

What is The Ruling on Eating the Dead Fishes in the Markets?

Darulifta Ahlesunnat (Dawateislami)

Question

What do the noble scholars and jurists of Islamic law say about the following: The fish sold in the markets are dead (carrions) and eating dead animals is Haram. So, can we eat these fishes or not?

Answer

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ
الْجَوَابُ بِعَوْنِ الْمَلِكِ الْوَهَّابِ اللَّهُمَّ هِدَايَةَ الْحَقِّ وَالصَّوَابِ

In the inquired situation, the is permissible to eat the fishes that have been caught and are sold in the market. These fishes aren't carrions because a carrion is the animal which is fard be slaughtered for it to become halal, but it died without being slaughtered. As for fishes, it isn't fard for them to be slaughtered because it is stated in the hadith that two dead things are halal to consume without being slaughtered, fish and locust. According to another hadith, only those fishes are haram which died a natural death and floated on its back i.e. the fish whose belly is floating on top and there is no visible reason for its death, nor there is any sign which can indicate the cause of its death. Therefore, in the inquired situation, the fish that died due to any visible reason, such as being caught, due to chemical, low water levels, or any other reason will not be considered carrion. The fish sold in the markets are caught; therefore, they are halal.

Regarding the carrion being haram, it is stated in The Noble Qur'an:

﴿حُرِّمَتْ عَلَيْكُمُ الْمَيْتَةُ﴾

Translation (Kanz-ul-'Irfan): Prohibited for you are carrion. (Part 6, Surah Al-Ma'idah, Verse 3)

Mufti Ahmed Yar Khan Na'eemi رحمه الله تعالى عليه states in Tafsir Na'eemi:

﴿مَيْتَةُ﴾ موت کا صفت مشبہ ہے، یعنی مردار۔ یہ وہ جانور ہے، جس کا ذبح کرنا فرض ہو مگر بغیر ذبح ویسے ہی مر جائے۔۔۔ مچھلی حلال ہے کہ اس کا ذبح کرنا فرض تھا ہی نہیں۔ ملخصاً

Translation: The word 'Maytah' is the Sifat Mushabbah of the word 'Mawt', and it means dead. This is the animal for which it is fard to be slaughtered but it died without being slaughtered... Fish is halal because it wasn't ever fard to slaughter it. (Summarized) (Tafsir Na'eemi, Vol. 6, p. 182, Publ. Maktabah Islamiyah, Lahore)

It is stated in a Hadith that the Messenger of Allah ﷺ stated:

أُحِلَّتْ لَكُم مَيْتَتَانِ وَدَمَانِ، فَأَمَّا الْمَيْتَتَانِ، فَالْخُوتُ وَالْجَرَادُ، وَأَمَّا الدَّمَانِ، فَالْكَبِدُ وَالطِّحَالُ

Translation: Two dead things and two bloods have been declared halal for you. The two dead things are fish and locust, and the two bloods are liver and spleen. (Sunan Ibn Majah, Vol. 2, p. 1102, Hadith No. 3314, Publ. Dar Ihya' Al-Kutub Al-'Arabiyyah, Beirut)

It is stated in another hadith that the Messenger of Allah ﷺ stated:

مَا أَلْقَى الْبَحْرُ أَوْ جَزَرَ عَنْهُ فَكُلُوهُ، وَمَا مَاتَ فِيهِ وَطَفًا، فَلَا تَأْكُلُوهُ

Translation: Eat whatever the sea throws up or is left by the tide but do not eat whatever dies in the sea and floats (upside-down). (Sunan Abi-Dawood, Vol. 3, p. 385, Hadith No. 3815, Publ. Al-Maktabah Al-'Asriyah, Sidon, Beirut)

It is stated in Mirqat Sharh Mishkat under this hadith:

(طفا): أي ارتفع فوق الماء بعد أن مات

Translation: 'Tafa' i.e. floats on top of the water after it has died. (Mirqat Al-Mafateeh, Vol. 7, p. 723, Hadith No. 4133, Publ. Multan)

Regarding the fish that are halal and those that are haram, it is stated in Tanwir Al-Absar and Al-Durr Al-Mukhtar:

يحل (--- السمك) الذي مات بآفة--- (غير الطافي) على وجه الماء الذي مات حتف أنفه وهو ما بطنه من فوق، فلو ظهره من فوق فليس بطاف فيؤكل، ملخصاً

