

Fraud, Money Laundering and Narcotics. Impunity of the Banking Giants

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[Antifascist Calling...](#)

Theme: [Global Economy](#), [Law and Justice](#)

Today, June 26, is *The International Day against Drug Abuse and Illicit Trafficking*: “an expression of determination to strengthen action and cooperation to achieve the goal of an international society free of drug abuse” (UN General Assembly).

The following article by Tom Burghardt first published by Global Research in 2012, focusses on the issue of narcotics and fraudulent money laundering

In another shameful decision by the US Department of Justice, earlier this month federal prosecutors reached a deferred prosecution agreement (DPA) with UK banking giant HSBC, Europe’s largest bank.

Shameful perhaps, but entirely predictable. After all, in an era characterized by economic collapse owing to gross criminality by leading financial actors, policy decisions and the legal environment framing those decisions have been shaped by oligarchs who quite literally have “captured” the state.

Founded in 1865 by flush-with-cash opium merchants after the British Crown seized Hong Kong from China in the aftermath of the First Opium War, HSBC has been a permanent fixture on the radar of US law enforcement and regulatory agencies for more than a decade.



Not that anything so trifling as terrorist financing or global narco trafficking mattered much to the Obama administration.

As I previously reported, ([here](#), [here](#), [here](#) and [here](#)), when the Senate Permanent Subcommittee on Investigations issued their mammoth 335-page [report](#), “U.S.

Vulnerabilities to Money Laundering, Drugs, and Terrorist Financing: HSBC Case History,” we learned that amongst the “services” offered by HSBC subsidiaries and correspondent banks were sweet deals, to the tune of hundreds of billions of dollars, with financial entities with ties to international terrorism and the grisly drug trade.

Charged with multiple violations of the Bank Secrecy Act for their role in laundering blood money for Mexican and Colombian drug cartels, as a sideline HSBC’s Canary Wharf masters conducted a highly profitable business with the alleged financiers of the 9/11 attacks who washed funds through Saudi Arabia’s Al Rajhi Bank.

While the media breathlessly reported that the DPA will levy fines totaling some \$1.92 billion (£1.2bn) which includes \$655 million (£408m) in civil penalties, the largest penalty of its kind ever levied against a bank, under terms of the agreement not a *single* senior officer will be criminally charged. In fact, those fines will be paid by shareholders which include municipal investors, pension funds and the public at large.

With some 7,200 offices in more than 80 countries and 2011 profits topping \$22 billion (£13.6bn), Senate investigators found that HSBC’s web of 1,200 correspondent banks provided drug traffickers, other organized crime groups and terrorists with “U.S. dollar services, including services to move funds, exchange currencies, cash monetary instruments, and carry out other financial transactions. Correspondent banking can become a major conduit for illicit money flows unless U.S. laws to prevent money laundering are followed.” They weren’t and as a result the bank’s balance sheets were inflated with illicit proceeds from terrorists and drug gangsters.

Revelations of widespread institutional criminality are hardly a recent phenomenon. More than a decade ago journalist Stephen Bender published a [Z Magazine](#) piece which found that “99.9 percent of the laundered criminal money that is presented for deposit in the United States gets comfortably into secure accounts.”

According to Bender: “The key institution in the enabling of money laundering is the ‘private bank,’ a subdivision of every major US financial institution. Private banks exclusively seek out a wealthy clientele, the threshold often being an annual income in excess of \$1 million. With the prerogatives of wealth comes a certain regulatory deference.”

Such “regulatory deference” in the era of “too big to fail” and its corollary, “too big to prosecute,” is a signal characteristic as noted above, of *state capture* by criminal financial elites.

Indeed, HSBC’s private banking arm, HSBC Private Bank is the principal private banking business of the HSBC Group. A holding company wholly owned by HSBC Bank Plc, its subsidiaries include HSBC Private Bank (Suisse) SA, HSBC Private Bank (UK) Limited, HSBC Private Bank (CI) Limited, HSBC Private Bank (Luxembourg) SA, HSBC Private Bank (Monaco) SA and HSBC Financial Services (Cayman) Limited. All of these entities featured prominently in money laundering and tax evasion schemes uncovered by the Senate Permanent Subcommittee in their report. Combined client assets have been estimated by regulators to top \$352 billion (£217.68).

