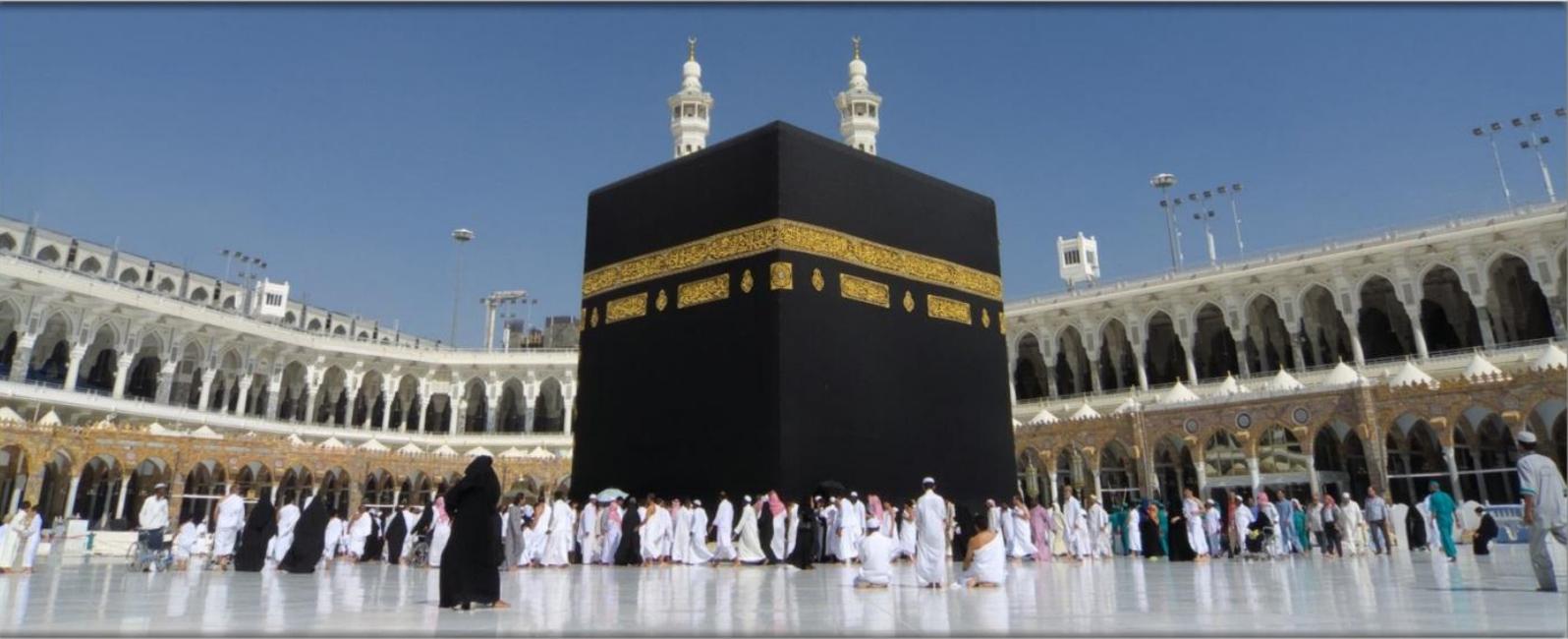


E-BOOK

CUTTING TREES INSIDE THE HARAM



Maḥmūd Ibn Aḥmad al Dosary (PhD)



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INTRODUCTION

Verily all praise is for Allah, we praise Him, seek His help and forgiveness, and we seek refuge in Allah from the evil of ourselves and from the sinfulness of our actions. Whosoever Allah guides, then none can misguide him, and whosoever Allah misguides, there can be no guide for him. I testify that there is no deity except Allah alone and I testify that Muḥammad is His servant and messenger.

يَا أَيُّهَا الَّذِينَ ءَامَنُوا اتَّقُوا اللَّهَ حَقَّ تُقَاتِهِ وَلَا تَمُوتُنَّ إِلَّا وَأَنتُمْ مُسْلِمُونَ

“O you who have believed, fear Allah as He should be feared and do not die except as Muslims (in submission to Him)” Surat ‘Āli ‘Imrān (Family of ‘Imrān), verse 102.

يَا أَيُّهَا النَّاسُ اتَّقُوا رَبَّكُمُ الَّذِي خَلَقَكُمْ مِنْ نَفْسٍ وَاحِدَةٍ وَخَلَقَ مِنْهَا زَوْجَهَا وَبَثَّ مِنْهُمَا رِجَالًا كَثِيرًا وَنِسَاءً ۗ وَاتَّقُوا اللَّهَ الَّذِي تَسَاءَلُونَ بِهِ وَالْأَرْحَامَ ۗ إِنَّ اللَّهَ كَانَ عَلَيْكُمْ رَقِيبًا

“O mankind, fear your Lord, who created you from one soul and created from it its mate and dispersed from both of them many men and women. And fear Allah, through whom you ask one another, and the wombs. Indeed Allah is ever, over you, an Observer.” Surat An-Nisā' (The Women), verse 1.