(Al-Durr Al-Mukhtar Ma'a Radd Al-Muhtar, Vol. 9, p. 511, Publ. Quetta)

The fish that died due to any apparent known reason is halal without being slaughtered. Thus, it is stated in Tabyeen Al-Haqa'iq:

الأصل فيه أنه متى عرف سبب موته كلفظة البحر--- فماتت حل أكلها، لأن سبب موتها معلوم--- (وحل بلا ذكاة كالجراد)، ملخصاً
(Tabyeen Al-Haqa'iq Sharh Kanz Al-Daqa'iq Wa Hashiyah Al-Shalbi, Vol. 6, p. 471, Publ. Dar Al-Kutub Al-'Ilmiyah, Bairut)

Only that fish is haram whose apparent cause of death is unknown nor there is any sign from which the cause of its death can be known. Thus, it is stated in Machli Ke 'Ajaibat with reference to Faislah Fiqhi Board Dehli (16th Jumad Al-Oola 1424 AH/ 17th July 2003 CE):

حرام صرف وہ مچھلی ہوتی ہے، جس کے مرنے کا کوئی سبب ظاہر (ظاہری سبب) نہ معلوم ہو، نہ ہی کوئی علامت (نشانی) سبب موت پر دال (ثبوت بنتی) ہو، یعنی یہ متعین (طے) ہو کہ وہ اپنی موت آپ مر کر اٹ گئی ہے۔

Translation: Only that fish is haram whose apparent cause of death is not known, nor there is any sign that indicates the cause of death i.e. it is determined that it died naturally and floated upside-down. (Machli Ke 'Ajaibat, p. 19-20, Publ. Maktaba-Tul-Madinah, Karachi)

Sadr Al-Sharī'ah, Mufti Muhammad Amjad 'Ali A'zami رحمۃ اللہ تعالیٰ علیہ states:

پانی کے جانوروں میں صرف مچھلی حلال ہے۔ جو مچھلی پانی میں مر کر تیر گئی یعنی جو بغیر مارے اپنے آپ مر کر پانی کی سطح پر اٹ گئی، وہ حرام ہے۔ مچھلی کو مارا اور وہ مر کر اٹتی تیرنے لگی، یہ حرام نہیں۔ بیڑی بھی حلال ہے۔ مچھلی اور بیڑی یہ دونوں بغیر ذبح حلال ہیں، جیسا کہ حدیث میں فرمایا کہ دو مردے حلال ہیں مچھلی اور بیڑی۔ (اگلا مسئلہ:) پانی کی گرمی یا سردی سے مچھلی مر گئی یا مچھلی کو ڈورے میں باندھ کر پانی میں ڈال دیا اور مر گئی یا جال میں پھنس کر مر گئی یا پانی میں کوئی ایسی چیز ڈال دی، جس سے مچھلیاں مر گئیں اور یہ معلوم ہے کہ اس چیز کے ڈالنے سے مرے یا گھڑے یا گرہے میں مچھلی پکڑ کر ڈال دی اور اس میں پانی تھوڑا تھا، اس وجہ سے یا جگہ کی تنگی کی وجہ سے مر گئی، ان سب صورتوں میں وہ مری ہوئی مچھلی حلال ہے۔

Translation: Fish is the only halal sea creature. The fish that died and floated in the water, i.e. died itself and floated upside-down on the surface of the water is haram. If a fish was killed and then floated upside-down, it is not haram. The locust is also halal. Fish and locust both are halal without being slaughtered as stated in the hadith that two dead things are halal: fish and locust... (The next ruling) If the fish died because of the heat or cold of the water, the fish was tied to a string and put into the water and then it died, it died by being caught in a net, a substance was put

into the water which killed the fish and it is known that the fish died because of the substance, the fish were captured and put into a pot or ditch which had little water and they died because of this or due to the lack of space, in all these cases the dead fishes are halal. (Bahar-e-Sharī'at, Vol. 3, Sect. 15, p. 324-325, Publ. Maktaba-Tul-Madinah, Karachi)

وَاللّٰهُ اَعْلَمُ عَزَّوَجَلَّ وَرَسُولُهُ اَعْلَمُ صَلَّى اللّٰهُ تَعَالٰى عَلَيْهِ وَاٰلِهٖ وَسَلَّم

(Allah Almighty knows best and His Messenger صَلَّى اللّٰهُ عَلَيْهِ وَاٰلِهٖ وَسَلَّم knows best.)

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