According to Senate investigators, HSBC Financial Services (Cayman) was the principle conduit through which drug money laundered through HSBC Mexico (HBMX) flowed. “This branch,” Senate staff averred, “is a shell operation with no physical presence in the

Caymans, and is managed by HBMX personnel in Mexico City who allow Cayman accounts to be opened by any HBMX branch across Mexico.”

“Total assets in the Cayman accounts peaked at \$2.1 billion in 2008. Internal documents show that the Cayman accounts had operated for years with deficient AML [anti-money laundering] and KYC [know your client] controls and information. An estimated 15% of the accounts had no KYC information at all, which meant that HBMX had no idea who was behind them, while other accounts were, in the words of one HBMX compliance officer, misused by ‘organized crime’.”

In fact, the “normal” business model employed by HSBC and other entities bailed out by Western governments fully conform to the “control fraud” model first described by financial crime expert William K. Black.

According to Black, a control fraud occurs when a CEO and other senior managers remove checks and balances that prevent criminal behaviors, thus subverting regulatory requirements that prevent things like money laundering, shortfalls due to bad investments or the sale of toxic financial instruments.

In [*The Best Way to Rob a Bank Is to Own One*](#), Black informed us: “A control fraud is a company run by a criminal who uses it as a weapon and shield to defraud others and makes it difficult to detect and punish the fraud.”

“Control frauds,” Black reported, “are financial superpredators that cause vastly larger losses than blue-collar thieves. They cause catastrophic business failures. Control frauds can occur in waves that imperil the general economy. The savings and loan (S&L) debacle was one such wave.”

Indeed, “control frauds” like HSBC “create a ‘fraud friendly’ corporate culture by hiring yes-men. They combine excessive pay, ego strokes (e.g., calling the employees ‘geniuses’) and terror to get employees who will not cross the CEO.” In such a “criminogenic” environment, the CEO (paging Lord Green!) “optimizes the firm as a fraud vehicle and can optimize the regulatory environment.”

In their [press release](#), the Department of Justice announced that HSBC Group “have agreed to forfeit \$1.256 billion and enter into a deferred prosecution agreement with the Justice Department for HSBC’s violations of the Bank Secrecy Act (BSA), the International Emergency Economic Powers Act (IEEPA) and the Trading with the Enemy Act (TWEA).”

“According to court documents,” the DOJ’s Office of Public Affairs informed us, “HSBC Bank USA violated the BSA by failing to maintain an effective anti-money laundering program and to conduct appropriate due diligence on its foreign correspondent account holders.”

The DOJ goes on to state, “A four-count felony criminal information was filed today in federal court in the Eastern District of New York charging HSBC with willfully failing to maintain an effective anti-money laundering (AML) program, willfully failing to conduct due diligence on its foreign correspondent affiliates, violating IEEPA and violating TWEA.”

However, “HSBC has waived federal indictment, agreed to the filing of the information, and has accepted responsibility for its criminal conduct and that of its employees.”

In other words, because they accepted “responsibility” for acts that would land the average citizen in the slammer for decades, those guilty of “palling around with terrorists” or smoothing the way as billionaire drug traffickers hid their loot in the so-called “legitimate economy,” got a free pass. In fact, under terms of the agreement DOJ’s “deferred prosecution” will be “deferred” alright, like *forever!*

Why might that be the case?

[The New York Times](#) informed us that state and federal officials, eager beavers when it comes to protecting the integrity of a system lacking all integrity, “decided against indicting HSBC in a money-laundering case over concerns that criminal charges could jeopardize one of the world’s largest banks and ultimately destabilize the global financial system.”

Keep in mind this is a “system” which former United Nations Office of Drugs and Crime director Antonio Maria Costa told [The Observer](#) thrives on illicit money flows. In 2009, Costa told the London broadsheet that “in many instances, the money from drugs was the only liquid investment capital. In the second half of 2008, liquidity was the banking system’s main problem and hence liquid capital became an important factor.” Costa said that “a majority of the \$352bn (£216bn) of drugs profits was absorbed into the economic system as a result.”

Glossing over these facts, *Times’* stenographers Ben Protess and Jessica Silver-Greenberg, cautioned that “four years after the failure of Lehman Brothers nearly toppled the financial system,” federal regulators “are still wary that a single institution could undermine the recovery of the industry and the economy.”

