in the Hamadi Exchange Market (*Sarai Hamadi*) in the western part of Kabul. Zabiullah chose not to engage in any *ograyi* transactions, and only provides small personal loans to close friends and relatives with whom he has

[46] Hardin, *supra* note 32, at 497-98.

[47] Susan P. Shapiro, *The Social Control of Impersonal Trust*, 93 AM. J. SOCIO. 623–58 (1987), at 630.

[48] Marcel Fafchamps & Bart Minten, *Property Rights in a Flea Market Economy*, 49 ECON. DEV. CULTURE CHANGE 229–67 (2001).

[49] Interview with Hareef, money exchanger, in Kabul (Jan. 2018).

[50] Interview with Haji Khan, money exchanger, in the money bazaar (Apr. 2018).

[51] Interview with Wahab, money exchanger, in Dubai (Oct. 2017).

[52] Sarai Hamadi is located in the west of Kabul and has approximately 80 stores. Other markets can be found in the Gulbahar Center, Sarai Shamali, and Wazir Akbar Khan.

a strong personal relationship. While Zabiullah runs a profitable business that provides him a relatively comfortable lifestyle – during my time in Kabul he constructed a 4-story residence for himself – his business has nowhere near the volume of activities of shops in the central money bazaar. Exchangers like Zabiullah will seldom make their way to the central money bazaar because of their risk-averse preference.

Exchangers in Kabul's central money bazaar occupy the other side of the spectrum, as they generally possess a higher volume of capital and are willing to undertake riskier transactions that also entail the potential for sizeable profits. Beyond money exchanging and hawala transfers, these exchangers engage in credit-based transactions, including *ograyi*. When Afghan merchants and traders seek to import goods from abroad but lack the requisite funds, they often solicit the assistance of a money exchanger. When exchangers trust businesses with their funds, the two are able to achieve "more complex forms of organization" that permit "role specialization and the segmentation of tasks into a discrete operation associated with social differentiation and the division of labour."[53] Trust thus represents "a social relationship" where the exchanger "invests resources, authority, or responsibility in another to act on their behalf for some future return."[54] The cooperative relationship increases the scope of activity for both parties and creates what economists refer to as efficiencies through the delegation of roles.

The ability to trust makes it possible for exchangers "to live and act with greater complexity in relation to events."[55] As Nicholas Luhmann argues, trust is a means of dealing with the complexity in the world.[56] A challenge with credit transactions is that they introduce a number of new subjective factors that greatly increase the complexity of the transaction. The ability of the business partner to repay its loan depends on him using the funds for the business purpose specified, possessing the requisite skills, and being part of the relevant supply chains that allows him to sell his products. Monitoring these and other factors that impact the creditor's ability to repay its loan would render credit transactions prohibitively expensive for an exchanger. Instead, the latter assesses the trustworthiness of potential creditors. Only those he deems to be trustworthy are provided funds; all others are turned away, even those who may otherwise be creditworthy and able to repay a loan. The ability to trust – and distrust – renders the world more manageable, as it allows exchangers to strategize their decisions on complex, credit-based transactions without needing to assess factors that are "too complex for actual control."[57] Trust alleviates the need for an exchanger to monitor the minute details on the use of funds by the debtor-business.

[53] Shapiro, *supra* note 47, at 626.

[54] *Id.*

[55] N. LUHMANN, TRUST AND POWER (1979), at 15.

[56] Luhmann notes that "trust is associated with reduction of complexity." *Id.* at 30.

[57] *Id.* at 29.

Nonetheless, while trust holds the potential for gains, it is not easily achieved in an environment saturated in distrust. Even while possessing an eye for opportunity, exchangers are by no means foolhardy with their money. More than most individuals, they are aware of how a poor decision may result in immense financial loss. The decisions on who to and not to provide credit crucially depends on the level of trust between the exchanger and the party seeking the funds. "The problem of how to build trust in unfavourable social conditions remains unresolved today"[58] and continues to plague the World Bank and development organizations. In the bazaar, the emergence of trust does not follow a prescribed formula but rather depends on an amalgam of incomplete and contingent bits of information, based on which exchangers assess potential business partners.

B. Building a Reputation in the Market

Trust is highly valued because, like the millions of dollars being transacted daily in the bazaar, it is a scarce resource that is not openly available to all. In the Afghan market, it is all the more valued given the instinctive distrust that businesses harbor towards strangers.

The imbalance in the supply and demand of funds plays an important role. While *Sarai Shahzada* hosts only some 400 money exchangers, the number of businesses in just the surrounding market of *Mandawi* is many times that number. Moreover, businesses scattered throughout the city also deal with money exchangers in the bazaar. Across Kabul and the surrounding areas, thousands of shops compete for the attention and trust of money exchangers and access to their credit. As Hussain, a young exchanger with several years of experience, remarks, "There are many shops that would like to get loans. A lot more than we can offer loans to. But not all shops are reliable. We only do business with reliable shops."[59] An exchanger may choose to withhold credit from any business that it has the slightest hesitation over its ability to make a repayment as it possesses a sufficient supply to businesses to selectively choose business partners.

A business seeking a loan must develop its reputation. Reputation is crucial for any business in Kabul's market – a strong reputation may open the door to substantial access to funds reserved for a privileged few, whereas its absence may be a cause of stagnation. Since exchangers must make judgements on the creditworthiness of customers in the absence of a formal credit rating system, subjective assessments of reputation play an important role in this exercise. Many exchangers are reluctant to accept money for safe-keeping from dubious businesses, much less enter into agreements with them. Building a reputation allows for a business to signal to others that it is worthy of partnership in transactions requiring faith in its abilities.

[58] Latusek and Olejniczak, *supra* note 3, at 310.

[59] Interview with Hussain, money exchanger, in Kabul (Apr. 2018).

Exchangers consider a number of details about a business to gain an understanding of its operations. Reputation is built gradually over time, and the longer a business has been operating in the bazaar and the more transactions it has been able to uphold with its creditors (including not only exchangers but other businesses as well), the more its reputation will increase. Esteem is afforded to businesses that have expanded their operations incrementally, as it evidences their ability to weather the various contingencies arising in the market over an extended period of time. A business with several branches, whether scattered throughout one city or across several cities, provides an indication that the business is in good economic condition. One exchanger remarked: "[Company A] is one of our best customers. They have agencies [i.e. branches] all across Afghanistan. The company imports electric materials from Iran, Turkey, China. We are sure they will repay because they are a big company. They are famous in all of Afghanistan."[60]

Exchangers seek to provide credit to profitable businesses, though it does not have access to the latter's accounts. It thus turns its attention to other related factors that evidence profitability such as the growth of the business. When a business increases the size of its operations, it signals that it is financially strong. Increasing the volume of its activities, number of employees, or number of branch offices can all play a role in indicating that a business is growing. When a business is performing well, information on its good standing circulates throughout the market. Conversely, its reputation suffers if the size of its operations shrinks, indicating that the business has been incurring a loss.

