

E-BOOK

THE RULES CONCERNING THE HOLY LAND



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 مِّنْ 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:

The Ḥaram Is Safe Since The Dawn Of Time

The exegetes diverged: Was the Ḥaram safe before Ibrāhīm (p)? Or did it become safe after his supplication? There are two opinions:

The first opinion: The Ḥaram was safe since Allah created the heavens and the earth.⁴

Evidence:

The ḥadīth narrated by Ibn ‘Abbās (r2): The Prophet (s) said: **Allah made this city sacred on the day He created the Earth and the heavens; so it is sacred by the sacredness conferred on it by Allah until the Day of Resurrection.**⁵

Significance: The Ḥaram was made a safe place since Allah created the heavens and the earth.

The exegetes attributed to the supplication of Ibrāhīm (p) the fact that the Sanctuary was made safe from famine and drought and that its dwellers would be granted fruits; as the end of his supplication is:

وَأَرْزُقْ أَهْلَهُ مِنَ الثَّمَرَاتِ

“And provide its people with fruits” (S.2:126). Ibrāhīm (p) did not ask his Lord to make the place safe from His punishment or from the grip of tyrants; instead he

⁴ See: *Tafsīr at-Ṭabarī* (541/1).

⁵ Reported by al-Bukhārī (1164/3), H. 3017. Muslim (986/2), H. 1353.



asked his lord to protect its dwellers from starvation and drought and for its dwellers to receive fruits.⁶

Ibrāhīm (p) knows that the House is sacred; for this reason his supplication when he left his wife and son there was:

رَبَّنَا ۖ إِنِّي ۖ أَسْكَنْتُ مِنْ ذُرِّيَّتِي بِوَادٍ غَيْرِ ذِي زَرْعٍ عِنْدَ بَيْتِكَ الْمُحَرَّمِ رَبَّنَا
لِيُقِيمُوا الصَّلَاةَ فَاجْعَلْ أَفْئِدَةً مِنَ النَّاسِ تَهْوِي ۖ إِلَيْهِمْ وَارْزُقْهُمْ مِنَ
الثَّمَرَاتِ لَعَلَّهُمْ يَشْكُرُونَ

“Our Lord, I have settled some of my descendants in an uncultivated valley near Your sacred House, our Lord, that they may establish prayer. So make hearts among the people incline toward them and provide for them from the fruits that they might be grateful.” Surat Ibrāhīm: 37.

The second opinion: The Sanctuary became sacred and safe following the supplication on Ibrāhīm (p).⁷

Evidence:

The ḥadīth narrated by ‘Abd Allah Ibn Zayd (r): The Prophet (s) said: **Verily Ibrāhīm made Mecca sacred and supplicated (for blessings to be showered) upon it, and I made Medina sacred as Ibrāhīm had made Mecca sacred. I have supplicated (Allah for His blessings to be showered) upon it; in its sā ‘ and its mudd (units of measurement) as did Ibrāhīm (p) for Mecca.**⁸

My answer: Mecca was sacred before the supplication of Ibrāhīm (p) but there was no religious obligation or duty bound to this sacredness; then following the supplication of Ibrāhīm (p) its sanctity became bound to religious duties for the believers. This is why the Prophet (s) attributed its hollowing to him: **Verily Ibrāhīm made Mecca sacred.**⁹

The prevailing opinion: The Holy Land is sacred and safe since Allah created the heavens and the earth, in accordance with the clear authentic ḥadīths

⁶ See: *Tafsīr at-Ṭabarī* (542/1).

⁷ See: *Tafsīr at-Ṭabarī* (542/1).

⁸ Reported by al-Bukhārī (749/2), H. 2022. Muslim (991/2), H. 1360.

⁹ See: *Tafsīr at-Ṭabarī* (544/1).



mentioning it; and the Sacred House was protected throughout history as Allah Most High would destroy any tyrant who ever wanted to perpetrate evil against it. Moreover Allah pushed away from it punishments and ravages, this is the view of Ibn Jarīr at-Ṭabarī (m).

Aṭ-Ṭabarī (m) said: The correct opinion to us on the matter is that Allah Most High with His word made Mecca sacred when He created it as the Prophet (s) informed us, since He created the heavens and the earth, without any supplication pronounced by any prophet or messenger, but instead by making it protected against anyone who would intend evil against it and by pushing away ravages, punishments or any hostility that usually hit other places and their dwellers.

