

Seizing Unclaimed Accounts: Between Legalization and Violation of Sharia Law

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Saudi banks have the right to close and seize the balance of any account that has not had a transaction within five years. This law resulted in several conflicts with major principles associated with Islamic inheritance law and jurisprudence. In chapter 2:188 of the Quran, God said, “And do not consume one another's wealth unjustly.”¹ The Prophet, peace be upon him (PBUH), said, “Whoever takes a piece of the land of others unjustly, he will sink down the seven earths on the Day of Resurrection.”² According to principles of inheritance in Islam, only individuals with a blood relationship to a deceased individual are entitled to inherit.

Further, the unclaimed property laws are particularly unjust in the context of Saudi culture. Many Saudis do not readily disclose their assets to family members and relatives due to a cultural fear of envy. Therefore, families encounter difficulty retrieving their rightful assets, since the current law allows banks to close unclaimed accounts after five years and transfer the balance to a special pooled account. Thus, by discovering whether or not a sick or deceased family member has any remaining investments in banks or financial companies can be impossible without a will. Furthermore, it may often be too late to secure a will because access requires long steps and processes just to receive a response from the banks about the inquiry requests.

This law raised a significant concern after the Secretary-General of the Media and Awareness Committee of Saudi Banks commented on this issue, stating that “[t]he banks

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¹ The Quran, *Chapter 2 verse 188*, Available at <http://corpus.quran.com/translation.jsp?chapter=2&verse=188>

² Sahih al-Bukhari 2454. *Chapter: The sin of him who usurps the land of others*. Vol. 3, Book 43, Hadith 634.

have been converting the deposits in dormant accounts to a special account for their own investments” and have no reason to disclose the amount involved in such operations.³ He also claimed that the banks do not benefit from these accounts, but that they are protecting customers’ money until it can be reclaimed by its rightful owner.⁴ The Secretary-General concluded by saying that the banks do not interfere in the wills of their customers and that they are not responsible for looking for the rightful owners of unclaimed money.⁵

In contrast, Islamic specialist scholars have accused the Saudi banks of committing a crime by seizing unclaimed money.⁶ The scholars argue that this act is a violation of both Islamic law and “rules of international banking.”⁷ Therefore, they required the Saudi Arabian Monetary Agency (SAMA), as the central bank of Saudi Arabia, to stop these practices.⁸ Dr. Yusuf Al- Zamil, an economic consultant and member of the Islamic Economy and Financing Commission, said, “A bank seizing its client’s deposits in the event of the client’s whereabouts not being known or absence is a clear violation of Shariah law.”⁹

Further, Al-Zamil ordered SAMA to force the banks to solve this issue by convincing account holders to have secret codes for their accounts. In this way, anyone possessing the secret code could reclaim the money. Also, he asked account holders to follow the Prophet’s, PBUH, path by writing a will and disclosing their wealth to their

³ Qaraawi. R, *Saudi Banks Seize and Refuse to Disclose Unclaimed Funds*, ALEQTISADIAH NEWSPAPER, Sept 28, 2012, available at http://www.aleqt.com/2012/09/28/article_696814.html

⁴ *Id.*

⁵ *Id.*

⁶ Arab News, *Saudi banks seize and refuse to disclose unclaimed funds*. Sept 30, 2012, available from <http://www.arabnews.com/saudi-arabia/banks-seizing-dormant-accounts-against-shariah>

⁷ *Id.*

⁸ *Id.*

⁹ *Id.*

relatives. Yusuf Al-Qassim, an assistant professor at Comparative Fiqh at the Higher Institute of Justice, said that the banks are committing illegitimate “haram” acts in seizing dormant accounts.¹⁰

Furthermore, Al-Qassim argued that the law of allowing banks to seize unclaimed money is against Sharia law and the banks are therefore committing a crime.¹¹ Also, he cited a saying of the Prophet, PBUH, that “[a] Muslim’s wealth is not lawful to others without his permission.”¹² Finally, Al-Qassim declared that even if the customers agreed at the time of opening the accounts to give the banks the right to seize unclaimed accounts, such an agreement is not valid under Sharia law. This is because the customers are considered to have agreed “under compulsion” because the opening account agreements are nonnegotiable, and the customers can only take it or leave it.¹³

On the one hand, the Secretary-General has claimed that the seizure of unclaimed money by banks is legal.” He also stated that the banks are not responsible to look for the true owners for the purpose of returning their assets. On the other hand, two specialist scholars in Sharia law have claimed that this act violates the Islamic law and its principles and the rules of international banking, such as Basel Committee rules and regulations. Further, the scholars have also suggested that the authority has to take an immediate action in order to stop this violation and to prevent the harms.

¹⁰ Arab News. *Supra* note 7.

¹¹ *Id.*

¹² *Id.*

¹³ *Id.*