Exchangers are generally weary about businesses that exhibit sudden changes in behavior. If a new business rapidly expands its activity, a potential creditor will be suspicious about its source of wealth and customer base, particularly if the business is relatively unknown by others in the market.[61] During my time in Kabul in 2017, a business known as Vision Financial Services suddenly sprung up with several branches across the city, offering customers the ability to engage in forex trades on the international markets using their computers and smartphones. The elegant, modern foyers gave the impression of a sophisticated and technologically advanced business with a young and energetic staff. The business was able to attract significant interest, particularly amongst young, working Afghans who heard rumors of individuals gaining a small fortune by trading different currencies online. However, just as quickly as the business sprung up, rumours emerged of people who had lost thousands of dollars using the program.[62] Many businessmen were suspicious

[60] Interview with Hafiz, money exchanger, in Kabul (Mar. 2018).

[61] A small number of creditors will rush at the opportunity of investing in new businesses; however, these tend to be the newer, younger, and less experienced creditors, who also have a greater propensity to incur losses. More experienced creditors are more heedful in their assessments of who may be creditworthy.

[62] In one unfortunate instance, a young college student in his 20s – friends with one of my research assistants – convinced his community elders to raise $7000 within his community (a sizable sum in Afghanistan) to invest in this company, only to see the funds evaporate in a single day of trading. (Personal conversation, Jan. 2018).

of the sudden appearance of this new company, saying, "They came up so suddenly. I don't know how they got their money."[63] "Something they are doing is wrong."[64]

By 2019, the company had ceased operations, allegedly with several lawsuits pending against it. Whether or not the company was engaged in questionable activity is up for debate, as many people – including those businessmen who criticized the company – may have been trying to get rich quickly using a program they did not fully understand. However, the feeling of widespread mistrust by businessmen directly related to the sudden appearance of the company and its vigorous self-promotion without actually embedding itself within the wider setting. One exchanger summed up the skepticism that exchangers hold towards such behavior: "You can't open the biggest shop and say I'm the biggest shop… You build your reputation slowly. It could be a little guy sitting there has more trust in the market than the biggest stores."[65]

Longstanding businesses that suddenly change their behavior similarly raise alarms in the market. When a shop starts asking other parties for financial support, rumors begin to spread that the business is facing financial difficulty:

> You don't go bankrupt overnight. Your business slowly goes down, and at a certain point, shops start acting strangely. These businesses start asking for money from people. And it kills their reputation, but they try to stay in the market. And also it is their ego that keeps them going.[66]

Similar rumors may emerge if a business makes sudden changes in its mode of operation: "A shop might suddenly change its business, like it deals with one item one day and another the next day."[67] Because of the premium placed on consistency, such sudden shifts in behavior signal to other businesses a problem in the underlying profitability of the business. However, even being aware of this dynamic, businesses go to great lengths to remain in operation, hoping to maintain their reputation by showing themselves as profitable in their new line of business.

Reputation is not purely relational. It permeates networks, spreading beyond simply the two parties involved. One businessman, Farhad, explained how he was able to establish his own "borrowing reputation" through the relationship that several of his family members had with an exchanger:

> [The exchanger] knows my father and family, and we have done transactions with him before and for a long time [like]

[63] Interview with Wasey, businessman, in Kabul (Nov. 2017).

[64] Interview with Bostan, businessman, in Kabul (Nov. 2017).

[65] Interview with Wahab, money exchanger, in Kabul (Oct. 2017).

[66] Interview with Ezatullah, DAB official, in Kabul (Mar. 2018).

[67] Interview with Barakah, businessman, in Kabul (Nov. 2017).

> Hawala business when my uncle from the UK was sending money for my dad… Even if I don't have a business, the exchanger trusts my borrowing reputation. He knows my brother is in the US and that if I can't pay, then he will.[68]

This propensity for trust to spread amongst clusters of people seems fairly common, particularly when exchangers felt that the reputation of one party was closely aligned with the other and where parties may be considered guarantors of one another, even if not formally established. However, the tendency cuts both ways, and may lead to problems when the expectation of exchangers and customers do not perfectly align. "Subjective expectations are likely to remain implicit as long as no issue relating to their application emerges."[69] Only when problems emerge do these expectations come to the fore. During fieldwork, my research assistant and I became friends with my exchanger, Zabiullah, the three of us eating lunch together every few weeks. Likely based on the goodwill that had formed between the three of us – and the deposit I had with the exchanger – my research assistant asked the Zabiullah for a loan so he could purchase a car. This loan may have remained unknown to me, but my assistant was slower in making repayments than Zabiullah had hoped, and eventually whenever I withdrew some of my funds, he would complain to me about the loan taken out by my assistant, subtly implying that I was also responsible. Not wanting to damage ties with either my assistant or my exchanger, I asked my assistant to clear the matter up with Zabiullah, which was sufficient in clarifying our separate financial dealings. In this instance, my research assistant bolstered his reputation through his association with me, whereas his delay in repaying his loan not only affected his own standing but also the relation between me and my exchanger.

C. Pre-screening Businesses

A business that seeks to gain credit will be closely scrutinized by an exchanger beforehand. The primary concern of an exchanger is that any funds provided on credit will be repaid since he bears the brunt of risk in such transactions. The process of pre-screening businesses helps prevent conflicts before they ever arise, as only businesses exhibiting a high level of trustworthiness will be considered as a potential debtor.

An exchanger starts the screening process of a business by entering into discussions with the goal of understanding its general activities. The exchanger amasses fragments of information on the business's reputation in the market, including its relationship with past and present clients. It will consider the size of the company, number of employees, and its reputation amongst other businesses familiar with its history. Some exchangers "may

[68] Interview with Farhad, businessman, in Kabul (Apr. 2018).