يَا أَيُّهَا الَّذِينَ ءَامَنُوا اتَّقُوا اللَّهَ وَقُولُوا قَوْلًا سَدِيدًا ﴿٧٠﴾ يُصْلِحْ لَكُمْ أَعْمَالَكُمْ وَيَغْفِرْ لَكُمْ ذُنُوبَكُمْ ۗ وَمَنْ يُطِيعِ اللَّهَ وَرَسُولَهُ فَقَدْ فَازَ فَوْزًا عَظِيمًا ﴿٧١﴾

“O you who have believed, fear Allah and speak words of appropriate justice. He will then amend for you your deeds and forgive you your sins. And whoever obeys Allah and His Messenger has certainly gained a signal victory” Surat Al-'Aḥzāb (The Combined Forces), verses 70 – 71.



Certainly the best of speeches is the Book of Allah and the finest guidance is the guidance of Muḥammad, may the peace and blessings of Allah be upon him. The most evil affair is a newly invented matter in religion and every newly invented matter is innovation (*bid'a*), and every innovation is misguidance and all misguidance is in the Hellfire.

In one of the most desolate and arid places of Earth, in a rocky and stony land surrounded everywhere by the desert, with no plantations and no water; a place that lacks everything that gives life and prosperity, Allah chose Mecca The Honoured to become His safe Sanctuary, the heart and capital of the World, the unique city on the face of the planet that acquired sanctity by a divine order and a Lordly decree to shine radiantly over all cities.

The will of Allah Most High chose for Mecca this barren land in spite of His power, exalted be He, to make it a gorgeous verdant garden with luxuriant vegetation, full of flowers, warbling birds and babbling streams. He made it a sign of His power and a miracle; Allah Most High said:

أَوَلَمْ يَرَوْا أَنَّا جَعَلْنَا حَرَمًا ءَامِنًا وَيُتَخَطَّفُ النَّاسُ مِنْ حَوْلِهِمْ

“Have they not seen that We made (Mecca) a safe Sanctuary, while people are being taken away all around them?” Surat al-‘Ankabūt (The Spider): 67.

And Allah Most High said:

أَوَلَمْ نُمَكِّنْ لَهُمْ حَرَمًا ءَامِنًا يُجْبَىٰ إِلَيْهِ ثَمَرَاتُ كُلِّ شَيْءٍ رِّزْقًا مِّن لَّدُنَّا

“Have We not established for them a safe Sanctuary to which are brought the fruits of all things as provision from Us?” Surat Al-Qaṣaṣ (The Stories): 57.

Mecca the Honoured is particular compared to all other cities on the planet; cities and lands are favoured, according to human habits, for their resources and the wealth Allah bestowed upon them; some lands are preferred thanks to their mineral resources, some for their oil resources, other for their agriculture or water or any other material perishable assets.



But the criterion of differentiation of the Holy Land that singles it out is not a material one: religion is the basis of its distinction from all other lands and countries; it is the Holy Land of Allah, on it lies the Honourable Ka'ba, the sacred and glorified places, it is the qibla (direction) of the Muslims, in it takes place the greatest gathering of people on Earth to worship Allah Most High by accomplishing the Hajj and 'Umra.

For this reason, Mecca holds a great and elevated status in the hearts of all the Muslims of the planet; a station stemming from this religious eminence bestowed by Allah. There is no doubt that what distinguishes a nation from another, what raises one above others is the scale of the exaltation of its sanctity, its bond to its History, its persistence in sticking to its authenticity and its development from its past towards its present and future. This is why ancient and modern Muslims have granted the Holy Land a great interest, dedicated to it volumes and devoted to it their times.

It is with my deep love for the Holy Land and my firm belief in the greatness of our religion and our convictions that I decided to write this book which I entitled "The Holy Land: Description – Names – Virtues – Specificities – Rules" for it to become a comprehensive reference; hoping it to be pleasant to read; I gathered in it what is related to the Holy Land as descriptions, virtues, specificities and rules linked to it. This book came into being with the help of Allah Most High, combining the splendour of sight, ease of reading and the charm of writing on this great and deep subject.

Our Lord creates what He wills and He chooses:

It is according to the perfection of His power, His wisdom and knowledge that Allah Most High prefers, distinguishes, specifies and chooses between His creatures. Allah has His preference between angels, prophets and human beings. He preferred some periods of times above others as He preferred some places above others; for instance He preferred the Firdaws amongst all the Heavens.