This was the reality of the Holy Land until Allah settled therein his friend Ibrāhīm (p) and his family: Hājir and his son Ismā'īl. Then Ibrāhīm asked his Lord to impose the sanctity of this place to everyone; thus introducing a rule to be followed by the people that will come after him.¹⁰

The combination of the two opinions:

The doubt of a contradiction between both opinions is not justified as there is no doubt about the validity of their evidence; therefore the combination of the two opinions is possible, as al-Khāzin (m) said in his tafsīr: The correct opinion is the combination of both opinions: Allah Most High made Mecca sacred the day He created it as the Prophet (s) informed us: **Allah made Mecca sacred on the day He created the heavens and the earth.**¹¹ But this hallowing was not expressed by any of His prophets nor messengers whereas Allah Most High protected it from anyone who would intend evil against it; pushing away of it and of its people ravages and punishments. This was the reality of the Holy Land until Allah settled therein his friend Ibrāhīm (p) and his family. Then through his prayer Ibrāhīm asked his Lord the Exalted Majestic to show to His servants the sacredness of the place and Allah Most High granted his supplication and imposed on His servants to revere Mecca. Mecca became a Sanctuary by the supplication of Ibrāhīm and Allah imposed on His servants the sacredness of it, forbidding to chase its game and to cut its trees. This is the combination of both opinions and the correct view, and Allah knows best.¹²

¹⁰ *Tafsīr at-Ṭabarī* (543/1).

¹¹ Reported by al-Bukhārī (1567/4), H. 4059.

¹² *Tafsīr al-Khāzin* (108/1).



Section II:

The Intention Of Committing A Sin Inside The Holy Land

The ulama diverged on the rule concerning the intention of committing a sin inside the Ḥaram; there are two opinions:

The first opinion: The Ḥaram is different from other places and the intention to commit a sin therein is a sin and he who intends to do so will be punished for his intention, even if his intention was not firm and definite.

Evidence:

1. The word of Allah Most High:

وَمَنْ يُرِدْ فِيهِ يَأْخُذِ بِظُلْمٍ ۖ نُذِقْهُ مِنْ عَذَابٍ أَلِيمٍ

“Whoever intends (a deed) therein of deviation (in religion) or wrongdoing – We will make him taste of a painful punishment.” Surat al-Ḥajj: 25.

Significance: “intends” stands for the effort of willing and the inclination of the soul toward committing an evil action.¹³

Az-Zamakhsharī (m) said: It is as if it has been said: whoever truly intends to commit a sin therein, with full knowledge of the facts, We will make him taste of a painful punishment.¹⁴

¹³ See: al-Mufradāt fī gharīb al-Qur’ān, p. 206.

¹⁴ Al-Kashshāf (152/3).



2. Ibn Mas'ūd (r) said about this verse: If a man intends to do some evil action therein, and even if he is at 'Adan Abyan, he surely is in a position where Allah will make him taste a painful punishment.¹⁵
3. Ibn Mas'ūd (r) also said: He who intended to do evil, the sayy'a will be recorded after he committed his sin; but if he had the intention to kill someone at the Sacred Mosque while he is at 'Adan Abyan Allah will make him taste a painful punishment. Then he recited the verse.¹⁶

Significance: Ibn Mas'ūd (r) considers that outside the Ḥaram people cannot be held as culprits for their intentions but inside the Ḥaram, he who intends to do evil is guilty, in accordance with the noble verse.

Al-Qurṭubī (m) said: This verse indicates that a person will be punished for having the intention to commit a sin in Mecca even if he did not commit it; Ibn Mas'ūd and Ibn 'Umar (rp) reported narrations in this regard. I said (al-Qurṭubī): This is true ... For the greatness of the sanctity of the place, Allah Most High threatens he who intends to do evil therein. Anyone who intends evil but does not materialize his intention will not be judged for it, except in Mecca; this is the opinion of Ibn Mas'ūd and a group of Companions (rp) among others.¹⁷

Ibn al-Qayyim (m) said: **Among its specificities** is that he who merely intends doing evil therein will be punished for it, even without committing his sin. Allah Most High said:

وَمَنْ يُرِدْ فِيهِ بِإِلْحَادٍ بِظُلْمٍ نُذِقْهُ مِنْ عَذَابٍ أَلِيمٍ

“Whoever intends (a deed) therein of deviation (in religion) or wrongdoing – We will make him taste of a painful punishment.” Surat al-Ḥajj: 25.¹⁸

The second opinion: The Ḥaram is like other places concerning the rule of the intention to commit a sin: the intention is not a sin as far as it is not accompanied by a firm determination.

¹⁵ Previously quoted, see footnote 222.

¹⁶ Reported by Ibn Abī Shayba in his *Muṣannaf* according to his version (268/3) n°14093; al-Hākim in *al-Mustadrak* (420/2), n°3460. Adh-Dhahabī said: according to the standards of Muslim. Its chain has been authenticated by al-Hāfiẓ Ibn Ḥajar in *Fat ḥ al-Bārī* (210/12).

¹⁷ *Tafsīr al-Qurṭubī* (35-36/12).

¹⁸ *Zād al-ma'ād* (51/1).



Evidence:

1. The word of Allah Most High:

وَمَنْ يُرِدْ فِيهِ بِإِلْحَادٍ بِظُلْمٍ نُذِقْهُ مِنْ عَذَابٍ أَلِيمٍ

“Whoever intends (a deed) therein of deviation (in religion) or wrongdoing – We will make him taste of a painful punishment.” Surat al-Hajj: 25.