[69] JULIE PAQUIN, LEGAL REFORM AND BUSINESS CONTRACTS IN DEVELOPING ECONOMIES: TRUST, CULTURE, AND LAW IN DAKAR (2012).

visit their office to see what is going on inside."[70] An unannounced visual inspection of the business's office can help to reveal its general state of affairs as well as any irregularities, such as lack of any activity or maintenance. An exchanger will likely not be a specialist in the trade of the business and thus may not have a specific idea of what to look for; nonetheless, a visit still helps confirm the office's existence as well as indications of a level of permanence, such as printed signs on top of the shop and stocks of goods. Other exchangers will not visit offices, instead relying solely on the assessments of others.[71] Because visual inspections can be deceiving, these exchangers prefer to understand the business through its reputation and prior dealings with others in the market.

The process of screening is aided by the widespread practice of information sharing in the market. In the Afghan market, information on prices and behavior is not collected by any central body but rather, like the Moroccan bazaars studied by Geertz,[72] moves unevenly through gossip, facilitated by the close physical and social proximity of businesses. Businesses are generally forthcoming with the information they have on others, as they too may need to make such inquiries in the future. If unfamiliar with a business, they frankly convey their inability to provide an assessment. The close proximity of businesses regularly interacting with one another means that information flows quickly across the market, though also mutating with each transfer, impugning the quality of any single bit of information. Exchangers thus verify information through a variety of sources to separate facts from fabrication.

Often, a business is introduced to an exchanger through a common third-party. As discussed earlier, reputation is not purely relational as it may spread to others associated with one of the parties. An person with an existing relationship – whether personal or business – with exchanger may serve as a "bridge" between a business and an exchanger by introducing the two.[73] Haseeb is one of many exchangers in the bazaar who treats references as a crucial strategy for identifying reliable businesses:

> References are very important for getting new customers. A company may recommend a friend that has a business. This way, we already know someone who knows the company and that he will not cause problems. The friend will also give zamanat (guarantee). If a problem happens, like the company does not repay the ograyi, then we will get the money from the friend.[74]

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[70] Interview with Mustafa, businessman, in Kabul (Dec. 2018). Several exchangers confirmed this point.

[71] Interview with Rateb, money exchanger, in Kabul (Jan. 2018).

[72] Clifford Geertz, *The Bazaar Economy: Information and Search in Peasant Marketing*, 68 AM. ECON. REV. 28–32 (1978).

[73] Mark Granovetter, *The Strength of Weak Ties*, 78 AM. J. SOCIO. 1360–1380 (1973).

[74] Interview with Haseeb, money exchanger, in Kabul (Dec. 2018).

Conflicts are liable to arise due to differences of opinion on the precise role of the third-party. Whether or not the third-party serves as a financial guarantor depends on circumstances, but cannot immediately be imputed into the relationship. Beyond vouching for the business, the third-party often does not intend to be bound by its actions. In the event of nonpayment by the business, the exchanger may be able to exert pressure on the third-party to provide full or partial compensation by threatening to sever ties with him. More often, the third-party may be able to locate the business and exert pressure to ensure repayment.

In most cases, the third-party simply provides a character reference for the business, and thus the exchanger must still assess whether the latter can be entrusted with credit. If the business fails to repay the loan or disappears, the exchanger has no direct recourse against the third-party. For this reason, an exchanger treats the reference as a positive indication of the business, but still conducts his own due diligence. Sahib, an engineer with a prominent construction business, mentions that "even if someone introduces me to an exchanger, the exchanger will still come to my store and do his own check of me since he's the one who is giving the money."[75] Nonetheless, the line between financial and personal guarantees is fine, as the third-parties will still start receiving phone calls from the exchanger if the business it referred is unable or unwilling to pay. Providing a reference for an unreliable business will adversely affect a party's reputation, as others may also become suspect of trustworthiness of the guarantor. For this reason, parties are generally cautious about providing third-party introductions and do so when they are confident in the abilities of a business. Businessmen commonly mention that their friends promised to "introduce me [to an exchanger] but only ever says so",[76] indicating their attempt to evade this task.

D. From Transacting to Trusting

From 8am to 4pm, businessmen and individuals are constantly streaming in and out of *Sarai Shahzada*, each carrying out his own task. Exchangers are constantly splitting their time between customers who visit their office in person and those conveying instructions by phone or mobile applications. Outwardly, these businessmen seem largely indistinguishable from one another – a businessman (dressed in either traditional *perahan tunban* or simply jeans and a shirt) enters the office with the *salam*, briefly exchanges pleasantries with the exchanger, provides instructions on a particular transaction, conveys some exiting pleasantries, and departs with an eye towards his next engagement. The whole affair takes 5-10 minutes, possibly extending to 30 minutes if the businessman is clearing his accounts.

While exchangers conduct business with customers from all walks of life, only a select few are considered highly valued, those whose business and relationship are particularly important to the exchanger. "80% of income comes

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[75] Interview with Ahmad, businessman, in Kabul (Jan. 2018).

[76] Omaid (businessman), personal conversation in Kabul (Mar. 2018).

from 20% of clients, while the other 80% generates only 20% income."[77] While the figures are not to be taken literally, it conveys a sense of the value of trusted businesses. These are the businesses with which an exchanger engages in risky, credit-based transactions that consistently yield high profits. It is a position that many businesses seek but only a select few are capable of securing.

While the pre-screening exercise explained above helps an exchanger understand the functioning of the business and gain an impression of its level of reliability, such information by itself is seldom enough to create a relationship of trust. Rather, it brings a business within the peripheral vision of an exchanger, within a range of businesses for which the potential for trust exists. However, trust itself must develop directly between the two parties involved in the transactions – the exchanger and the business.

Like money, trust is a scarce resource, and businesses and exchangers must exert time and effort for it to accrue over time.[78] Trust represents a form of social capital, a private good whose stock increases or decreases depending on circumstances. Like the physical capital, trust is a valuable resource capable of facilitating transactions that would not be possible otherwise. However, trust cannot be purchased or exchanged like physical capital. It accrues within relationships and is integrally connected to individual businesses and exchangers.

When exchangers and businesses directly interact with one another on several occasions, they start forming a relationship. Luhmann associates trust to the linkages that form between two specific, identifiable individuals: "Trust is extended first and foremost to another human being, in that he is assumed to possess a personality, to constitute an ordered, not arbitrary, center of a system of action, with which one can come to terms."[79] Trust is an immaterial resource of value that emerges from the "concrete personal relations" between parties.[80] It travels virtually undetected in utterances, handshakes, innocuous gestures, and copious servings of Afghan tea. As parties interact with one another, positive interactions close the "social distance" between them and strengthens their ability to trust one another. Importantly, these interactions allow for the exchanger to gauge the behavior of the business and whether "[h]e stands by what he has allowed to be known about himself."[81]

For exchangers, trust depends not merely (or even primarily) on personal characteristics of the businessman involved but rather on their economic relationship. A purely economic perspective of trust would assess whether the

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[77] Interview with Hareef, money exchanger, in Kabul (Jan. 2018).

