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Has private Afghanistan airline KAM AIR been a large-scale courier of drugs?

Sally Ramage

Kam Airways is one of Afghanistan's fastest-growing network airlines, based in Kabul, Afghanistan. Kam Airways' main line of business is the carriage of passengers on regularly scheduled flights, offering connections to world's leading airlines enabling passengers to have fast and comfortable connections to major business and political centers.¹

Kam is leading Afghan airline

It is now Afghanistan's leading private airline and the United States military has alleged that Kam Airways has been committing criminal acts by couriating large scale opium drug using its civilian flights. After this matter came to light the United States military's Central Command has banned Kam Airways from any commercial activity with the US military.² Kam Airways has Jamari Kamgar as its president, with Farid Peykar vice president; Timor Shahab Vice President (Operation) and Parwiz Kamgar Vice President (Finance). Kam Airways responded with a statement from its president and founder Zamari Kamgar that the company absolutely rejects these allegations of criminal activity. Mr Jamari Kamgar claimed that these allegations were a likely ploy by competitors because Kam Air has been discussing a merger with Afghanistan's Ariana Afghan Airlines.

Allegations of Opium smuggling

The allegation is that Kam Airlines smuggled large scale amounts of opium on its civilian flights to Tajikistan, a corridor through which the drugs reach the rest of the world. The US military has an anti-corruption unit and the commander of the Anti-Corruption Task Force issued a statement to the media that states that the US will not do business with those who fund and support illicit activities.

Ariana Afghan Airline

¹ See Kam Airways web pages at <https://www.kamair.com/cmspage.php?id=2>.

² Maria Abi-Habib, 'Afghan airline ferried opium', *Wall Street Journal*, 24 January 2013.

Examination of the limited liability company Ariana Afghan Airlines, today based in Kabul next to the Afghan Airways Authority³, revealed that it began business by an entrepreneur with a few Dakota Aircraft planes. These dated aircrafts used to serve as the fleet for a private air service in India during the post World War II period. At the time, passenger air travel service within Afghanistan was non-existent at the time; the Ariana was approved by the Afghan government, establishing the Ariana Afghan Airlines in 1955. In 1957, the Royal Afghan Government and the United States International Cooperation Administration (ICA) created a joint venture with a leading American airline, Pan American World Airways ('Pan Am') in which Pan Am took 49% of the shares and the Afghan government 51%. The Ariana-PanAm venture ended in 1985.

Background to Taliban/US set-to

The War in Afghanistan began on 7 October 2001, as the armed forces of the United States, the United Kingdom, Australia, France, and the Afghan United Front (Northern Alliance) launched Operation Enduring Freedom. Following the September 11 attacks on the US, the then Bush administration organised an allied invasion to dismantle the terrorist organisation and end its use of Afghanistan as a base. The US also intended to remove the fundamentalist Taliban regime from power, which it had gained by armed force, and create a viable democratic state. In the first phase of Operation Enduring Freedom, ground forces of the Afghan United Front working with teams of U.S. and British Special Forces and with U.S. air support, ousted the Taliban regime from power in Kabul and most of Afghanistan in a matter of weeks.

Most of the senior Taliban leadership fled to neighboring Pakistan, some being flown out in the Kunduz airlift. The democratic Islamic Republic of Afghanistan was established and an interim government under Hamid Karzai was created which was also democratically elected by the Afghan people in the 2004 general elections. The International Security Assistance Force (ISAF) was established by the U.N. Security Council at the end of December 2001 to secure Kabul and the surrounding areas. This was after the U.S. sought to make sure that it would not interfere with its ongoing counterterrorism initiatives in the country, changing the originally titled "International Security Force" to ISAF.

NATO assumed control of ISAF in 2003. ISAF includes troops from 42 countries, with NATO members providing the core of the force. The stated aim of the invasion was to find Osama bin Laden and other high-ranking al-Qaeda members to be put on trial, to destroy the organisation

³ Ariana's home base is the Kabul International Airport, which has an altitude of 6,000 feet high and surrounded by a chain of mountains in a bowl like formation.

of al-Qaeda, and to remove the Taliban regime which supported and gave safe harbour to it.