“Given the extent of the evidence against HSBC, some prosecutors saw the charge as a healthy compromise between a settlement and a harsher money-laundering indictment. While the charge would most likely tarnish the bank’s reputation, some officials argued that it would not set off a series of devastating consequences.”

Devastating to whom one might ask? The 100,000 Mexicans brutally murdered by drug gangsters, corrupt police and Mexican Army soldiers whose scorched-earth campaign kills off the competition on behalf of Mexico’s largest narcotics organization, the Sinaloa Cartel run by fugitive billionaire drug lord Chapo Guzmán?

“A money-laundering indictment, or a guilty plea over such charges,” the *Times* averred, “would essentially be a death sentence for the bank. Such actions could cut off the bank from certain investors like pension funds and ultimately cost it its charter to operate in the United States, officials said.”

Many of the same lame excuses for prosecutorial inaction were also prominent features in the British press.

[The Daily Telegraph](#) reported that the “largest banks have become too big to prosecute because of the impact criminal charges would have on confidence in them, Britain’s most senior bank regulator has admitted.”

“In a variant of the ‘too big to fail’ problem, Andrew Bailey, chief executive designate of the Prudential Regulation Authority, said bringing a legal action against a major financial institution raised ‘very difficult questions’.”

“‘Because of the confidence issue with banks, a major criminal indictment, which we haven’t seen and I’m not saying we are going to see... this is not an ordinary criminal indictment’,” Bailey told the *Telegraph*.

Echoing Bailey, Assistant Attorney General Lanny Breuer said the decision not to prosecute HSBC was made because “in this day and age we have to evaluate that innocent people will face very big consequences if you make a decision.”

This from an administration that continues to prosecute—and jail—low-level drug offenders at record rates!

“Breuer’s argument is facially absurd,” according to William K. Black. In a piece published by [New Economic Perspectives](#), Black argues:

Prosecuting HSBC’s fraudulent controlling managers would not harm anyone innocent other than their families—and virtually all prosecutions hurt some family members. Breuer claims that virtually all of HSBC’s senior officers have been removed, so his argument is doubly absurd. Mostly, however, Breuer ignores all of the innocents harmed by the control frauds. SDIs [systemically dangerous institutions] that are control frauds are weapons of mass economic destruction that drive global crises and are the greatest enemy of ‘free’ markets. They are also the greatest threat to democracy, for they create crony capitalism. We are all innocent victims of these control frauds—and the Obama and Cameron governments are allowing them to commit their frauds with impunity from criminal prosecutions. The controlling officers get wealthy without fear of prosecution. The SDIs controlled by fraudulent officers have to purchase an indulgence, but the price of the indulgence is capped by the ‘too big to prosecute’ doctrine at a level that will not cause it any real distress. Breuer’s and Bailey’s embrace of too big to prosecute should have led to their immediate dismissals. Obama and Cameron should either fire them or announce that they stand with the criminal enterprises and their fraudulent controlling officers against their citizens.

As Rowan Bosworth-Davies, a former financial crimes specialist with London’s Metropolitan Police observed on his [web site](#), “When you get a bank which admits, like HSBC has just done, that it is nothing more than a low-life money launderer for Mexican drug kingpins, and when it serves powerful vested interests to get round internationally-ratified sanctions against rogue nations, what possible benefit is achieved by trying to pretend that they cannot be prosecuted and charged with criminal offences?”

“Oh, excuse me,” Bosworth-Davies wrote, “it might impact the confidence they enjoy? Whose confidence, their Mexican drug traffickers, their international sanctions breakers, their global tax evaders, or the ordinary, law-abiding clients who are entitled to assume that their bank will obey the laws imposed on them and will provide a safe place of deposit?”

“Confidence,” the former Met detective averred, “what bloody confidence can anyone have when they know their bank is an admitted criminal? When their money is deposited with a bank that breaks the criminal law at every possible opportunity, which cheats them at every turn, sells them fraudulent products, launders drug money, evades international sanctions, moves foreign oligarchs’ tax evasion, safeguards the deposit accounts of Third World dictators and their families, then what is that confidence worth?”