[78] For a discussion on social capital, see e.g. James S. Coleman, *Social Capital in the Creation of Human Capital*, 94 AM. J. SOCIO. S95–S120 (1988).

[79] Luhmann, *supra* note 55, at 39.

[80] Mark Granovetter, *Economic Action and Social Structure: The Problem of Embeddedness*, 91 AM. J. SOCIO. 481–510 (1985), at 490.

[81] Luhmann, *supra* note 55, at 39.

incentives are aligned in a manner that makes it rationale for parties to trust.[82] However, for exchangers, trust entails real and identifiable risks, since providing credit to businesses means that the latter is in control of the funds. Exchangers "expect good behavior" of businesses "*in spite* of their incentives" to lapse in their obligations, thereby making a windfall gain.[83] Rather than relying purely on incentive structures, exchangers view businesses as being "embedded" in the wider social environment. Mark Granovetter famously – if not controversially – asserts that:

> [a]ctors do not behave or decide as atoms outside a social context, nor do they adhere slavishly to a script written for them by the particular intersection of social categories that they happen to occupy. Their attempts at purposive action are instead embedded in concrete, ongoing systems of social relations.[84]

Exchangers similarly possess a "socially embedded" view of transactions. Their dealings with businesses are not based on purely rational, calculative incentive structures ("under-embeddedness"), as sanctioning for recalcitrant behavior is piece-wise at best, as explained later in this piece. Furthermore, such dealings are not solely based on personal relationships ("over-embeddedness") as partnering businesses are seldom family members or close personal relations. Exchangers instead based future transactions on ones that have taken place in the past. Past transactions strengthen the relationship, increase trust, and align interests.[85] Through these past dealings, trust comes to represent "the generalized expectation that the other will handle his freedom, his disturbing potential for diverse action, in keeping with his personality – or, rather, in keeping with the personality which he has presented and made socially visible."[86]

Exchangers keep close tabs on the businesses with which they interact. A business may have been referred by a trusted third-party, and the exchanger may have inspected his office. Having gained a position within the exchanger's peripheral view of businesses it *might* provide credit to, the business still needs to prove itself trustworthy towards the specific exchanger. If the exchanger remains unsure about the business, the latter will have to carry out a number of transactions without credit, such as providing the full sum of funds to be transferred abroad to purchase goods. As time passes, the exchanger develops

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[82] Paquin, *supra* note 69; Oliver E. Williamson, *Transaction Cost Economics and Organization Theory*, 2 IND. CORP. CHANGE 107–156 (1993); BART NOOTEBOOM, TRUST: FORMS, FOUNDATIONS, FUNCTIONS, FAILURES, AND FIGURES (2002).

[83] Mark Granovetter, *A Theoretical Agenda for Economic Sociology*, *in* THE NEW ECONOMIC SOCIOLOGY: DEVELOPMENTS IN AN EMERGING FIELD 35–60 (Maruo F. Guillen et al. eds., 2005). Emphasis added.

[84] *Id.* at 487.

[85] Dirk-Jan F. Kamann et al., *The ties that bind: Buyer-supplier relations in the construction industry*, 12 J. OF PURCHASING AND SUPPLY MGMT. 28, 30 (2006).

[86] Luhmann, *supra* note 55, at 39.

an understanding not only of personal character of the businessman but also the nature of his business – the frequency of transfers and of the volume of funds being sent.

At a certain point, whether as a result of third-party assurances, positive background information on the business, past and current transactions, or a combination thereof, the exchanger may begin providing a sum of funds on credit. At the start, he offers a small line of credit while continuing to monitor the business:

> If we are starting ograyi with a new customer, we will commence by giving small amounts of money [as credit]. We will start with USD $5000 or $10000. We will check how they are able to make repayments. After one year, if they are continuing to make repayments, we will increase the amount of ograyi that we give them so that they can make big deals, like $100000.[87]

Once a business starts receiving credit, it is no longer in the peripheral view of the exchanger. Instead, he is within the exchanger's central gaze. The relationship has moved from being based on exchange to being based on trust with the business in control of the funds of the exchanger. For the business, maintaining the approval of the exchanger and continuing to receive credit in the future crucially depends on timely repayments. As time passes and the business makes several timely repayments over a string of transactions, its level of trust with the exchanger deepens, along with his ability to seek credit.

In the relationship of trust between exchangers and businesses, the single most important factor for the exchanger is the timely repayment of debts.[88] Timely repayments indicate that a business is good to its word and a reliable source of benefit for the exchanger. Tariqullah, a well-to-do businessman in his 50s commented on the privileged position he holds with a particular exchanger: "I have a line of credit up to half a million USD with my exchanger. Anything up to this amount I can take, no questions, no interest."[89] He reflected on how he had achieved this position with his exchanger: "He knows me for years. He knows that if I give him a date, I will repay on that exact date."[90] When pushed on why the exchanger would be willing to provide such a large loan without receiving an immediate benefit, he mentioned all of the past business he has done with the exchanger, including *ograyi* and depositing funds with the exchanger. Tariqullah made *hawala* transfers to Tajikistan for which the exchanger charged a fee, though he was quick to add, "for me, the hawala is

[87] Interview with Homayoun, money exchanger, in Kabul (Mar. 2018); similarly, "We can assess the company's strength according to how quickly they can repay their *ograyi*. If they can repay quickly like in one week, then we know the company is doing good. Then we can increase the amount of *ograyi*." Interview with Razaaq, money exchanger, in Kabul (Mar. 2018).

[88] The point was reiterated by 20 exchangers.

[89] Interview with Tariqullah, businessman, in Kabul (Feb. 2018).

