

In the name of Allah, The Beneficent, The Merciful

Unlawful Wealth and the Correct Disposal of Unlawful Income – An Overview

This paper focuses on the following areas of unlawful wealth:

- 1) Unlawful Wealth Acquired with and without the Consent of the Original Owner
- 2) Wealth Acquired Entirely through Unlawful Means & Wealth Acquired through both Lawful and Unlawful Means
- 3) Correct Disposal of Wealth Acquired through Unlawful Means

Unlawful wealth acquired with consent of the original owner

The fatwa clarifies that these include:

- 1. The null sale (a sale that is unlawful in regards to both its essence and quality): transfer does not occur and sale is rescinded
- 2. The irregular sale (a sale that is lawful in regards to the essence but not the quality): ownership is repugnant and profit from a valid sale to a third party must be donated to charity
- 3. Activities which are impermissible such as gambling, prostitution and unlawful employment: contract is null and wealth must be returned to the employer.

Unlawful wealth acquired without the consent of the original owner

These include: all wealth acquired through theft, looting, robbery, usurping and fraud. In all cases, wealth acquired through these means must be returned to the owner or heir.

Wealth acquired entirely through unlawful means

The fatwa states that both the principle and profit earned from a business venture funded by wealth acquired entirely though unlawful means must be returned it its entirety to the rightful owner if they are alive, or to their heirs if they are no longer alive.

Wealth acquired through both lawful and unlawful means

The fatwa states that where the unlawful wealth is distinguishable from the lawful wealth (e.g., a stolen car), then the item must be returned to the rightful owner. Where the unlawful wealth

however is not distinguishable from the lawful, then one becomes liable for the extent of the unlawful amount.

Additionally the fatwa highlights instances where if the majority of the wealth is lawful, the money is lawful to use and profit earned need not be returned to the original owner. Where the majority is acquired unlawfully, then it is deemed unlawful to use even for a lawful venture, therefore, any profit made from such money will also be returned to the rightful owner.

Correct Disposal of Wealth Acquired through Unlawful Means

Finally the fatwa discusses two opinions on the matter of disposing of unlawful wealth in cases where it is not possible to return the wealth to its legal recipients or heirs:

- The money is deemed 'Obligatory Charity' and, therefore, only those who fulfil the
 requirements for receiving Zakat (the legally destitute) may receive it. This opinion does not
 permit donating the wealth to public welfare projects, stipulating the need for ownership to
 occur.
- 2) The second opinion is that the money can be donated to public welfare projects, such as building roads, bridges, public toilets etc. as well as the legally destitute. The money in this instance is deemed 'Optional Charity on behalf of the rightful owner' and does not require ownership to occur.