If you gaze at Creation you would see this divine choice and grant indicating His lordliness, exalted be He, His oneness and the perfection of His wisdom, knowledge and power; He is Allah, there is no god but Him and no one creates as He creates, no one chooses as He chooses, no one directs all things as He does. These choices and arrangements noticed in this World are amongst the greatest signs of His



lordliness and the most obvious evidence of His oneness and of the characteristics of His perfection and the sincerity of His messengers.¹

No one creates as He creates, no one chooses as He chooses and no one directs all things as He does; Allah Most High said:

وَرَبُّكَ يَخْلُقُ مَا يَشَاءُ وَيَخْتَارُ

“And your Lord creates what He wills and He chooses” Surat Al-Qaṣaṣ (The Stories): 68.

Amongst the places that received this grace and greatness is Mecca the Honoured, the land of the Revelation and the cradle of the message where lays a house for which the hearts and souls are craving, is it not the Ancient House.²

Amongst the signs of its preference: Allah Most High informed us that Mecca is the Mother of Cities; all the cities are linked to it, they are its followers, it is their central axis and origin. Therefore, there cannot be any city equivalent to it; it is similar to the Fātiḥa: the Prophet (s) said of it that it was the Mother of the Qur’ān; this is why it is second to none in all the divine books.³

Importance of the subject and method:

The importance of this book lies in its own nature: a comprehensive study of the Holy Land and what is relevant as history, virtues, specificities and rules based on sharia-authenticated sources approved by the standards of well-versed and eminent people in jurisprudence; regardless of what became famous concerning the Holy Land such as false ḥadīths, false events or false information linked to it. Therefore, the method of this book is based on the method of the people of ḥadīth whereas authenticity of information is the fundamental condition for being quoted in the text. This is the guideline followed, based on the prevailing opinion in Islamic jurisprudence: presenting evidence from the Qur’ān and the Sunna, sometimes with the addition of companions’ statements and reasoning, evidence of the consensus if there is one, and quoting rules, wisdoms and benefits derived from said evidence. I avoided delving into too many details (except for important matters) or mentioning

¹ Zād al-ma’ād, Ibn al-Qayyim (42/1).

² See: Bayt Allah al-ḥarām al-Ka’ba, Muḥammad Ibn ‘Abd Allah Shabbāla p. 7.

³ Zād al-ma’ād, (49 – 50/1).



contradictions in order to ward off boredom, to make prevailing opinions more clear in the minds and to make the book easier and more comfortable for the dear reader.

This book is intended for all categories of Muslims ranging from the diligent student assiduous in the quest of knowledge to the uninitiated reader considering the easiness of the method, the fluency of the style and the distance taken from blameworthy controversy or sterile arguments.

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Section I:

Cutting Trees Inside The Haram

Part I: What is forbidden to be cut

Firstly: Interdiction of cutting trees.

The ulama agreed on the interdiction of cutting trees inside the Haram.⁴

Evidence:

1. Ibn ‘Abbās (r2) narrated: The Prophet (s) said: **Allah has made Mecca sacred, so it was a sanctuary before me and it will continue to be a sanctuary after me. It was made legal for me (i.e. I was permitted to fight in it) for a short part of a day. It is not allowed to uproot its shrubs/grass or to cut its trees...**⁵
2. Abū Shurayḥ (r) narrated: The Messenger of Allah (s) said: **Mecca has been made sacred by Allah, not by the people. It is not permissible for any man who believes in Allah and the Last Day to shed blood in it, or to cut its trees...**⁶

Significance: Both ḥadīths show that it is forbidden to cut the trees of the Haram, the Sanctuary.

⁴ See: *al-Ijmā’*, Ibn al-Mundhir (p.57); *Sharḥ an-Nawawī ‘alā Ṣaḥīḥ Muslim* (125/9); *al-Mughnī* (349/3); *Fatḥ al-Bārī* (44/4); *al-Qirā li-qāṣid umm al-qurā* (p. 641).

⁵ Reported by al-Bukhārī (452/1), H. 1284.

⁶ Reported by al-Bukhārī (51/1), H. 104.



Secondly: Interdiction of cutting the shrubs and grass.

The ulama agreed on the interdiction of cutting the shrubs and grass⁷ inside the Haram.

Evidence:

1. Ibn ‘Abbās (r2) narrated: The Prophet (s) said: **Allah has made this land sacred, so it was a sanctuary before me and it will continue to be a sanctuary after me. It was made legal for me (i.e. I was permitted to fight in it) for a short part of a day. It is not allowed to uproot its shrubs/grass or to cut its trees...**⁸

Significance: The ḥadīth indicates that it is forbidden inside the Haram to uproot the shrubs; namely the moist pasture or fodder and grass.

Thirdly: Interdiction of cutting thorny bushes.

The ulama diverged on the question of cutting thorny bushes inside the Haram. There are two opinions: **the prevailing one** states that it is forbidden to cut thorny bushes inside the Haram; this is the view of the majority⁹, the Ḥanafī School¹⁰ and an important part of the Ḥanbalī School¹¹; an-Nawawī¹² preferred it as well as Ibn Qudāma¹³ and Ibn al-Qayyim¹⁴.