[90] *Id.*

free up to USD $20000, and only 50% [the usual fee] upwards of that."[91] Tariqullah's boastful attitude reflects the strong relationship he had built over the course of 14 years.[92]

The result of trust being so closely tied to timely repayments is that compliance with the repayment schedule is very strict. Businesses with access to credit are well aware of the privileged position they occupy given the limited supply of funds in Afghanistan and significantly greater demand for credit from businesses. These businesses jealously guard their position through timely repayments. Other factors such as increasing personal familiarity and a thicker network of mutual contacts may incidentally play a role in strengthening the relationship. But the ability to repay funds on the date they are due is what ultimately ensures that trust remains strong. As more and more loans are repaid on their due date, the exchanger increases his willingness to engage in riskier transactions involving greater amounts of credit.

It nonetheless cannot be said that contractual breaches never occur as all exchangers mentioned facing such problems on occasion. However, these breaches happen in relationships where trust has already been established. Once a business has proven itself to be trustworthy through consistent timely repayments, it may be afforded some leeway in the case of occasional delays in repayment. Given the contingencies of the market, a business may periodically be unable to make a scheduled repayment. Provided that the businessman is cooperative, makes the repayment as soon as possible, and does not let such lapses persist, the relationship will not be damaged. The understanding between the two remains that trust depends on timely repayments.

If trust is largely reliant on strict contractual compliance, it would appear possible to study quantitatively the likelihood that a business would receive credit based on the length of the relationship, the frequency of loans provided, the amount of credit provided, and, most importantly, the number of timely and late repayments. However, like in much of the social world generally, life in the bazaar is not so straightforward. While on the part of the business, trust depends on timely repayments, on the part of the exchanger, gaining credit is also a function of his eye for opportunity. When trust between an exchanger and a business is low, the former assumes significant risks in providing a loan. However, he may still be willing to go forward with the transaction if he feels the potential for profits are high. As a businessman remarked, "with big risks comes big gains."[93] On top of screening businesses and developing relationships of trust with a select few, exchangers are also constantly weighing trust against both the potential risks as well as the likelihood for reaping profits. Exchangers follow rumors circulating in the market, and indications of an expanding or contracting economy may weigh-in on their risk-

[91] *Id.*

[92] *Id.*

[93] Interview with Abdul Baqi, businessman, in Kabul (Feb. 2018).

seeking preferences. Furthermore, the volume of funds available to an exchanger will also weigh in on his assessments. If an exchanger has recently taken a financial hit, this will likely cause him to reduce the amount of credit available to businesses. Trust is thus just one factor – albeit a significant if not the most important factor – that an exchanger considers when granting a loan to a business.

E. Trust-based Transacting in Comparative Perspective

The practice of strict contractual compliance in Kabul's money bazaar is unique when compared to other settings where the market is stretched for resources and market actors fear the possibility of agreements being only loosely followed. Fafchamp's pioneering work on contracts among manufacturing and trading firms in Ghana found strict contractual compliance to be impossible due to "poverty and unanticipated income fluctuations" given the overall lack of economic development in the country.[94] Paquin's study of businesses in Senegal found that trust had "less to do with the probability that someone will fulfill his contractual duties as planned than with his *willingness* to do so" since "actors tend to see perfect contractual compliance as rarely achievable."[95] In such environments, trust is unable to prevent lapses in contractual compliance, particularly the repayment of loans. By contrast, though Afghanistan suffers many of the same ailments brought about by a lack of economic development, in Kabul's money bazaar, trust helps ensure strict compliance on loan repayments. Maintaining trust depends on a business delivering on its word. Exchangers ensure strict compliance through their oligopolistic position in the market. Because of the imbalance in numbers with only a small portion of businesses gaining the trust of exchangers, the latter can leverage this position to mitigate risks by insisting on strict repayments.

Similar to Woodruff's and Macmillan's research on the businesses in Vietnam, exchangers in Kabul have been largely successful in devising market practices that allow for "contracting without law."[96] However, Woodruff's and Macmillan's study comparing Vietnam with several other transitional economies found that businesses relied on personal networks when the legal system was weak and increased their reliance on more remote, business networks as the legal system became strong.[97] The bazaar tells another story. In Kabul, despite the weak legal system, exchangers are willing to rely on business networks where the relationships are based on economic ties rather than only – or even primarily – social ties. Business ties are not only preferred to personal ones but, moreover, the latter is generally viewed as a liability (as

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[94] Marcel Fafchamps, *The enforcement of commercial contracts in Ghana*, 24 WORLD DEV. 427, 428 (1996).

[95] Paquin, *supra* note 69, at 88.

[96] *See* John McMillan & Christopher Woodruff, *Dispute prevention without courts in Vietnam*, 15 J. L. ECON. ORG. 637 (1999).

[97] John McMillan & Christopher Woodruff, *Private Order under Dysfunctional Public Order*, 98 MICH. L. REV. 2421, 2422-2434 (2000).

explained in the next section), since family and friends tend to be laxer and less reliable in prompt repayments of loans. As explained, an exchanger does not immediately provide a loan to new clients but rather will only do so once he deems them to be sufficiently trustworthy.

F. Trust and Risk

The process of screening businesses and developing trust helps exchangers to mitigate risks involved in credit transactions. Even after an exchanger and a business develop a relationship based on trust, the exchanger never becomes complacent about their dealings, since such lapses could lead to dangerous risks. Trust is never taken for granted but rather always incomplete, as one exchanger explained to me:[98]

Author: When you give a loan, how do you know a business will pay back?

Exchanger: Well that's a big problem, but mostly exchangers give loans to those they know very well.

Author: For the best and most reliable businesses, do they pay back on time?

Exchanger: Actually, I will disagree with the words 'best and most reliable businesses' because here in Afghanistan we don't have a reliable business.

Author: So businesses cannot be fully trusted?

Exchanger: Here you cannot trust any business. You have to be someone that can predict the future to be successful.

Author: But I'm guessing past transactions are an indication of reliable businesses.

Exchanger: Yeah that is a good sign, but signs are not always trustworthy. If I have a million transactions with a business, the next one might be a scam. No one knows what will happen next!

Author: Is trust – itibar – important between businesses and exchangers?

Exchanger: Yes, it's the most important pillar of business here. If you have a business and don't have trust, then your business sucks – no one will try to have business deals with you. But also it is dangerous to 100% trust because a business can always do fraud in the future.[99]

Given the perennial uncertainty surrounding even trusted clients, a significant portion of the ongoing work of exchangers involves continuously monitoring its business partners. Exchangers adopt four particular strategies that help contain risks and ensure repayment from businesses.

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[98] Interview with Sediq, money exchanger, in Kabul (Feb. 2018).

