



Money laundering from Islamic perspective

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Abstract

Purpose – The focal point of this paper is money laundering from the Islamic perspective. As money laundering has become a world-wide phenomenon, studying it from an Islamic viewpoint is of significance. The purpose of this paper is to examine: the conception of money laundering in Islam; the criteria by which Islamic law distinguishes between lawfulness (*al-halal*) and unlawfulness (*al-haram*); what the stipulations (conditions) are for having money or owning property in Islam; and what the attitude of Islamic law is towards the laundered money.

Design/methodology/approach – The research depended on secondary data. The data were taken from *Quran* and *Sunna*.

Findings – In responding to the first question, it has been found that, although money laundering is a contemporary crime, the conception of money laundering has been addressed through many provisions in *Quran* and *Sunna* (going back 1,400 years). From many examples in *Quran* and *Sunna*, it has been recognised that the scale of prohibition in Islam is much wider than the scale of prohibition in any secular law. *Qimar* (gambling) is prohibited by *Sharia* law but not in secular laws.

Originality/value – The paper is of value in identifying the criteria by which Islamic law distinguishes between lawfulness and unlawfulness. It also identifies four stipulations for having money or owning property in Islam. Finally, the paper reviews the attitude of Islamic law towards the laundered money.

Keywords Money laundering, Islam

Paper type General review

1. The conception of money laundering in Islam

Although money laundering is a contemporary crime, over 1,400 years, it has been addressed through many provisions in *Quran* and *Sunna* that contain the conception of money laundering[1]. For example, prophet Mohamed prohibits any activity funded by money derived from *Souht* (unlawful trade or ill-gotten property). He said: “Any activity built from Souht, will be casted into Fire” (Saleh and Saleh, 2006). Furthermore, Prophet Mohamed prohibited the use of money generated from illegal activities even if it goes to poor people or to charities. He said: “Sadakah[2] comes from theft are not acceptable” (Saheh Muslim 1/204 in: Saleh and Saleh, 2006).

However, the scale of prohibitions in Islam is much wider than the scale of prohibition in any other secular laws. For example, whereas gambling (which means *Qimar* and *Mysar* in Islam) is allowed in too many countries, it is prohibited by Islamic law as will be explained later. In addition, while *Paghy* (prostitution) is legal in some jurisdictions, it is illegal in Islamic law, so Islamic law illegalizes the money that comes from prostitution. Prophet Mohamed explicitly prohibited taking the money earned by prostitution (as will be shown later). There are two scales of prohibitions by Islamic law: general provisions and specific provisions of prohibitions.



1.1 General provisions that prohibit the ill-gotten money

There are many general *Quranic* provisions regarding prohibiting illicit activities and illegalizing the money derived from such activities. For example, in the *Holy Quran*, there is a *Quranic* verse that says: "... God will make lawful for them all good things and prohibit for them only the foul..." (Pickthall, 2005, verse 157). In addition, in An-Nisa Surah there is a *Quranic* verse says:

O you who believe! Squander not your wealth among yourselves in vanity, except it be a trade by mutual consent, and kill not one another. Allah is ever merciful to you. Whoever does that through aggression and injustice, we shall cast him into fire. And that is ever easy for Allah (Pickthall, 2005, verse 29,30).

To explain; God allows Muslim people to have or to do good and lawful as regards things, deeds, beliefs, persons, foods. And prohibits them as unlawful Al-Khabaith (i.e. all evil and unlawful as regards things, deeds, beliefs, persons and foods. For example, in relation to corruption and bribery, there is a general *Quranic* provision says:

And eat not up your property among yourselves in vanity, not seek by it to gain the hearing of judges that you may knowingly devour a portion of the property of others wrongfully (Pickthall, 2005, verse 188).

God says that trading in illicit activities among people is prohibited, and giving a portion of the gain of such illicit activities to someone charged with authority such as a responsible manager, a ruler, a chief, a superior, a master . . . , etc. in order to help them in achieving such illegal trade is also prohibited. In the context of illegalizing, the illegal gain that comes from theft, prophet Mohamed says: "... Sadakah[3] comes from theft are not acceptable" (Saheh Muslim, in Saleh and Saleh, 2006). To explain, prophet Mohamed stated that money generated from theft is not acceptable even if it goes to poor people or to charities. In addition, there is a general prophetic saying: "A-halal (lawfulness) is explicit or clear, and Al-haram (unlawfulness) is clear..." (Al-Boukhary 1/28 and Muslim 3/1,219 number 1,599 in Saleh and Saleh, 2006). However, the most general prophetic saying that prohibits any activity funded by money comes from *Souht* (unlawful trade or ill-gotten money) is that: "Any activity built from *Souht*, will be casted into fire" (Saleh and Saleh, 2006).