The present US allegation of opium smuggling

The US military spokesperson gave no clue as to what evidence, if any, the US has for such a serious allegation that undoubtedly has caused severe damage to Afghanistan and to the reputation and competitive ability of its emerging airline industry, but the US allegation might have behind it the fear that Kam Airways when merged with Ariana will give Kam Airways the opportunity to transport opium in bulk, if the allegation is true, directly overseas because of Ariana's established international routes to Moscow. The US had bombed several of Ariana's aircrafts⁴ during its war on the Taliban regime, and caused Ariana much financial pain, from which the airplane company is recovering.

US anti-corruption task force

The US military has an anti-corruption task force and this is expected when hundreds of millions of US dollars have been spent in Afghanistan. Corruption is among the greatest obstacles to economic and social development in any country. Corruption undermines development by distorting the rule of law and weakening the institutional foundation on which economic growth depends. The harmful effects of corruption are especially severe on the poor, who are hardest hit by economic decline, are most reliant on the provision of public services, and are least capable of paying the extra costs associated with bribery, fraud, and the misappropriation of economic privileges. Corruption sabotages policies and programs that aim to reduce poverty, so attacking corruption is critical to the US mission of peace, notwithstanding such smuggling is in direct contravention of the United Nations Convention against illicit traffic in narcotics and psychotropic substances.

Opium production in Afghanistan

From 1996-1999, the Taliban controlled 96% of Afghanistan's poppy fields and made opium its largest source of taxation. Taxes on opium exports became one of the mainstays of Taliban income and their war economy, and so funded the weapons, ammunition and fuel for the war. By 2000 Afghanistan accounted for an estimated 75% of the world's supply and in 2000 grew an estimated 3276 tonnes of opium from poppy cultivation on 82,171 hectares. The trafficking of accumulated opium stocks by the Taliban continued in 2000 and 2001. Soon after the 2001 US led invasion of Afghanistan opium

⁴ During the Taliban regime, Ariana operated two Boeing 727-100s and one Boeing 727-200 on international routes and five AN 24s on domestic routes but when war and international sanctions came, Ariana lost several airplanes and is now recovering its business.

production increased markedly and by 2005 Afghanistan had regained its position as the world's No. 1 opium producer and was producing 90% of the world's opium, most of which is processed into heroin and sold in Europe and Russia. UN findings in 2009 stated that an opium market worth \$65bn (£39bn) was being used to fund global terrorism.

The UN stated that it was recalling Commission on Narcotic Drugs resolution 52/14, adopted at the Commission on Narcotic Drugs reconvened fifty-second session in December 2009; also recalling the report of the Advisory Committee on Administrative and Budgetary Questions on the consolidated budget for the biennium 2010-2011 for the United Nations Office on Drugs and Crime, having considered the report of the Executive Director of the United Nations Office on Drugs and Crime on the changes required to the strategic framework and their implications for the Office and for the allocation of resources to the sub-programmes of the programme of work, and on the establishment of an independent evaluation unit and the sustainability of the Strategic Planning Unit; it was also recalling its resolution 64/243 of 24 December 2009, entitled 'Questions relating to the proposed programme budget for the biennium 2010-2011', expressed concern regarding the overall financial situation of the United Nations Office on Drugs and Crime and requested the Secretary-General to submit proposals in his proposed programme budget for the biennium 2012-2013 to ensure that the Office had sufficient resources to carry out its mandate. This is indeed a dire state for the UN to find itself in and it does not bode well that we cannot afford to fight the war against illicit drugs.

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The US tackles this by Federal Customs officials collaborating with foreign governments to intercept shipments from Internet pharmacies at their source, by raiding warehouses and otherwise actively preventing illegal drugs from being shipped to the United States. The US Department of Justice (DOJ) also works with the Group of Eight nations and the Council of Europe, to develop new treaties, and practical law enforcement strategies; and to combat cyber-crime. Border control cannot keep pace with the vastly increased importation of drugs made possible by the Internet. Any western country with

substantial illegal drug peddling and abuse would want to ensure that such drugs are not smuggled into their country. For the substantial drug abuse problem that the US suffers, see the 2009 article by Sally Ramage titled 'United States Internet sale of prescription drugs', *Criminal Law News*, Issue 19, May 2009.