[99] *Id.*

First, many exchangers work to embed economic ties with personal relationships. An exchanger named Haseeb explained the importance of developing close personal ties with valued businesses:

> My uncle [the head exchanger at our stop] and the president of [a famous business] have a very good relationship. They are like family. They are not from the same qawm – one is Tajik and the other is Hazara – but they are like family. Sometimes my uncle is inviting him to dinner. Other times the president is inviting my uncle as a guest.[100]

Such occasions allow the parties to continuously reaffirm their relationship. Through gestures and casual conversations, each party seeks to ensure that their goals are aligned with the other. These occasions allow the exchangers to understand the mindset of his partner and whether there is any cause for concern. Other exchangers like Rajab turned down such social engagements because of the security concerns in Kabul: "It is too dangerous for us to go to invitations from our businesses."[101] They instead supplemented business transactions with market gossip and fragmented conversations when the parties met at either of their offices. This difference relates not only to the varying danger preferences of each exchanger but also how valuable the business relationship was viewed as being. In Haseeb's case, the client who his uncle visited was one of his main customers, whereas Rajab viewed all of his business partners with the same relative importance and did not have one that particularly stood out. In either case, the friendly, casual relation forms over time does not imply that the exchanger is becoming lax in his monitoring. Rajab added that "we note all of our *ograyi* transactions in a notebook in our office" which enabled him to "continuously study the business."[102]

Second, exchangers generally provide credit for short periods of time. An exchanger named Hafiz explained that he would only deal with businesses when quick repayment of debts was possible:

> We have four big customers that take loans that are more than USD $500000. They import goods from Iran, Turkey, and China. We provide them loans for a short period of time, like one or two weeks or a month. It is dangerous if we provide it for a longer period of time.[103]

Minimizing the period of repayment helps mitigate risks. It allows for the loaned funds to return to the exchanger in regular intervals, thus providing the exchanger greater control over his capital. Multiple transactions occurring one after the other are preferable to a single large transaction that would allow a business to acquire a much greater volume of material or goods for its

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[100] Interview with Haseeb, money exchanger, in Kabul (Dec. 2018).

[101] Interview with Rajab, money exchanger, in Kabul (Feb. 2018).

[102] *Id.*

[103] Interview with Hafiz, money exchanger, in Kabul (Mar. 2018).

operations. Even if a business may benefit from a larger transaction by being able to scale up its operations, such transactions are also riskier for an exchanger. The longer the funds are away from the exchangers' coffers, the more liable the customer is to be hit by contingencies that may affect repayment. A short repayment period is a method of hedging against uncertainties. What constitutes a short or long period is of course relative to each exchanger. Those in the market longer and who possess greater capital generally express greater willingness to allow longer periods of repayment.

Third, exchangers diversify the parties that they interacted with. The number of loans depended on the volume of funds available and the number of businesses viewed as being sufficiently trustworthy. Amongst the 30 exchangers I spoke with, the number of loans ranged from 5 to 20. No exchanger relied solely on one business for its transactions. Rateb, the accountant for a prominent exchanger operating for thirty years, had over 100 customers with which he has varying levels of trust: "Out of these, I will give loans to 20 of them. And out of this smaller group, I will invest in the project of 3 of them. This means if they lose, then I lose."[104] Conducting transactions with a diversified group of businesses ensures that a delay or lapse in one or even several transactions does not jeopardize the overall financial stability of the exchanger.

Fourth, while exchangers are cautious in providing credit to businesses generally, they are particularly cautious in providing credit to family members. Family may be a source of liability, since exchangers often have difficulty recuperating funds from such clients. With family, the financial relationship becomes entangled with stronger emotive elements, with the result that the debtor may not feel bound by a strict repayment schedule. An exchanger named Rateb explained the difficulties in dealing with family: "We give small loans to our friends. Sometimes for family members, friends, and so on, the loans are up to $10,000. However, after three to four months, they have still not returned [the sum] back to us. And we have difficulty reclaiming the full amount."[105] Paquin similarly found that businesses in Senegal avoided "doing business with people who are 'too close' to be sued and privileged arm's length partners."[106] With family, exchangers risk becoming bogged down by over-socialized ties.[107] While the difference between socialized and over-socialized ties is a matter of degree, one distinguishing feature is whether the relationship *primarily* rests on economic or non-economic ties. With close family members, since the relationship is often primarily non-economic, debtors have a greater preponderance to be lax in their repayments, relying on their social ties to make up for the deficiency in their economic obligations. Many exchangers would thus find excuses as to why they could not offer loans.

[104] Interview with Rateb, money exchanger, in Kabul (Jan. 2018).

[105] Interview with Rateb, money exchanger, in Kabul (Jan. 2018).

[106] Paquin, *supra* note 69, at 93.

[107] Granovetter, *supra* note 83, at 485.

"I'm simply running low on funds at the moment."[108] "The market is down but *inshallah* it will be up in a few months when it may be possible."[109] Thus, while blood may be thicker than water, oil is thicker than both.

VI. RELYING ON ELEMENTS OF THE STATE

The government may seem wholly absent in the circulation of credit in the bazaar. When exchangers and businessmen trade promises, handshakes, and cups of green tea, the government is nowhere in sight. While international presence since 2001 has considerably increased the volume of activities in the bazaar, creating significant opportunities for exchangers and shrewd businessmen, the government has had limited impact on their affairs. Transactions in the bazaar have continued to rely on trust as it has in the past with only a very weak sense of the looming shadow of the law.

While parties in the bazaar scarcely involve the state in their affairs, the presence of the latter has slowly crept into the process of trust formation between the parties. During the initial stages of forming trust when an exchanger has a business within its peripheral view and is amassing information to decide on its creditworthiness, the exchanger may rely on certain aspects of the state. In particular, registration as well as collateral contracts, each of which implicates the state in different ways, may play a role in fostering a relationship of trust.

Overwhelmingly, exchangers only enter into credit transactions with businesses that are duly registered with the relevant government agency, namely the Afghanistan Central Business Registry under the Ministry of Commerce and Industry.[110] Acquiring a license is not a particularly difficult process, as businesses only need to provide the national IDs of the businesspersons involved, the office lease, and pay a nominal fee.[111] One exchanger remarked, "It is also important that they are registered with the government – with the Ministry of Economy. This way, we know their business is official."[112] This requirement of registration may seem ironic since the very trust-building exercise takes place precisely so that exchangers and businesses can avoid disputes requiring the involvement of the state, particularly the legal system. The reason for confirming registration is to ensure that a business is embedded within the market and engaged in legitimate activities. Unregistered businesses could be viewed as itinerant and far more liable to

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[108] Zabiullah, personal conversation (Jan. 2018).