Significance: The verb to intend (*yurid*) here means to do, to act or the Arabic word *yurid* comes from *al-wurūd* the arrival, the coming: whoever comes therein with a deviation or wrongdoing or whoever perpetrates therein...¹⁹

2. The word of Allah Most High:

أَلَمْ تَرَ كَيْفَ فَعَلَ رَبُّكَ بِأَصْحَابِ الْفِيلِ (١) أَلَمْ يَجْعَلْ كَيْدَهُمْ فِي تَضْلِيلٍ

“Have you not considered, (O Muhammad), how your Lord dealt with the companions of the elephant? Did He not make their plan into misguidance?” Surat al-Fil – The Elephant: 1-2.

Significance: Allah Most High punished the companions of the elephant for their firm determination to commit their crime in the Hāram and He destroyed them even before they concretized their evil intention.²⁰

3. The ḥadīth narrated by Abū Hurayra (r): The Prophet (s) said: **Verily Allah has forgiven my community the evil thoughts that occur to their minds as long as such thoughts are not put into action or uttered.**²¹

Significance: Allah forgives evil thoughts that occur to the people’s minds as far as they are not accompanied by acts or words and there is no distinction between the Hāram and another place.

4. The ḥadīth narrated by Ibn ‘Abbās (r2): The Prophet (s) said: **Whoever intended to do a bad deed and does not do it; then Allah will write a full good deed in his account with Him, and if he intended to do it (a**

¹⁹ Al-Kashshāf (152/2), Tafsīr al-Kabīr (23/23); Zād al-masīr (422/5); Rūḥ al-ma‘ānī (140/17).

²⁰ al-Fawākih al-‘adhāb fī ar-radd ‘alā man lam yuḥakkim as-sunna wa-l-kitāb (358/4).

²¹ Reported by al-Bukhārī (2020/5), H. 4968.



bad deed) and actually did it, then Allah will write one bad deed in his account.²²

5. The ḥadīth narrated by Abū Hurayra (r): The Messenger of Allah (s) said: **Whoever intended evil, but did not commit it, nothing is written on his account, but if he committed that, it is recorded.²³**

Significance: The intention of committing a sin is not a sin as far as it is not accompanied by a firm determination and there is no distinction between the Ḥaram and another place.

The combination between the two opinions:

The verse: “Whoever intends (a deed) therein of deviation (in religion) or wrongdoing” (Surat al-Ḥajj: 25) is about a firm determination of committing evil therein. A firm determination of committing evil is a sin, wherever this firm determination occurs, may it be in Mecca or anywhere else on earth.²⁴

Whereas a mere intention of committing evil without a firm determination is not taken into account as the other evidence underlines that whoever bears a bad intention will not be punished for it, may it be in Mecca or anywhere else.

The view of an-Nawawī (m) indicates the validity of such an opinion: Whoever has the firm intention in his heart to disobey and is preparing himself to do so has committed a sin and hurt his faith, and therefore these ḥadīths mentioned among others do not apply to him, contrary to he who only thinks about committing a sin, without preparing himself to disobedience and without a strong determination. There is a difference to notice between mere thoughts and a firm determination.

Concerning mere thoughts which are not taken into account: They are only thoughts without mental preparation, promise, wilfulness, firm intention or determination.²⁵

The word of Ibn Mas‘ūd (r): If a man intends to do some evil action therein, he surely is in a position where Allah will make him taste a painful punishment.²⁶

²² Reported by al-Bukhārī (2380/5), H. 6126.

²³ Reported by Muslim (118/1), H. 130.

²⁴ See: *al-Fawākih al-'adhāb fī ar-radd 'alā man lam yuḥakkim as-sunna wa-l-kitāb* (358/4).

²⁵ *Sharḥ an-Nawawī 'alā ṣaḥīḥ Muslim* (151/2).

²⁶ Previously quoted, see footnote 222.



Its meaning: The firm determination of committing evil in the Ḥaram will be punished, as the companions of the elephant were punished for their determination; and Allah Most High knows best.



Section III:

Magnification Of Ḥasanāt And Sayy'āt Inside The Ḥaram

Part I: The general legal basis about the magnification

The ulama agreed on the fact that Allah Most High increases the ḥasanāt by His mercy, bounty and generosity whereas the sayy'āt are recorded normally.

Evidence:

1. The word of Allah Most High:

مَنْ جَاءَ بِالْحَسَنَةِ فَلَهُ عَشْرُ أَمْثَالِهَا وَمَنْ جَاءَ بِالسَّيِّئَةِ فَلَا يُجْزَىٰ إِلَّا
مِثْلَهَا وَهُمْ لَا يُظْلَمُونَ

“Whoever comes (on the Day of Judgement) with a good deed will have ten times the like thereof (to his credit), and whoever comes with an evil deed will not be recompensed except the like thereof; and they will not be wronged.”
Surat al-An‘ām – The Cattle: 160.

