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Trade of Fish which are Still in Water ♦

Prophet Mohammad (peace be upon him) has refrained people from trading in fishes still living in waters. Nowadays, several kinds of fish trades have surfaced up, which might be falling under this category. In this perspective, the Islamic Fiqh Academy, in its Ninth Seminar, took up the issue for a thread bare discussion and arrived at the following conclusions.

- 7.1 The rivers, streams or canals which are not the personal property or asset of any particular individual and which are leased out by the government to individuals, cooperative societies or village 'Panchayats' for a specified period of time are waters at which fishing can be carried out. It is simply a matter of lease contract and hence permissible otherwise. However, the government ought not to lease out such lakes or pools, which may have a baneful effect on the local population.
- 7.2 It would certainly not be valid to sell off the fishes still living in water. In case the seller is the rightful owner of the fishes in the pool, then the sale would stand *Fāsid* (corrupted) under these circumstances. However, if the seller is not even the owner of these fishes, then the sale of these fishes under water shall be *Bātil* (null & void). However, if the pool is a small one and the fishes can be easily taken out of the waters and can be handed over to the customers, the sale of the fishes under such circumstances would be permissible.¹
- 7.3 There are three kinds of ownership of the fishes:
 - (i) The fishes might have come into the pool, naturally on their own, and the owner of the pool had taken measures to hem in these fishes.
 - (ii) The pool might have been constructed with the intention of fish rearing.
 - (iii) To use the pool for fish-hatchery.

♦ 9th Fiqhi Seminar (Jaipur Rajasthan) 11-14 Oct 1996.

¹ In the opinion of Ml. Shaheen Jamali, Madrasa Imdadul Islam, Meerut, even if the fishes are in water and the pool is such that it's whole area can be covered with a net, then the selling of the fishes under water is also permissible keeping the modern modes of fishing, commercial transactions and human needs in view.