[109] Interview with Yousef, money exchanger, in Kabul (Oct. 2017).

[110] The World Bank, Business Enabling Environment (BEE), WORLD BANK GROUP.

[111] A few additional nominal requirements exist (providing a photo, etc.). Processing time is officially 8 days according to the World Bank, and businesses I interviewed found it to be a bit longer (10-15 days), though not a significant variation. The fee significantly increases from the second year onwards, becoming 12 000 AFN (approximately $150), which is about 3 times the initial registration price. In theory businesses should pay 20% income tax; however, few businesses actually do so.

[112] Interview with Haseeb, money exchanger, in Kabul (Dec. 2018).

disappear. The inability to maintain proper registration would raise questions on the likelihood of such a business making timely repayments. Registration, on the other hand, meant that the business had taken the trouble to pay the requisite licensing fee and register the location of its operations and key personnel with the government. In effect, exchangers viewed registration as a form of pre-screening of businesses. Given that exchangers sought business partners that had somewhat sizeable operations (given the sizeable loans often involved), such businesses would almost inevitably require registration, for example, to own property. Even if such businesses could also disappear (which frequently occurs), registration implied a level of temporal permanence.

In requiring registration from businesses, exchangers not only rely on the government but, somewhat paradoxically, indirectly assist the government by encouraging registration. In recent years, the government has been making a strong push for businesses to duly register by attempting to simplify the process and promoting the benefits of registration, such as the ability to attract private investments and provide business property as collateral.[113] Rather than denying or totally avoiding the presence of the state, exchangers integrate its presences in ways that help bolster their own ability to assess the status of businesses.

While registration was commonly sought amongst exchangers, differences arose in how to record this information. Taking a copy of the registration would seem easy enough – even the sweepers in the bazaar all possess smartphones – and could provide to help track a business with the government if the need were to arise. Nonetheless, while confirmation of registration serves as a baseline during the initial screening of businesses, exchangers depend on trust – and not the registration status – as an assurance that loans are repaid. While some exchangers made copies, others felt that doing so would signal distrust in the business. An exchanger named Homayoun did not make copies of registration when screening a business: "We will ask to see the registration of the company. However, we will not take a copy of the registration. This will destroy the trust between the parties if we take a copy. We deal based on our reputation."[114]

Beyond registration, exchangers also have the option to take collateral as security when they feel ambivalent about a business. Government legislation permits parties to take both immovable[115] and movable[116] property as collateral for transactions. These laws provide collateral holders clear rights, enforceable in court, over the secured property in the event of nonpayment of the underlying loan. Such an agreement should include clear details of the collateral serving as security, the length of the security, and the terms of the

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[113] The Afghanistan Central Business Registry (ACBR) was setup precisely to simplify registration by serving as a 'one stop shop' for obtaining a license, thereby encouraging businesses to register. *See* https://www.usaid.gov/results-data/success-stories/merger-makes-doing-business-easier.

[114] Interview with Homayoun, money exchanger, in Kabul (Mar. 2018).

[115] Law on Mortgage of Immovable Property in Banking Transactions, 2009 (Afg.).

[116] Law for Secured Transactions on Movable Property in Banking Transactions, 2009 (Afg.).

loans and repayment. Furthermore, a public collateral registry exists where parties can register their collateral agreement.[117]

Mohib, an exchanger in the bazaar, explained that given the contingencies of the market along with the fact that businesses have been known to abruptly cease operations, some exchangers "are being more cautious nowadays. Last month I made an agreement with dry foods where I would only provide the money and he would import foods and sell them, and we will split the profit. For this, I took his house as security and a copy of his shop license."[118] Other exchangers felt uneasy about taking collateral: "We do not take *zamanat* (collateral) from the people we do *ograyi* with. If we need to take *zamanat*, then this is not the type of person we want to do *ograyi* with."[119] For these exchangers, only trust in the abilities of the business ensures repayment, and thus any factor that may indicate distrust is viewed as undesirable. However, even when exchangers took collateral, it often helped to get the relationship off the ground rather than clearly signaling mistrust. Mohib explained that the collateral agreement has to be renewed each time credit is issued, which becomes cumbersome for both parties. Eventually, even he drops this requirement when he gains confidence in the abilities and reliability of the business.

Thus, it is incorrect to view collateral as a strict substitute for trust. While some scholars contend that "law commonly fills in where trust would not be possible",[120] such dichotomous treatments of law and trust oversimplify their relationship. Indeed, while the law makes collateral contracts executable in court, exchangers had little awareness of the relevant laws and never consulted the public registry before taking an item as collateral. Enforcing a collateral contract provides one form of relief for exchangers, even if it entails the difficulties of enforcement through the courts – some recourse, even if imperfect, is still preferable to none. However, rather than signaling distrust, such agreements can also be viewed as a transitional stage in the accretion of trust between the parties until they reach a point where they can deal with each other strictly on trust. For exchangers, trust rather than any form of coercion is the optimal guarantee of repayment. Thus, compliance in collateral transactions is not motivated (at least solely) by the weak shadow of legal enforcement but rather by the desire to establish trust with the exchanger, at which point transactions may move forward based on their relationship.

VII. SANCTIONS FOR NON-PERFORMANCE

The discussion of trust helps explain how exchangers ensure contractual compliance without directly relying on legal coercion, whether state or non-state. An exercise of screening, trust-building, and continuous monitoring

[117] *Public Credit Registry*, Da Afghanistan Bank, https://pcr.gov.af/50/collateral-registry.

[118] Interview with Mohib, money exchanger, in Kabul (Dec. 2017).

[119] Interview with Haseeb, money exchanger, in Kabul (Dec. 2018).

[120] Hardin, *supra* note 32, at 519.

helps ensure that any potential recalcitrant behavior is nipped at the bud by only extending credit to a select number of businesses deemed as sufficiently trustworthy. Exchangers mitigate many of the risks of transacting by expending energy and resources on trust formation and maintenance.

Nonetheless, despite the best efforts of exchangers, instances of non-performance by businesses may still occur. Whether or not willfully, lapses in repayment immediately affect exchangers since their capital is no longer generating an income and, more worrying, risks being lost completely. A number of sanctions allow for exchangers to exert pressure on businesses, helping ensure the eventual repayment of the loan.