2. The ḥadīth narrated by Ibn ‘Abbās (r2): The Prophet (s) said about his Lord the Exalted Majestic: **Verily Allah has written down the good deeds (ḥasanāt) and the evil deeds sayy'āt), and then explained it:**



Whosoever intended to perform a good deed, but did not do it, then Allah writes it down with Himself as a complete good deed (in his account with Himself). And if he intended to perform it and then actually did perform it, then Allah writes it down (in his account with Himself) as from ten good deeds up to seven hundred times, up to many times multiplied. And if he intended to perform an evil deed, but did not do it, then Allah writes it down with Himself as a complete good deed. And if he intended it (i.e. the evil deed) and then performed it, then Allah writes it down as one evil deed.²⁷

An-Nawawī (m) said: Look dear brother – and may Allah assist us and you – to the great kindness of Allah Most High; and think about these terms: **“with Himself”** indicates His great care and attention and the terms: **“complete good deed”** reflect the intensity of His care.

He said: About the evil deed someone intended to perform but finally did not perform it: **Allah writes it down with Himself as a complete good deed**; insisting on the fact that it is complete. **If he performed it, then Allah writes it down as one evil deed**; insisting on the fact that only one will be written without mentioning that it is complete; thanks be to Allah and gratitude, exalted be He, we cannot enumerate his praises.²⁸

Part II: The magnification inside the Ḥaram

What has been previously examined was the general rule in the legislation concerning the multiplication of good deeds (ḥasanāt) and bad deeds (sayy'āt); then does all this apply to the Sanctuary of Mecca? Or are there specificities and rules that only concern the Ḥaram and no other places on earth?

The ulama agreed on the fact that the reward for good and bad deeds is increased within the Sanctuary of Mecca; Mujāhid (m) said: The reward for evil deeds is increased in Mecca as the reward for good deeds is increased.²⁹

The ulama diverged on the reality of such a magnification. There are two opinions, **the prevailing one** is that ḥasanāt and sayy'āt are magnified in the Holy

²⁷ Reported by al-Bukhārī (2380/5), H. 6126; Muslim (118/1), H. 131.

²⁸ *Sharḥ al-arba'īn an-nawawīya* (32/1).

²⁹ *Tafsīr ath-Tha'labī* (17/7); *Tafsīr al-Baghawī* (283/3); *Zād al-masīr* (422/5).



Land in their qualities not in their quantities as no authentic evidence comes to define their specific value, except for prayers; this is the view of the majority.³⁰

Evidence:

1. The word of Allah Most High:

مَنْ جَاءَ بِالْحَسَنَةِ فَلَهُ عَشْرُ أَمْثَالِهَا ۖ وَمَنْ جَاءَ بِالسَّيِّئَةِ فَلَا يُجْزَىٰ إِلَّا
مِثْلَهَا وَهُمْ لَا يُظْلَمُونَ

“Whoever comes (on the Day of Judgement) with a good deed will have ten times the like thereof (to his credit), and whoever comes with an evil deed will not be recompensed except the like thereof; and they will not be wronged.”
Surat al-An‘ām – The Cattle: 160.

2. The ḥadīth narrated by Ibn ‘Abbās (r2): The Prophet (s) said about his Lord the Exalted Majestic: **Verily Allah has written down the good deeds (ḥasanāt) and the evil deeds sayy’āt), and then explained it: Whosoever intended to perform a good deed, but did not do it, then Allah writes it down with Himself as a complete good deed (in his account with Himself). And if he intended to perform it and then actually did perform it, then Allah writes it down (in his account with Himself) as from ten good deeds up to seven hundred times, up to many times multiplied. And if he intended to perform an evil deed, but did not do it, then Allah writes it down with Himself as a complete good deed. And if he intended it (i.e. the evil deed) and then performed it, then Allah writes it down as one evil deed.**³¹

Significance: These are texts bearing a general meaning, there is no distinction between a place and another or between a period of time and another; the specification about the multiplication of ḥasanāt concerning the Haram itself needs evidence.

³⁰ See: *Muthīr al-‘azm as-sākin ilā ashraf al-‘amākin*, Ibn al-Jawzī (331/1); *al-Majmū’* (207/8); *Aḥkām al-Qur’ān* (277/3); *al-Qirā li-qāṣid umm al-qurā* (p. 659); *Jāmi’ al-‘ulūm wa al-ḥikam* (318/2); *Maṭālib ulī an-nuhā* (386/2).

³¹ Previously quoted, see footnote 262.



3. The ḥadīth narrated by Jābir (r): The Messenger of Allah (s) said: **One prayer performed in the Sacred Mosque is better than a hundred thousand prayers performed in any other mosque.**³²

Significance: Only the prayer has its reward multiplied next to the Sacred House; but apart from it nothing else.