Evidence:

1. Ibn ‘Abbās (r2) narrated: The Messenger of Allah (s) said on the day of the Conquest of Mecca: **This land has been made sacred by Allah; its thorny bushes are not to be cut...**¹⁵
2. Abū Hurayra (r) narrated (ḥadīth elevated and attributed to the Prophet (s) and Abū Hurayra was a witness of it): **its thorny bushes are not to be uprooted.**¹⁶

⁷ shrubs and grass: *khalā* in Arabic i.e. hay; the one that is dry is called *ḥashīsh*, and *hashīm* is straw. See: *Zād al-ma‘ād* (451/3); *Fatḥ al-bārī* (48/4).

⁸ Reported by al-Bukhārī (452/1), H. 1284.

⁹ See: *Iḥkām as-sājid bi-aḥkām al-masājid* (p. 157); *Fatḥ al-Bārī* (44/4).

¹⁰ See: *al-Mabsūṭ* (104/4).

¹¹ See: *al-Mughnī* (169/3).

¹² See: *Sharḥ an-Nawawī ‘alā Ṣaḥīḥ Muslim* (126/9).

¹³ See: *al-Mughnī* (169/3).

¹⁴ *Zād al-ma‘ād* (450/3).

¹⁵ Reported by al-Bukhārī (575/2), H. 1510.

¹⁶ Reported by al-Bukhārī (857/2), H. 2302; Muslim (988/2), H. 1355.



3. Abū Hurayra (r) narrated (ḥadīth elevated and attributed to the Prophet (s) and Abū Hurayra was a witness of it): **its thorny bushes are not to be shaken.**¹⁷

Significance: The different versions of these ḥadīths clearly indicate that it is forbidden to cut thorny bushes inside the Ḥaram.

4. Ibn Qudāma (m) said: When the Prophet (s) forbade cutting trees, it was obvious that cutting thorny bushes was also forbidden as they constitute most of the vegetation there.¹⁸
5. Ibn Ḥajar (m) said: Even if there was no text about the interdiction concerning thorny bushes, it is clear that the interdiction of cutting trees is an indication of the interdiction to cut thorny bushes, as most of the vegetation of the Ḥaram is thorny bushes.¹⁹

Fourthly: Interdiction of picking the fodder for feeding beasts.

The ulama diverged on picking the fodder inside the Ḥaram for feeding beasts; there are two opinions: **the prevailing one** states that it is forbidden to pick the fodder for feeding beasts. This is the opinion of Abū Ḥanīfa²⁰, Aḥmad²¹, it is also an opinion of the Shāfi'ī School²² and Ibn Ḥazm preferred it²³.

Evidence:

1. Mujāhid (m) reported that (‘Abd Allah) Ibn ‘Umar (r2) participated in the Conquest of Mecca²⁴ and that he was around twenty years old. He had with him a restive horse²⁵ and a heavy spear. Ibn ‘Umar went to uproot grass for his horse; then the Prophet (s) said: **Indeed ‘Abd Allah, indeed ‘Abd Allah**^{26, 27}

¹⁷ Reported by Muslim (989/2), H. 1355.

¹⁸ *Al-Mughnī* (169/3).

¹⁹ *Fatḥ al-Bārī* (44/4).

²⁰ See: *al-Mabsūṭ* (104/4); *al-Baḥr ar-rā’iq* (78/3).

²¹ See: *al-Furū’* (477/3); *al-Inṣāf* (555/3).

²² See: *al-Majmū’* (453/7); *Mughnī al-muḥtāj* (307/2).

²³ See: *al-Muḥallā* (261/7).

²⁴ The word of Mujāhid: “Ibn ‘Umar participated in the Conquest...” implies that he heard it from him; as he was so attached to him; he heard from him a lot and reported his words in the two Ṣaḥīḥ. He was about fifty years old when Ibn ‘Umar died.

²⁵ **Restive horse:** A stubborn unruly horse. See: *Lisān al-‘Arab* (100/4).

²⁶ His word: **Indeed ‘Abd Allah: It has been said:** The Prophet (s) wanted to praise him and glorify him many times. **It has also been reported that:** the Prophet (s) reprimanded Ibn ‘Umar (r2) and disapproved his action. **And it has been reported that** the Prophet (s) said so out of consideration for him, as he was afraid for him and solicitous toward him. See: *aṭ-Ṭabaqāt al-Kubrā*, Ibn Sa’d (172/4).



And in another version: **Where is 'Abd Allah? Where is 'Abd Allah^{28?29}**

Significance: The Prophet (s) disapproved Ibn 'Umar (r2) when he went to uproot some grass for his horse.