With this premature announcement to the world, the US did not follow up with any arrests and requests for extradition, perhaps because they have no evidence, indicating that this statement about drug smuggling is a strategy for some other purpose. Utilised by the United States since 1795, extradition treaties remain the most common tool among nations for the surrender of individuals accused of crime, and who are now beyond the jurisdiction of the requesting country. United Nations Office on Drugs and Crime (UNODC, formerly known as the UN Office on Drug Control and Crime Prevention (UNDCCP) is responsible for coordinating activities relating to international control of narcotic drugs.

Bilateral and multi-lateral Treaties solve issues

Through bilateral and multilateral treaties, cooperating nations have been able to formulate acceptable solutions to countless problems arising out of today's broad approach at reigning in those charged with crimes. While all countries maintain a strong interest in safeguarding the rights of their citizenry and individuals who fall under the protection of their laws, nations now more than ever, are seeking to extend the reach of their judiciaries to gain access to or prosecute individuals who are beyond their borders. Countries are increasingly asserting jurisdiction based on the nationality of the offender, on the nationality of the victim, on the place where the offence is intended to have its primary effect, and on the protection of a particular governmental interest. Once a human defendant is located, he or she must be brought to the forum for trial. Under the Constitution, every state must extradite accused criminals to a sister state when requested, so that obtaining the physical presence of an American defendant in the forum is relatively straightforward. Defendants who are not United States citizens can only be extradited to an American court if the United States has an extradition treaty with the country where the defendant is located. Many of the extradition treaties that the U.S. has signed operate under the principle of dual criminality. In order for extradition to take place, the defendant's alleged act must be a crime in both jurisdictions. The world watches the situation.

With drug smuggling goes arms smuggling and organised crime. All Member States of the United Nations had gathered in New York on 2-27 July 2012 for an historical initiative in the area of conventional arms: to negotiate an Arms Trade Treaty. The Treaty would establish high common standards for international trade in conventional arms. Despite the efforts put forth by delegations during the intense four weeks of negotiations, the Conference could not reach agreement on a treaty text. The General Assembly of the United Nations has decided to convene

another conference in March 2013 in New York in order to conclude the work begun in July 2012.

The Leveson Inquiry Report: police sale of information

Sally Ramage

Since 2003, it was known that police were selling information. The Police had 'customers' who were requesting either specific pieces of information or packages, which could include a person's criminal background, their financial situation, medical history, telephone records and current whereabouts. These 'customers ranged' from individuals involved in matrimonial disputes to large financial institutions including insurance companies and debt recovery agents. It seems that these 'customers' were unaware that providing such information was illegal.

There were serving and retired officers from several police forces involved in selling information, and among these forces were the Metropolitan Police Service (MPS) and the police forces of Dorset, Northumbria, Devon and Cornwall, , Surrey and Essex.

One particular customer known of since 2003 was Data Research Ltd, a data gathering company based in Surrey. A search warrant was executed and DVLA information was found, and such information was being sold to insurance companies. The CPS were aware of this and their advice to the Police Complaints Authority was to 'focus the investigation on (i) individuals who were either systematically providing or receiving information unlawfully from databases, and (ii) the customers who knew or ought to have known that the information had been obtained unlawfully.' Finally two serving police officers, two retired police officers and two individuals associated with Data Research Ltd were charged with misconduct in public office offences and Data Protection Act offences in 2005. The prosecution's case was that the unlawful disclosure of the information was serious, irrespective of the use to which the data was intended to be put. The court decided 'that the act of a police officer accessing the PNC and providing the information to a former colleague might not in the circumstances of this particular case amount to misconduct in public office, and in any event the matter was not terribly serious'.

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