1.2 Certain provisions that prohibit the ill-gotten money

Having said that there are many general *Quranic* verses and prophetic sayings prohibit money laundering, there are also many certain *Quranic* provisions and prophetic sayings that prohibit illegal activities and the money comes from them as follows:

- (1) *Theft*. Sharia't law prohibits theft and imposes a massive penalty for that: cutting the hands of thieves. A *Quranic* verse says: "As for the thief, both male and female, cut off their hands. It is the reward of their own deeds, an exemplary punishment from Allah. Allah is Mighty, Wise" (Pickthall, 2005, verse 38). In addition, prophet Mohamed says: "if Fatima (the daughter of prophet Mohamed) stole, I would cut her hand".
- (2) *Harabh in Islam means organised crime*. Islam forbids organised crimes. A *Quranic* verse says:
The only reward of those who make war on Allah and His messenger and strive after corruption in the land will be that they will be killed or crucified, or have their

hands and feet on alternate sides cut off, or will be expelled from the land. Such will be their degradation in the world, and in the Hereafter theirs will be an awful doom (Pickthall, 2005, verse 33).

- (3) *Ghloom in Islam means embezzlement.* Ghloom is taking the money from public treasury. The Islamic penalty in lifetime is prison and returning the money to its origin place. A *Quranic* verse says:
... *it is not for any prophet to deceive. Whoever deceives will bring his deceit with him on the Day of Resurrection. Then every soul will be paid in full what it has earned; and they will not be wronged* (Pickthall, 2005, verse 161).
- (4) *Ehtikar in Islam means monopoly (the black market).* Monopoly has been existed since the early history and still on by now when goods and commodities are hidden until finished in the market, and then re-emerge again to be sold with excessive price. Prophet Mohamed says: "monopolist is damned" (Al-Mustadrak 14/2 number 216 in Saleh and Saleh, 2006).
- (5) *Rashwa in Islam means bribery.* Bribery is very common throughout the history. Recently, money derived from bribery constitutes a great resource of money laundering. Islam prohibits bribery clearly. Prophet Mohamed says: "Allah damned briber and bribee"[4].
- (6) *Riba in Islam means usury (excessive interest).* It is strictly prohibited by Islamic law through many *Quranic* and prophetic sayings. A *Quranic* verse says: "... Allah permits trading and forbids usury" (Pickthall, 2005, verse 275). In a prophetic saying: "prophet Mohamed damned the beneficial of Riba, the giver of Riba, the writer of the contract of Riba, and the witnesses of the contract of Riba"[5].
- (7) *Paghy in Islam means prostitution.* Islam principally strongly prohibits sexual behaviour before or out of marriage and it calls it *Zina* (the offence of adultery)[6]. To prove, there is a *Quranic* verse says: "the adulterer and the adulteress, beat you each one of them (with) a hundred strokes" (Pickthall, 2005, verse 2). The penalty of *Zina* is divided as follows:
 - If the adulterous is a married person[7], the penalty will be pelting with stones until death.
 - If the adulterous is unmarried person, the penalty will be 80 lashing or whipping.Having said that adultery or criminal conversation is prohibited by Islam; makes the rule of Islamic law in criminalizing sex trade or prostitution understood. Accordingly, Islamic law illegalizes the ill-gotten money that comes from sex trade or prostitution. Prophet Mohamed prohibited taking the money earned by prostitution.
- (8) *Qimar or Mysar in Islam mean gambling.* Whereas gambling (which means *Qimar* and *Mysar* in Islam) is allowed in too many countries, it is prohibited by Islamic law. *Qimar* is prohibited whether conducted as a business for gaining money, as a game for fun, or for charity fundraising[8]. However, if *Qimar* is advantageous for someone for profit, it has devastating impacts on the economy and on the society as a whole (Atbani, 2006). To explain, in a society if *Qimar* was made legal, people would prefer to spend time on gambling rather than go

to work, and accordingly, employment would be affected, the economy would be destroyed as well as social fabric would be unstable and distressed. A *Quranic* verse says: “. . . . games of chance and idols and divining arrows are only an infamy of Satan’s handiwork. Leave it aside in order that you may succeed” (Pickthall, 2005, verse 90).

In other words, Islamic law not only concentrates on prohibiting crimes that constitute predicate offences for money laundering but it also prohibits the utilisation of proceeds of such crimes even for charitable purposes. In this regard, an important question may come to one’s mind.

2. What are the criteria by which Islamic law distinguishes between *Al-Halal* (lawfulness) and *Al-Haram* (unlawfulness)?