Instead, as with the 2010 deal with Wachovia Bank, federal prosecutors cobbled together a

[DPA](#) that levied a “fine” of \$160 million (£99.2m) on laundered drug profits that topped \$378 billion (£234.5bn).

Although top Justice Department officials charged that HSBC laundered upwards of \$881 million (£546.5m) on behalf of the Sinaloa and Colombia’s Norte del Valle drug cartels, federal prosecutors investigating the bank told [Reuters](#) in September that this was merely the “tip of the iceberg.”

In fact, as Senate investigators discovered during their probe, the bank failed to monitor more than \$670 *billion* (£415.6bn) in wire transfers from HSBC Mexico (HBMX) between 2006 and 2009, and failed to adequately monitor over \$9.4 billion (£5.83bn) in purchases of physical U.S. dollars from HBMX during the same period.

Assistant Attorney General Lanny A. Breuer, said in [prepared remarks](#) announcing the DPA that “traffickers didn’t have to try very hard” when it came to laundering drug cash. “They would sometimes deposit hundreds of thousands of dollars in cash, in a single day, into a single account,” Breuer said, “using boxes designed to fit the precise dimensions of the teller windows in HSBC Mexico’s branches.”

While Breuer’s dramatic account of the money laundering process may have offered a gullible financial press corps a breathless moment or two, a closer look at Breuer’s CV offer hints as to *why* he chose not to criminally charge the bank.

A corporatist insider, after representing President Bill Clinton during ginned-up impeachment hearings, Breuer became a partner in the white shoe Washington, DC law firm Covington & Burling. From his perch, he represented Moody’s Investor Service in the wake of Enron’s ignominious collapse and Dick Cheney’s old firm Halliburton/KBR during Bush regime scandals. Talk about “safe hands”!

Appointed as the head of the Justice Department’s Criminal Division by Obama in 2009, Breuer presided over the prosecution/persecution of NSA whistleblower Thomas A. Drake on charges that he violated the Espionage Act of 1917 for disclosing massive contractor fraud at NSA to *The Baltimore Sun*.

More recently, along with 14 other officials Breuer was recommended for potential “disciplinary action” by the Justice Department’s Office of the Inspector General over the Fast and Furious gun-walking scandal which put some 2,000 firearms into the hands of cartel killers in Mexico.

“A Justice official said Breuer has been ‘admonished’” by U.S. Attorney General Eric Holder, “but will not be disciplined,” [The Washington Post](#) reported.

Breuer had the temerity to claim that deferred prosecution agreements “have the same punitive, deterrent, and rehabilitative effect as a guilty plea.”

“When a company enters into a deferred prosecution agreement with the government, or a non prosecution agreement for that matter,” Breuer asserted, “it almost always must acknowledge wrongdoing, agree to cooperate with the government’s investigation, pay a fine, agree to improve its compliance program, and agree to face prosecution if it fails to satisfy the terms of the agreement.”

As is evident from this brief synopsis, when it came to holding HSBC to account, the fix was

already in even before a single signature was affixed to the DPA.

Without batting an eyelash, Breuer informed us that HSBC has “committed” to undertake “enhanced AML and other compliance obligations and structural changes within its entire global operations to prevent a repeat of the conduct that led to this prosecution.”

“HSBC has replaced almost all of its senior management, ‘clawed back’ deferred compensation bonuses given to its most senior AML and compliance officers, and has agreed to partially defer bonus compensation for its most senior executives—its group general managers and group managing directors—during the period of the five-year DPA.”

Yes, you read that correctly. Despite charges that would land the average citizen in a federal gulag for *decades*, senior managers have “agreed” to “partially defer bonus compensation” for the length of the DPA!

As [Rolling Stone](#) financial journalist Matt Taibbi commented:

“Wow. So the executives who spent a decade laundering billions of dollars will have to *partially* defer their bonuses during the five-year deferred prosecution agreement? Are you fucking kidding me? That’s the punishment? The government’s negotiators couldn’t hold firm on forcing HSBC officials to *completely* wait to receive their ill-gotten bonuses? They had to settle on making them ‘partially’ wait? Every honest prosecutor in America has to be puking his guts out at such bargaining tactics. What was the Justice Department’s opening offer—asking executives to restrict their Caribbean vacation time to nine weeks a year?”