4. The word of Allah Most High:

وَمَنْ يُرِدْ فِيهِ بِإِلْحَادٍ بِظُلْمٍ نُذِقْهُ مِنْ عَذَابٍ أَلِيمٍ

“Whoever intends (a deed) therein of deviation (in religion) or wrongdoing – We will make him taste of a painful punishment.” Surat al-Ḥajj: 25.

Significance: This is a warning for the people not to commit an evil deed especially within the Sanctuary as it is part of the sacred sites of Allah Most High which He exalted and which He ordered His servants to glorify; disobedience therein is consequently worst and vilest and the punishment for it will be more serious.

5. Definite evidence indicates that the reward for good deeds and evil deeds is increased according to some periods of times for their sanctity to Allah Most High, like the sacred months³³, the first ten days of Dhū al-Ḥijja³⁴ and the Night of Destiny³⁵ or concerning some people, like the wives of the Prophet (s) for their honour, eminence and sanctity to Allah Most High³⁶. Therefore, if a special sanctity may be attributed to some periods of time and to some people,

³² Reported by Ibn Māja (451/1), H. 1406. Authenticated by al-Albānī in *Ṣaḥīḥ sunan Ibn Māja* (421/1), H. 1163.

³³ Allah Most High said: يَسْأَلُونَكَ عَنِ الشَّهْرِ الْحَرَامِ قِتَالٍ فِيهِ قُلْ قِتَالٌ فِيهِ كَبِيرٌ

“They ask you about the sacred month - about fighting therein. Say: Fighting therein is a great transgression.” Surat al-Baqara – The Cow: 217.

³⁴ Ibn ‘Abbās (r2) narrated: The Messenger of Allah (s) said: **There are no days during which righteous deeds are more beloved to Allah than these days** – meaning the (first) ten days of Dhū al-Ḥijja. They said: O Messenger of Allah! Not even the struggle in the path of Allah (Jihād)? He said: **(Yes), not even the struggle in the path of Allah, except a man who goes out (in the path of Allah) with his life and property, and does not return with any of them.** Reported by Abū Dāwūd (325/2), H. 2438. Authenticated by al-Albānī in *Ṣaḥīḥ sunan Abī Dāwūd* (78/2), H. 2438.

³⁵ Allah Most High said: لَيْلَةُ الْقَدْرِ خَيْرٌ مِنْ أَلْفِ شَهْرٍ *“The Night of Destiny is better than a thousand months”* Surat al-Qadr: 3.

³⁶ Allah Most High said: يٰۤاَيُّهَا النِّسَاءُ لَسْتُنَّ كَأَحَدٍ مِّنَ النِّسَاءِ *“O wives of the Prophet, you are not like anyone among women”* Surat al-Aḥzāb – The Combined Forces: 32.



this also applies to special places like the Sanctuary of Mecca, may Allah increase its honour.³⁷

An-Nawawī (m) said about Mecca: Certainly, a sin perpetrated in Mecca is worse than a sin perpetrated elsewhere as a good deed is greater in Mecca than anywhere else.³⁸

It states in *Maṭālib ulī an-nuhā*: Warning: Know – may Allah Most High help you! – that there is a multiplication there, not only for the reward for good deeds but also for the evil ones; it is known through the honourable legislation and the lofty religion that sins are magnified according to time and conditions, and, hence for the sake of places. Consider that preliminaries during days in Ramaḍān or while being in the state of iḥrām are heavily penalized and consider that a crime perpetrated within the Ḥaram causes an increasing of the expiation. The word of Allah Most High concerning the wives of the Prophet (s):

يٰۤاَيُّهَا النِّبِيُّ مَنْ يٰتِ مِنْكَ بِفَاحِشَةٍ مُّبِيْنَةٍ يُضَاعَفْ لَهَا الْعَذَابُ
ضِعْفَيْنِ

“O wives of the Prophet, whoever of you should commit a clear immorality – for her the punishment would be doubled two fold” Surat al-Aḥzāb – The Combined Forces: 30. Consider how disobedience from them – if one occurs – is doubled because of their eminence. Allah Most High said about their reward:

وَمَنْ يَّقْنُتْ مِنْكُمْ لِلّٰهِ وَرَسُوْلِهِ وَتَعْمَلْ صٰلِحًا ۙ نُؤْتِهَا ۙ اَجْرَهَا مَرَّتَيْنِ وَاَعْتَدْنَا
لَهَا رِزْقًا ۙ اَكْرِمًا

“And whoever of you devoutly obeys Allah and His Messenger and does righteousness – We will give her her reward twice; and We have prepared for her a noble provision.” Surat al-Aḥzāb: 31. The disobedience is worst and vilest if it occurs in any places or during any time that enjoys a greater eminence: a beauty spot is more

³⁷ Allah Most High said: ذٰلِكَ وَمَنْ يُعْظَمْ حُرْمَتِ اللّٰهِ فَهُوَ خَيْرٌ لّٰهُ عِنْدَ رَبِّهِۦۙ “That (has been commanded), and whoever honors the sacred ordinances of Allah - it is best for him in the sight of his Lord.” Surat al-Ḥajj: 30.