2. 'Ubayd Ibn 'Umayr reported that 'Umar Ibn al-Khaṭṭāb (r) saw a man cutting shrubs from the Ḥaram for breeding a camel of his. He said: I have to speak to him! He went to him and said: O servant of Allah! Do not you know that Mecca is a Sanctuary; its grass should not be cut, its game should not be disturbed and its fallen things should not be picked up except by he who makes public announcement about it? He replied: O Commander of the Faithful! By Allah, I only did so for the feeding of a raw-boned camel of mine (which was isolated of all other beasts), I was afraid it could not send me to my people and I do not have any money left nor food. He sympathized with him after he worried about him. He then ordered that he be given a camel from the charity (ṣadaqa) and a load of flour and he said: Do not ever cut any shrub from the Ḥaram.³⁰

Significance: 'Umar (r) disapproved of the man cutting shrubs from the Ḥaram; this indicates that it is forbidden to uproot pasture from the Ḥaram in order to feed animals.

3. Aṭ-Ṭaḥāwī (m) said: This happened to 'Umar (r) in the presence of other Companions of the Messenger of Allah (s), they did not reject what he did and did not oppose him; which shows that they followed his opinion on the matter.³¹

Fifthly: Penalty for cutting trees of the Ḥaram:

The ulama diverged on the penalty for cutting trees of the Ḥaram; there are two opinions. **The prevailing one** states that there is no need for penalty for cutting trees of the Ḥaram, even if it is forbidden, except cutting cymbopogon (*idhkhir*, a kind of lemon grass); but repentance and seeking forgiveness from Allah are

²⁷ Reported by Aḥmad in *al-Musnad* (12/2), H. 4600. Investigators of the chain said it was authenticated (ṣaḥīḥ) according to the standards of the two sheikhs; (207/8), H. 4600.

²⁸ **Where is 'Abd Allah?**: His questioning was a reprimand for what he did.

²⁹ Reported by al-Bayhaqī (in his *Sunan*) (201/5), H. 9764; and Abū al-Qāsim ash-Shāfi'ī in *Tārīkh madīna dimashq* (H. 97/31).

³⁰ Reported by al-Fākihī in *Akhbār Makka* (370/3), n°2225; Ibn Jarīr aṭ-Ṭabarī in *Tahdhīb al-āthār* (17/1), n°25. Quoted by as-Suyūṭī in *Jāmi' al-aḥādīth – al-Jāmi' aṣ-ṣaḡhīr wa zawā'idihī wa al-Jāmi' al-kabīr*, his version (251/14), n°3199. Its chain is authenticated (ṣaḥīḥ).

³¹ *Sharḥ mushkil al-āthār* (180/8).



required. This is the view of 'Aṭā'³², Mālik³³, Abū Thawr³⁴, Dāwūd³⁵; Ibn al-Mundhir³⁶ and Ibn Ḥazm³⁷ also preferred this opinion.

Evidence:

1. There are no authenticated evidence neither from the Book, the Sunna nor the Consensus of the Muslims.
2. Many scholars indicated that nothing has never been quoted about any penalty or expiation in the matter; among them:
 - a. The imam **Mālik** (m) said: Nothing is imposed on he who cut a tree inside the Ḥaram; and never have we heard that anyone has been sentenced for such a thing, though it is an evil deed.³⁸
 - b. **Ibn al-Mundhir** (m) said: I do not find any evidence for imposing anything on the cutting the trees of the Ḥaram, neither from the Book, the Sunna nor the Consensus. I say as Mālik said: we just seek for forgiveness from Allah Most High.³⁹
 - c. **Ibn Ḥazm** (m) said: Mālik and Abū Sulaymān said: There is nothing concerning this; this is the truth, as if there was anything, the Prophet (s) would have explained it; therefore there is no need for a sacrifice, fasting, or a penalty of feeding poor people or alms; nothing on the matter is mentioned in the Qur'ān nor in the Sunna.⁴⁰
 - d. **Ṣadiq Ḥasan Khān** (m) said: There is nothing for the cutting of trees in Mecca; because there is no evidence that can back an argument. If one reported that the Prophet (s) said about this: A cow has to be sacrificed for the cutting of a big tree; this ḥadīth is not authentic; and what has been reported by some Pious Predecessors cannot be considered as tangible evidence.⁴¹

³² See: *Tahdhīb al-āthār*, aṭ-Ṭabarī (235/1).

³³ See: *al-Muwaṭṭa'* (420/1); *al-Mudawwana* (451/1).

³⁴ See: *al-Mughnī* (170/3).

³⁵ See: *al-Bināya* (356/4).

³⁶ See: *al-Furū'* (478/3).

³⁷ See: *al-Muḥallā* (261/7).

³⁸ *al-Muwaṭṭa'* (420/1).

³⁹ *Al-Mughnī* (170/3); see: *Sharḥ Ṣaḥīḥ al-Bukhārī*, Ibn Baṭṭāl (498/4).

⁴⁰ *Al-Muḥallā* (261/7).

⁴¹ *Ar-Rawḍa an-nadya* (84/2).