The threat of ending the existing relationship serves as the primary means of sanctioning. The trust possessed by a business constitutes a form of social capital, and the threat of it being depleted can serve as a strong impetus for repayment. Exchangers begin by promptly contacting the business and emphasizing the importance of repayment. As one businessman mentioned, "Exchangers are very understanding. They understand businesses face problems."[121] For this reason, the initial warning by the exchanger serves as a stern reminder for the business, who is fully mindful that delays in payment will cut into the relationship of trust he has built up with the exchangers. The business must remain engaged with the exchangers and show its willingness to cooperate. Maintaining contact helps preserve trust, particularly if the circumstances are truly extenuating, and can even strengthen trust between them in the long run. An extenuating circumstance does not imply that the creditor will dismiss the breach, since the debtor can expect to face continued insistence on repayment. Conversely, if a debtor fails to respond to phone calls, meeting requests, or moves the location of his store unannounced, this will severely damage the relationship and his ability to secure future credit.

One common practice of exchangers is renegotiating the terms of repayment. Under the new agreement, the repayment period may be extended with additional fees. The additional fees serve to offset the losses incurred by the exchanger due to the late payment since the exchanger is unable to put the funds towards other transactions.[122] Moreover, it may help to maintain the relationship between the parties, particularly if the business remains cooperative and repayment under the new agreement is made promptly.

Eventually, nonpayment may begin to set off alarm bells on the part of the exchanger. If too much time passes without repayment, the exchanger will escalate its pressure on the business. As an exchanger name Hareef remarks: "If the company takes 1-2 months extra to repay, then we know that they are

[121] Interview with Tariqullah, businessman, in Kabul (Feb. 2018).

[122] Sometimes a creditor will seek to charge additional fees for late payment but will want to avoid an outright application of interest. The creditor may then ask for the late payment to be repaid in another currency, at an inflated exchange rate. For example, if the original contract was to repay USD $1000 in 3 months, the creditor may extend the period to 6 months and ask for repayment in Afghani at a rate of USD $1 = AFG 90, whereas the actual rate is USD $1 = AFG 80. In this way, interest is effectively couched within the exchange rate.

having financial difficulty. In the future, we will then reduce the amount of *orgayi* that we give them."[123] This reduction represents a decrease in its social capital. As it further decreases, so does the potential for future business: "We've had to stop giving *ograyi* to many customers because they didn't repay on time."[124] An exchanger normally waits until it receives the repayment before terminating its relationship with the business. The exchanger may claim to be "running low on funds at the moment" or provide some similar excuse for refusing to offer credit.

Exchangers noted that they usually did not reach to the point of needing to make such threats since their screening and monitoring helped flag potential issues beforehand, including instances where a business was struggling, "We monitor our businesses, and if a business either delays a payment or reduces the frequency of loans, we know that its business is slowing."[125] The emphasis by exchangers on trust and continuous monitoring highlights the incomplete nature of the sanctions available to them.

In other settings, the threat of lost future opportunities with other businesses often disincentivizes parties from reneging on their agreements.[126] The pre-screening process that exchangers undertake before contracting involves talking to people across a wide business network about the past performance of the business. Once a business has breached a contract, it is hard to hide this information from this network since businesses are always interacting and generally "aware of what business has problems with who."[127] Nonetheless, gossip operates only secondarily compared to the threat of terminating the relationship. The reason is that no coordinated means of punishing businesses exists across the market. Even the Union of Exchangers, which coordinates the activities of exchangers, is unable to monitor the activities of businesses more widely given its limited resources compared to the sheer size and breadth of the overall market. Thus, the threat of reputational damage in the market is viewed as less severe than the more immediate threat of terminating the relationship, given the effort that the business has expended on building the relationship. The parties seek to embed their relationship with trust so that sanctioning does not become an eventuality.

It is worth noting that exchangers did not report resorting to criminal gangs and or private security services to exact repayment. While exchangers may sometimes get one of their employees or friends to secretly observe the activities of a recalcitrant debtor, none would engage in vigilantism despite the prevalence of criminal gangs in Kabul capable of providing such a service. Such actions may cause an exchanger to fall prey to the scrutiny of state security

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[123] Interview with Hareef, money exchanger, in Kabul (Jan. 2018).

[124] Interview with Firooz, money exchanger, in Kabul (Dec. 2017).

[125] Interview with Razaaq, money exchanger, in Kabul (Mar. 2018).

[126] Lisa Bernstein, *Opting Out of the Legal System: Extralegal Contracting in the Diamond Industry*, 21 J. LEG. STUD. 115 (1992); Richman, *supra* note 45.

[127] Interview with Bostan, businessman, in Kabul (Nov. 2017).

officials. Furthermore, bad relations with a vigilante group may expose the exchanger to personal dangers. Such dangers are unjustified for an exchanger who seeks to protect both his reputation and the relations with his other customers that continue to generate profits.

VIII. CONCLUSION

Credit transactions play a central role in the Afghan economy as it allows for merchants and traders to acquire goods from abroad and distribute them widely across the economy. Credit from exchangers is especially important when traders seek to acquire goods from suppliers but the latter is reluctant to extend trade credit and trade lacks the required funds.

Exchangers engage in credit transactions by developing trust with their clients. Businesses must build a reputation in the market as exchangers carefully pre-screen potential clients. Through repeat transactions, exchangers can subjectively gauge the trustworthiness of businesses. Once an exchanger starts providing credit, the single most important factor for the client to be able to maintain the relationship is timely repayment of the loan. Exchangers can exert pressure to ensure timely repayments through their oligopolistic position in the market. In the case of a delayed repayment, the threat of terminating the relationship helps ensure eventual contractual fulfillment, with the threat of reputational damage also playing a role.

The picture of credit transactions painted in this piece shows how it is regulated through relations of trust between the parties. Furthermore, the presence of the state aids exchangers in assessing the trustworthiness of potential clients. State registration allows for exchangers to further embed businesses with the wider environment. Collateral contracts provide some protection to exchangers as clients prove their trustworthiness. Thus, state legal mechanisms play a role in the credit transactions of exchangers but not strictly through the greater availability of courts. Law's shadow plays some role particularly when the exchanger is still ambivalent about a business. However, state coercion is intended to help foster trust between the parties so that future transactions may depend on trust rather than the state. In this way, the weak shadow of the law strengthens the ability of exchangers to rely on nonstate legal mechanisms. Finally, traders and merchants have difficulty accessing credit through the banking sector, making them further reliant on money exchangers for their financial needs.