³⁸ *Al-Majmū‘* (207/8).



obvious on a white skin. It is said: the ḥasanāt of the righteous are like sayy'āt for those brought near to Allah.³⁹

Ibn al-ʿArabī (m) said: The sins are magnified according to the importance of the period, like the sacred months, or according to the eminence of the place, like the Holy Land; the sin is double: firstly for disobedience itself and secondly because of the lack of respect towards the sanctity of the sacred months or of the Holy Land.⁴⁰

Ibn al-Qayyim (m) said: What is meant here is an increase that concerns the quality and not the quantity: the reward for an evil deed is equivalent to the evil deed, but there are different kinds; it is different to disobey the King at his very court from disobeying him at some remote place of his realm.⁴¹

Summary:

Inside the Sanctuary of Mecca, the ḥasanāt and the sayy'āt differ from the perspective of their nature, not of their quantity, as it is worst and vilest to commit a sin in the Ḥaram. Consequently the reward is appropriate to the place and evil deeds are magnified.⁴²

³⁹ *Maṭālib ulī an-nuhā* (386/2).

⁴⁰ *Aḥkām al-Qur'ān* (277/3).

⁴¹ *Zād al-ma'ād* (369/1).

⁴² See: *Faḍā'il Makka al-mukarrama* (p. 116).



Section IV:

The Disbelievers Inside The Ḥaram

Part I: Interdiction for the disbelievers to enter the Ḥaram

The Holy Land is the purest and the most honourable place on the face of the earth, Allah Most High characterized it with great specificities; among them: the interdiction for disbelievers to enter it, as it is a land of Islam and of pure monotheism, nothing can be worshipped therein with Allah Most High, its ground cannot be soiled by idolatry nor polytheism; this is the view of the majority in the Mālikī, the Shāfi'ī and the Ḥanbalī schools.⁴³

Evidence:

1. The word of Allah Most High:

يَا أَيُّهَا الَّذِينَ آمَنُوا إِنَّمَا الْمُشْرِكُونَ نَجَسٌ فَلَا يَقْرَبُوا الْمَسْجِدَ الْحَرَامَ بَعْدَ
عَامِهِمْ هَذَا

⁴³ See: *Zād al-masār* (419/3); *Tafsīr Ibn Kathīr* (347/2); *al-Majmū'* (518/2); *ash-Sharḥ al-Kabīr*, Ibn Qudāma (621/10).



“O you who have believed, indeed the polytheists are impure, so let them not approach the Sacred Mosque after this, their (final) year.” Surat at-Tawba – The Repentance: 28.

Significance: Allah Most High forbade the idolaters to even approach the Sacred Mosque.

Ibn al-Kathīr (m) said: Allah commanded His believing servants, who are pure in religion and person, to expel the idolaters who are impure in the religious sense, from the Sacred Mosque. After the revelation of this verse, idolaters were no longer allowed to approach it. This verse was revealed in the ninth year of the Hijra. The Messenger of Allah (s) sent ‘Alī in the company of Abū Bakr (r2) that year to make a public announcement to the idolaters: **No idolater will be allowed to perform Ḥajj after that year, nor a naked person allowed to perform ṭawāf around the House.**⁴⁴ Allah completed this decree, made it a legislative ruling as well as a fact of reality.⁴⁵

2. The ḥadīth narrated by Abū Hurayra (r); he said: Abū Bakr aṣ-Ṣiddīq (r) sent me during the Ḥajj before the Farewell Pilgrimage for which the Messenger of Allah (s) had appointed him to make a public announcement to the people on the Day of Naḥr: **No idolater will be allowed to perform Ḥajj after that year nor a naked person⁴⁶ allowed to perform ṭawāf around the House.**⁴⁷
3. ‘Alī (r) was asked about the Ḥajj of Abū Bakr aṣ-Ṣiddīq (r), what is it that he was sent with? He said: With four things: **None is to perform ṭawāf around the House while naked. Whomever there is a covenant between him and the Prophet (s), then his covenant is valid until its term, and for that in which there was no term, then it shall be four months. None will be admitted into Paradise except for the soul of a believer. And the Muslims and the idolaters will not be gathering (in Mecca) together after this year.**⁴⁸

Entering the Ḥaram is forbidden to all the disbelievers:

⁴⁴ Reported by al-Bukhārī (586/2), H. 1543; Muslim (982/2), H. 1347.

⁴⁵ *Tafsīr Ibn Kathīr* (347/2).

⁴⁶ Naked person: This used to be a ritual during the Jāhiliya. See: *Sharḥ an-Nawawī ‘alā Ṣaḥīḥ Muslim* (116/9).

⁴⁷ Reported by al-Bukhārī (586/2), H. 1543; Muslim (982/2), H. 1347.