“So you might ask,” Taibbi writes,

“what’s the appropriate penalty for a bank in HSBC’s position? Exactly how much money should one extract from a firm that has been shamelessly profiting from business with criminals for years and years? Remember, we’re talking about a company that has admitted to a smorgasbord of serious banking crimes. If you’re the prosecutor, you’ve got this bank by the balls. So how much money should you take?”

“How about *all* of it? How about every last dollar the bank has made since it started its illegal activity? How about you dive into every bank account of every single executive involved in this mess and take every last bonus dollar they’ve ever earned? Then take their houses, their cars, the paintings they bought at Sotheby’s auctions, the clothes in their closets, the loose change in the jars on their kitchen counters, every last freaking thing. Take it all and don’t think twice. And *then* throw them in jail.”

But there’s the rub and the proverbial fly in the ointment. The government *can’t* and *won’t* take such measures. Far from being impartial arbiters sworn to defend us from financial predators, speculators, drug lords, terrorists, warmongers and out-of-control corporate vultures hiding trillions of taxable dollars offshore, officials of this criminalized state are hand picked servants of a thoroughly debauched ruling class.

Writing for the [World Socialist Web Site](#), Barry Grey observed: HSBC “was allowed to pay a token fine—less than 10 percent of its profits for 2011 and a fraction of the money it made laundering the drug bosses’ blood money. Meanwhile, small-time drug dealers and users, often among the most impoverished and oppressed sections of the population, are routinely

arrested and locked up for years in the American prison gulag.”

“The financial parasites who keep the global drug trade churning and make the lion’s share of money from the social devastation it wreaks are above the law,” Grey noted.

“Here, in a nutshell,” Grey wrote, “is the modern-day aristocratic principle that prevails behind the threadbare trappings of ‘democracy.’ The financial robber barons of today are a law unto themselves. They can steal, plunder, even murder at will, without fear of being called to account. They devote a portion of their fabulous wealth to bribing politicians, regulators, judges and police—from the heights of power in Washington down to the local police precinct—to make sure their wealth is protected and they remain immune from criminal prosecution.”

Regarding America’s fraudulent “War on Drugs,” researcher Oliver Villar, who with Drew Cottle coauthored the essential book, [Cocaine, Death Squads, and the War on Terror: US Imperialism and Class Struggle in Colombia](#), told [Asia Times Online](#), it is a “war” that the state and leading banks and financial institutions in the capitalist West have no interest whatsoever in “winning.”

When queried why he argued that the “war on drugs is no failure at all, but a success,” Villar noted: “I come to that conclusion because what do we know so far about the war on drugs? Well, the US has spent about US\$1 trillion throughout the globe. Can we simply say it has failed? Has it failed the drug money-laundering banks? No. Has it failed the key Western financial centers? No. Has it failed the narco-bourgeoisie in Colombia—or in Afghanistan, where we can see similar patterns emerging? No. Is it a success in maintaining that political economy? Absolutely.”

Equally important, what does the impunity shamelessly enjoyed by such loathsome parasites say about *us*?

Have we become so indifferent to officially sanctioned crime and corruption, the myriad petty tyrannies and tyrants, from the boardroom to the security checkpoint to the job, not to mention murderous state policies that have transformed so-called “advanced” democracies into hated and loathed pariah states, who we really *are*?

As the late author J. G. Ballard pointed out in his masterful novel [Kingdom Come](#), “Consumer fascism provides its own ideology, no one needs to sit down and dictate *Mein Kampf*. Evil and psychopathy have been reconfigured into lifestyle statements.”

Paranoid fantasy? Wake up and smell the corporatized police state.

Tom Burghardt is a researcher and activist based in the San Francisco Bay Area. In addition to publishing in Covert Action Quarterly and [Global Research](#), he is a Contributing Editor with [Cyrano's Journal Today](#). His articles can be read on [Dissident Voice](#), [Pacific Free Press](#), [Uncommon Thought Journal](#), and the whistleblowing website [WikiLeaks](#). He is the editor of Police State America: U.S. Military “Civil Disturbance” Planning, distributed by [AK Press](#) and has contributed to the new book from [Global Research](#), The Global Economic Crisis: The Great Depression of the XXI Century.

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