As mentioned earlier, prophet Mohamed says: “Al-halal is explicit or clear, and Al-haram is also clear. . . .” (Al-Boukhary 1/28 and Muslim 3/1,219 number 1,599 in Saleh and Saleh, 2006). In distinguishing *al-halal* from *al-haram*, it is necessary to resort to one of the Islamic jurisprudence. The sources are: *Quran*, *Sunna* (prophetic sayings), *Ejmaa* (convention) (Jirari, n.d.), *Keyas* (juristic reasoning) (Jirari, n.d.), and *Ejtihad* (interpretative) (Jirari, n.d.). Accordingly, to know whether an act is *halal* or *haram* one should return to the *Quran*, if there is no mention of it, he should resort to *Sunna*, and if there is no solution for it, he should return to *Ejmaa*, and upon failing to solve it he should return to *Ejtihad*. But, if Muslim scholars face arguments about emerging crimes and they did not find their objective in one of the said sources of Islamic jurisprudence, they will seek a *Fatwa*[9]. Importantly, *Fatwa* must not contradict the Islamic jurisprudence principles.

3. What are the stipulations (conditions) for having money or owning property in Islam?

In fact, Islam puts three conditions of owning a property:

- (1) The price of the property must be legal money. In other words, the money must come from lawful resources. In this regard, Islam divided these resources into three resources; First: legal employment or lawful job that breeds legal money. Second: inheritance, but on condition that the inheritor does not speed up getting the inheritance through the killing of his legator. Third: donations, grants, *Sadakah*, *Zakat*.
- (2) Spending the owned money must be on the *halal* (lawful) track (for legal aims).
- (3) Fulfilling the God’ right through paying money “*Zakat*”[10] to charities or to the needy people. To assure, there is a *Quranic* verse says: “. . . in whose wealth there is a right acknowledged for the beggar and the destitute.” (Pickthall, 2005, verse 24/25)

In essence, a Muslim can own unlimited amount of money as long as spending it in lawful ways and as long as paying *Zakat* on it.

4. The attitude of Islamic law towards the laundered money

Clearly, Sharia’t law prohibits illegal gain. In other words, money that is derived from illegal activities and converted into legitimate business thereafter is still illegal money from Islamic viewpoint.

However, the important question arises in this respect as to the legality (legal status) of the money derived from illegal activities and confiscated by authority thereafter. In response, there must be differentiation between two statuses:

- (1) *The owner of the money derived from illicit activities is known.* In this case, the confiscated money by authority must be returned to the real owner to remove the illegal status of that dirty money.
- (2) *The owner of the money derived from illegal activities is unknown.* In this case, the money confiscated by authority must be invested for good, such as helping the needy people, building hospitals, schools, improving the infrastructures . . . , etc.

Even, if the owner of the dirty money likes to repent of the illegal status and the sin he has been in, he has to return the money to the real owner (if known), or he has to give it to the public utilities; schools, hospitals, charities . . . , etc. but not as a *sadakah* or *Zakat*, because such donation does not count to an Islamic task of paying *Zakat*, but as a repentance for the sin he has done (Saleh and Saleh, 2006).

As money laundering in on the increase, it has been found through this paper that the scope of protection against money laundering is wider than what is established in other system.

Notes

1. Indeed, there is argument that the term “money laundering” can indicate the “Zakat” that means that Muslim people should pay Zakat in order to purify the money they legally gain. So, money laundering happens only to the clean money but not the dirty one. Moreover, in relation of illicit money that a Muslim may gain, money laundering is to return the ill-gotten money to the real owner if known and to the authority if unknown (Saleh and Saleh, 2006).
2. Which a Muslim preferably donates to poor people or to charities.
3. Which a Muslim preferably donates to poor people or to charities.
4. Sahih ebn Hayan 467/11, Qur’anic Verse and Prophetic Saying. available at: www.qurancomplex.org/Magazine/default.asp?L = eng¬Menu = false#H (accessed: 1 August 2006).
5. Muslim 1218/3 number 1598, Qur’anic Verse and Prophetic Saying. available at: www.qurancomplex.org/Magazine/default.asp?L = eng¬Menu = false#H (accessed: 1 August 2006).
6. If a married person commits adultery, they have sex with someone that they are not married.
7. The adulterous is a married person in Islam called Mohassan.
8. As the good end does not justify illegal method, Qimar is forbidden even if the money gained goes to charities or to the poor people.
9. Fatwa is a religious order issued by Muslim scholars. Collins Cobuild on *CD-ROM-Lexicon Dictionary*.
10. Zakat: everyone should pay a proportion of the money he earns (2.5 percent) annually. Sadakah: a Muslim preferably to donate to poor people or to charities.

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