⁴⁸ Reported by at-Tirmidhī (276/5), H. 3092, he said ḥadīth ḥasan (good). Authenticated by al-Albānī in *Ṣaḥīḥ sunan at-Tirmidhī* (246/3), H. 3092.



The term “polytheists” (*mushrikūn*) in the verse encompasses all the disbelievers, the People of the Book and the others; it is comparable to the terms “poor” (*faqīr*) and “needy” (*miskīn*): if any of these terms is picked out, it bears the meaning of the other; in other words they can be considered equals; as in the word of Allah:

إِنَّمَا الصَّدَقَاتُ لِلْفُقَرَاءِ وَالْمَسْكِينِ

“The alms are only for the poor and the needy” Surat at-Tawba – The repentance: 60. In this verse two groups are mentioned; if both terms appear together, there may be a difference between them, but if only one of them is quoted, it can be substituted by the other. Here, the matter concerns polytheism and disbelief (*shirk* and *kufr*).

Ibn Taymiya (m) said: The term “polytheists” in the verse:

إِنَّمَا الْمُشْرِكُونَ نَجَسٌ فَلَا يَقْرَبُوا الْمَسْجِدَ الْحَرَامَ بَعْدَ عَامِهِمْ هَذَا

“Indeed the polytheists are impure, so let them not approach the Sacred Mosque (*al-Masjid al-Harām*) after this, their (final) year.” (Surat at-Tawba – The Repentance: 28) encompasses all the disbelievers, the People of the Book and the others, according to all the ulama; the term has a specific meaning and an abstract meaning that is more global; if the polytheists were quoted with the People of the Book, it would have been “the polytheists and the People of the Book”: two kinds.⁴⁹

The friend of Allah Ibrāhīm (p) was honoured by the hallowing of Mecca, which became a Holy Land through his supplication; and he put signs to define the limits of the Ḥaram. Whereas the Messenger of Allah (s) was honoured from a different perspective: he made Mecca forbidden for the disbelievers.

Part II: Meaning of the stain of idolaters

Ibn al-Jawzī (m) mentioned three points about the meaning of the impurity of the polytheists in the noble verse:

⁴⁹ *Al-Jawāb aṣ-ṣaḥīḥ li-man baddala dīn al-masīḥ*, Ibn Taymiya (118-119/3); *Daqā'iq at-tafsīr* (69/2).



إِنَّمَا الْمُشْرِكُونَ نَجَسٌ

“Indeed the polytheists are impure⁵⁰”:

The first point: Their bodies are impure, like the dogs and the pigs; according to al-Māwardī who reported this view from al-Ḥassan and ‘Umar Ibn ‘Abd al-‘Azīz...

The second point: They are impure, as they need to wash themselves (to perform *ghusl*) from *janāba* (state of impurity, due to sexual intercourse for example); this is the view of Qatāda.

The third point: As we have to avoid them, like we avoid impurities, they are considered impure; this is the view of the majority and it is the correct one.⁵¹

The specificity expressed in the verse “Indeed the polytheists are impure” comes to incite their banishment from this place; it is an exaggeration in their description in order to consider them as impure and in no other way.⁵²

Most ulama agreed to say that the impurity of a polytheist does not concern his person or his body; because Allah Most High made the food of the People of the Book lawful for Muslims⁵³. Therefore the impurity in this noble verse has an abstract meaning: the impurity of belief, which is worse than the impurity of the body.

An-Nawawī (m) said: The meaning is not that their bodies are unclean in the sense of urine or stools or such things. If it is established that any son of Ādam is pure, Muslim or not, then his sweat, saliva or tears are also pure, even without ablutions or in *janāba*, during a period of menstruation or in postpartum period; according to the Consensus of the Muslims.⁵⁴ This is why the Prophet (s) fastened a prisoner who was a disbeliever inside the mosque; moreover, Allah made lawful the food of the People of the Book.⁵⁵

General meaning of the verse:

Allah Most High exhorts the Muslims and calls them out as those who believed saying: “O you who have believed, indeed the polytheists” who give associates to Allah

⁵⁰ Impure: See: *Zād al-masīr* (416/3).

⁵¹ *Zād al-masīr* (416-417/3).

⁵² *At-Taḥrīr wa-t-tanwīr* (160/10).

⁵³ See: *Tafsīr Ibn Kathīr* (347/2).

⁵⁴ *Sharḥ an-Nawawī ‘alā ṣaḥīḥ Muslim* (66/4).