Part II: What is allowed to be cut

Firstly: The exception of the cymbopogon (*idhkhir*, a kind of lemon grass).

The ulama agreed on the exception of the cymbopogon⁴² among the plants of the Haram; it is permitted to cut it.⁴³

Evidence:

1. Ibn 'Abbās (r2) narrated: The Messenger of Allah (s) said on the day of the Conquest of Mecca: **Allah has made this city sacred on the day He created the heavens and the earth ... its bushes are not to be cut.** Al-'Abbās (r) said: O Messenger of Allah! Except the *idhkhir*! As it is for their blacksmiths and their houses⁴⁴. He said: **Except the *idhkhir*.**⁴⁵
2. In another version: al-'Abbās Ibn 'Abd al-Muṭṭalib (r) said: Except the *idhkhir*! O Messenger of Allah, as it is indispensable for blacksmiths and houses. On that, the Prophet kept quiet and then said: **Except the *idhkhir*.**⁴⁶
3. In another version: al-'Abbās (r) said: Except the *idhkhir* for our goldsmiths and our graves⁴⁷. He said: **Except the *idhkhir*.**⁴⁸

Significance: There is an exception concerning the *idhkhir*; it is permitted to cut it as people need it.

Secondly: Permission to pick what is useful from the trees.

Some of the trees and vegetation of the Haram can be useful for the people, like fruits or medicine; they are the following:

a. Useful for the people as medicine:

The ulama diverged on cutting what is useful within the Haram in order to cure; there are two opinions, **the prevailing one states** that it is permitted

⁴² **The cymbopogon (*idhkhir*)** is a sweet-smelling plant known to the people of Mecca, its roots are dug and its stem is thin; it sprouts in plains and rocky mountains; it was used to cover the wooden roofs of the houses and for perfuming the dead. See: *an-Nihāya fī gharīb al-ḥadīth wa-l-athar* (33/1); *Faḥ al-Bārī* (49/4).

⁴³ See: *al-Ijmā'*, Ibn al-Mundhir (p. 57); *Sharḥ an-Nawawī 'alā Ṣaḥīḥ Muslim* (125/9); *al-Mughnī* (349/3); *Faḥ al-Bārī* (44/4); *al-Qirā li-Qāṣid umm al-qurā* (p. 641); *l'ām as-sājid bi-aḥkām al-masājid*, az-Zarkashī (p.160).

⁴⁴ **for their blacksmiths and their houses:** or the goldsmiths and the jewellers; i.e. the blacksmiths needed it as fuel for their fire; and also for the roofs of houses; people used to put it above the wood. See: *Sharḥ an-Nawawī 'alā Ṣaḥīḥ Muslim* (127/9).

⁴⁵ Reported by al-Bukhārī (1164/3), H. 3017; Muslim (986/2), H. 1353.

⁴⁶ Reported by al-Bukhārī (1567/4), H. 4059.

⁴⁷ **for our goldsmiths and our graves:** it was needed to fill in the gaps between the slabs of cracked graves. See: *Sharḥ an-nawawī 'alā Ṣaḥīḥ Muslim* (127/9).

⁴⁸ Reported by al-Bukhārī (452/1), H. 1284.



to cut what is necessary as medication among the trees of the Haram, like the senna⁴⁹ for example. It is the view of Mālik⁵⁰ and ash-Shāfi'ī⁵¹.

They diverged on picking the siwāk from the Haram; there are two opinions, **the prevailing one** authorized it, as it is useful, like the idhkhir; this is the view of the two imams Mālik⁵² and ash-Shāfi'ī⁵³.

Evidence:

- The people need medications more than idhkhir.
- Az-Zarkashī (m) said: If it is needed as medication, it is more correct to allow its cutting, as it is more needed than the idhkhir which is legal.⁵⁴

b. Useful for the people as food:

The ulama agreed on picking what is edible from the Haram, like truffles or purslane; this is the view of the majority from the Hanafī School⁵⁵, the Mālikī School⁵⁶, the Shāfi'ī School⁵⁷ and the Hanbalī School⁵⁸.

Evidence:

1. It does not enter in the category of trees, shrubs or grass.
2. The need of the people for it, which is even greater than their need for idhkhir.
3. An-Nawawī (m) said: Our scholars agreed on the permission of picking up fruits from the trees of the Haram.⁵⁹
4. Ibn Qudāma (m) said: It is allowed to pick truffles inside the Haram⁶⁰.
5. Ibn 'Uthaymīn (m) said: truffles, tubers, *banāt al-awbar* (a kind of truffles) are genus of the family of the mushrooms, it is allowed to cut them, as they are not trees nor grass.⁶¹

Thirdly: It is permitted to cut what has been sown by the people.

⁴⁹ **The senna** is a plant of the Hijāz, the best genus of the senna is the one of Mecca. It is said that it is useful to cure headaches, scabies, pimples and itching. See: *Zād al-ma'ād* (75/4).

⁵⁰ See: *al-Mudawwana* (451/1); *at-Tāj wa al-iklīl* (262/4).

⁵¹ See: *al-Majmū'* (451/7); *Mughnī al-muhtāj* (307/2).

⁵² See: *Hāshiya ad-dasūkī* (321/2); *Hāshiya al-'adawī* (373/2).

⁵³ See: *l'ām as-sājid* (p. 159); *Mughnī al-muhtāj* (306/2).

⁵⁴ *l'ām as-sājid bi-aḥkām al-masājid* (p. 158).

⁵⁵ See: *al-Mabsūṭ* (105/4); *Badā'i' aṣ-ṣanā'i'* (316/2).

⁵⁶ See: *Mawāhib al-jalīl* (264/4).

⁵⁷ See: *al-Hāwī al-kabīr* (313/4); *Mughnī al-muhtāj* (307/4).

⁵⁸ See: *al-Mughnī* (351/3); *al-Furū'* (475/3).

⁵⁹ See: *al-Majmū'* (379/7).

⁶⁰ *Al-Mughnī* (170/3).

⁶¹ *Ash-Sharḥ al-mumtī'* (253/7).



The ulama agreed on the permission to cut plants that have been grown by the people like purslane and basil or edible plants. Among those who reported a consensus: Ibn al-Mundhir⁶², al-Qādī 'Ayyād⁶³, al-Kāsānī⁶⁴ and Ibn Qudāma⁶⁵.

They diverged on cutting the trees of the Haram which are grown with the help of the people and that cannot grow alone like the walnut and the palm tree. **The prevailing opinion** states that it is permitted to cut them; this is the view of the majority.⁶⁶

Evidence:

Since the time of the Prophet (s) until nowadays people have always planted and harvested inside the Haram without any blame from anyone.

Evidence of the Consensus:

Many scholars reported a consensus about the permission of cutting what has been grown by human influence inside the Haram; among them:

1. **Ibn al-Mundhir** (m) said: They reached a consensus on the permission of cutting anything that has been seeded by man inside the Haram: purslane, crops, basil, etc.⁶⁷
2. **Ibn Baṭṭāl** (m) said: The ulama agreed on the permission of cutting what is grown by the people inside the Haram like purslane, crops, basil, etc. It is permitted to cut what has been seeded by the people like palms or other trees, as it enters the category of the crops which are allowed to be cut.⁶⁸
3. **As-Sarakhsī** (m) said: Concerning what the people usually grow, it does not have the sanctity of the Haram; may it be grown by the people or by itself; as the people used to plant and harvest since the time of the Prophet (s) until today without any blame or restriction.⁶⁹

Fourthly: Permission for cutting dry trees and dry grass.

The ulama diverged on cutting dry trees and dry grass; there are two opinions. **The prevailing one** states that it is permitted to cut the dry trees and dry

⁶² See: *al-Ijmā'* (p. 57).

⁶³ See: *Sharḥ Ṣaḥīḥ Muslim*, al-Qādī 'Ayyād (471/4).

⁶⁴ See: *Badā'i' aṣ-ṣanā'i'* (316/2).

⁶⁵ See: *al-Mughnī* (349/3).

⁶⁶ See: *al-Mabsūṭ* (103/4); *at-Tāj wa-l-iklīl* (262/4); *al-Muhadhdhab* (399/1); *al-Inṣāf* (553/3).

⁶⁷ *Al-Ijmā'* (p.57).

⁶⁸ *Sharḥ Ṣaḥīḥ al-Bukhārī*, Ibn Baṭṭāl (498/4).

⁶⁹ *Al-Mabsūṭ* (103/4).



grass of the Ḥaram. This is the opinion of the majority backed by Abū Ḥanīfa⁷⁰, ash-Shāfi'ī⁷¹ and Aḥmad⁷². An-Nawawī⁷³, Ibn Taymiya⁷⁴ and Ibn al-Qayyim⁷⁵ gave their preference to this view.

Evidence:

1. Ibn 'Abbās (r2) narrated: The Prophet (s) said: **Allah has made Mecca sacred ... it is not permitted to uproot its shrubs/grass**^{76,77}

Significance: The interdiction to cut moist pasture and grass from the Ḥaram is an indication that it is permitted to cut them if they are dry.

2. Dry plants and dry trees are like dead game⁷⁸; al-'Aynī (m) said: No problem concerning cutting what is dry; it is like dead game.⁷⁹
3. It is permitted to cut dry plants and dry trees, as they are not growing anymore⁸⁰. Al-Kāsānī (m) said: It is permitted to uproot dry trees and to use them as for dry grass; as they are dead and then cannot grow anymore.⁸¹

Fifthly: Using what has been broken or uprooted from branches and trees.

The ulama agreed on the permission for using broken branches, uprooted trees and fallen leaves.⁸²

Evidence:

1. The word of the Prophet (s) concerning Mecca: **It is not permitted to cut its trees.**⁸³
2. His word (s): **Its trees should not be cut.**⁸⁴

Significance: Both ḥadīths indicate that if a tree is uprooted by itself or if its branches break, it is permitted to make use of them, because no one cut them.

⁷⁰ See: *Badā'i' aṣ-ṣanā'i'* (210/2); *al-Baḥr ar-rā'iq* (76/3).

⁷¹ See: *Hidāya as-sālik* (718/2); *Mughnī al-muḥtāj* (305/2).

⁷² See: *al-Mughnī* (350/3); *al-Furū'* (475/3).

⁷³ See: *al-Majmū'* (448/7).

⁷⁴ See: *Majmū' al-fatāwā* (117/26).

⁷⁵ See: *Zād al-ma'ād* (450/3).

⁷⁶ Shrubs/grass (*khalā*): moist pasture and grass. See: *an-Nihāya fī gharīb al-ḥadīth wa al-athar* (75/2); *Lisān al-'Arab* (151/5).

⁷⁷ Reported by al-Bukhārī (452/1), H. 1284.

⁷⁸ See: *al-Mughnī* (350/3); *Fath al-Bārī* (48/4).

⁷⁹ *'Umda al-qārī* (166/2).

⁸⁰ See: *al-Hidāya* (94/3).

⁸¹ *Badā'i' aṣ-ṣanā'i'* (210/2).

⁸² See: *Badā'i' aṣ-ṣanā'i'* (210/2); *Radd al-muḥtār* (603/3); *Maṭālib ulī an-nuhā* (378/2).

⁸³ Reported by al-Bukhārī (452/1), H. 1284.

⁸⁴ Reported by al-Bukhārī (51/1), H. 104.



3. Ibn al-Qayyim (m) said: In the ḥadīth lies a piece of evidence that if the tree is uprooted without the help of a human, or if its branches break, it is permitted to make use of it because it has not been cut; there is no divergence on the matter.⁸⁵
4. Ibn Qudāma (m) said: No worries about making use of broken branches, uprooted trees or fallen leaves as far as it happened without human activity; Aḥmad made a rule about that and we do not know any divergence on the matter.⁸⁶

Sixthly: Permission for grazing inside the Ḥaram.

The ulama diverged on grazing beasts inside the Ḥaram. There are two opinions; **the prevailing one** states that it is permitted to graze beasts inside the Ḥaram. This is the opinion of Mālik⁸⁷, ash-Shāfi'ī⁸⁸ and Aḥmad in the other narration⁸⁹ and Abū Yūsuf⁹⁰, Abū Ḥanīfa's companion.

Evidence:

1. Ibn 'Abbās (r2) narrated: **When I was near the age of puberty I came riding a she-ass and found the Messenger of Allah (s) leading the people in prayer at Mina and there was no wall in front of him. I passed in front of a part of the row (of worshippers) and dismounting left my she-ass for grazing in the pasture, and I joined the row, and no one objected to that.**⁹¹

Significance: In this lies a piece of evidence that it is permitted to graze beasts inside the Ḥaram; as the Prophet (s) and his companions (rp) surrounding him at that time did not rebuke him for letting his she-ass graze at Mina.

2. The abundance of sacrificial animals inside the Ḥaram and it has not been reported that they had their mouths closed or muzzled.⁹²
3. The need of the people for grazing their beasts is like their needs for idhkhir.⁹³

⁸⁵ *Zād al-ma'ād* (450/3).

⁸⁶ *Al-Mughnī* (169/3).

⁸⁷ *Al-Mudawwan* (451/1); *Mawāhib al-jalīl* (262/4).

⁸⁸ *Al-Muhadhdhab* (400/1); *Mughnī al-muḥtāj* (307/2).

⁸⁹ See: *al-Mughnī* (351/3); *al-Iqnā'* (606/1).

⁹⁰ See: *al-Mabsūṭ* (104/4); *al-Baḥr ar-rā'iq* (78/3).

⁹¹ Reported by al-Bukhārī (187/1), H. 471; and Muslim (361/1), H. 504.

⁹² See: *Radd al-muḥtār* (606/3); *Mughnī al-muḥtāj* (305/2); *al-Mughnī* (351/3).

⁹³ See: *al-Muhadhdhab* (400/1); *Maṭālib ulī an-nuhā* (378/2).



Ibn ʿĀbidīn (m) said: leading the beasts outside the Ḥaram for grazing is great hardship.⁹⁴

Therefore, it is legal to let the beasts graze inside the Ḥaram and eat from its trees and grass; whereas it is forbidden – as we previously went through it – that the owner of the beasts takes himself the pasture and grass from the Ḥaram to feed them; the difference is obvious between the two cases.

⁹⁴ *Minḥa al-khāliq ʿalā al-baḥr ar-rāʾiq* in the margin of *al-Baḥr ar-rāʾiq* (78/3).



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