⁵⁵ *Al-Majmū‘* (518/2).



and worship idols “are impure”; i.e. they are impure for their beliefs and their deeds. Which impurity could be worse than worshipping with Allah other deities that neither benefit, nor harm or avail them against Allah at all? Whereas their deeds are but struggling against Allah, averting people from the way of Allah, supporting falsehood, rejecting Truth, causing corruption on the earth instead of spreading peace. Therefore it is incumbent upon you who believe to purify the most honourable House from them...⁵⁶

There are two kinds of impurity of *shirk* (polytheism/idolatry):

Ibn al-Qayyim (m) said about the impurity of shirk: **There are two kinds of impurity of shirk:** a major impurity and a minor one. **The major one:** is the greater idolatry which is not forgivable by Allah the Exalted Majestic. Allah does not forgive that anything should be associated with Him in adoration. **The minor one** is the lesser shirk: like hypocrisy, ostentation, giving too much consideration to human beings instead of Allah, swearing by other than Him, being afraid of other than Him, beseeching other than Him. The impurity of shirk is concrete; Allah Most High said it was *najas* and not *najis* as *najas* refers to spiritual impurity whereas *najis* refers to what has been made soiled: if a garment is touched by urine or alcohol it is soiled (*najis*) and urine or alcohol are impure, (*najas*); the worst impurity is shirk (polytheism or idolatry) and it is the worst injustice. In the language and the law, the impurity (*najas*) is filth and it requires keeping distant from it in order to avoid touching it, smelling it or seeing it.

The meaning: Impurity can be sometimes physical and tangible and sometimes spiritual and abstract and therefore filth and impurity can affect the heart and spirit of a person.⁵⁷

Part III: The meaning of “The Sacred Mosque” (al-Masjid al-Ḥarām)

The expression “The Sacred Mosque” (al-Masjid al-Ḥarām) has different meanings in the Book and the Sunna; it may refer to the Ka’ba, the Ka’ba and its

⁵⁶ *Tafsīr as-Sa’dī* (333-334/1).

⁵⁷ *Ighātha al-lahfān* (59-60/1).



surroundings, the whole city of Mecca or Mecca and its surroundings. There are legal texts explaining these four meanings⁵⁸:

1. The Ka'ba; as in the word of Allah Most High:

فَوَلِّ وَجْهَكَ شَطْرَ الْمَسْجِدِ الْحَرَامِ

“So turn your face towards the Sacred Mosque” Surat al-Baqara – The Cow: 144.

2. The Ka'ba and its surroundings, as in the word of the Prophet (s): **One prayer in my Mosque is better than a thousand prayers in any other mosque except the Sacred Mosque.**⁵⁹ And in his words (s): **Journey should not be undertaken to visit a mosque except towards three...etc.**⁶⁰

3. It means the whole city of Mecca; as in the word of Allah Most High:

سُبْحَنَ الَّذِيَّ أَسْرَىٰ بِعَبْدِهِ لَيْلًا مِّنَ الْمَسْجِدِ الْحَرَامِ إِلَى الْمَسْجِدِ الْأَقْصَا

“Glorified be He Who carried His servant by night from the Sacred Mosque to the Farthest Mosque” Surat al-Isrā’ – The Night Journey: 1. The Night Journey started from a house of Mecca.

4. It means Mecca and the whole Sanctuary (Haram) surrounding it, as in the word of Allah Most High:

فَلَا يَقْرَبُوا الْمَسْجِدَ الْحَرَامَ بَعْدَ عَامِهِمْ هَٰذَا

“So let them not approach the Sacred Mosque after this, their (final) year.” Surat at-Tawba – The Repentance: 28.

⁵⁸ See: *al-Majmū’* (189-190/3).

⁵⁹ Reported by al-Bukhārī in his version (398/1), H. 1133, and Muslim (1012/2), H. 1394.

⁶⁰ Reported by al-Bukhārī (703/2), H. 1893 and Muslim (1014/2), H. 1397.



The meaning of “The Sacred Mosque” in this verse:

The ulama diverged: does it concern only the mosque or the whole Sanctuary? There are two opinions, **the prevailing one** is that it concerns the whole Sanctuary; this is the view of the majority.

Ibn Rajab (m) said: The majority of scholars agreed that the disbelievers cannot dwell in the whole Sanctuary nor even enter it or perform ṭawāf etc.⁶¹

Evidence:

1. The word of Allah Most High:

وَإِنْ خِفْتُمْ عَيْلَةً ۖ فَسَوْفَ يُغْنِيكُمُ اللَّهُ مِنْ فَضْلِهِ ۖ إِنَّ اللَّهَ عَلِيمٌ
حَكِيمٌ

“And if you fear privation, Allah will enrich you from His bounty if He wills. Indeed, Allah is Knowing and Wise”; Surat at-Tawba – The Repentance: 28.

Significance: The place for trade is not the mosque itself; if the interdiction for disbelievers concerned only the Sacred Mosque, why had some believers feared need and poverty as a result of such an interdiction? They feared indigence because disbelievers were prevented from going to the markets and places in general within the whole Ḥaram.⁶²

2. The word of Allah Most High:

سُبْحَانَ الَّذِي ۖ أَسْرَىٰ بِعَبْدِهِ لَيْلًا ۖ مِّنَ الْمَسْجِدِ الْحَرَامِ إِلَى الْمَسْجِدِ
الْأَقْصَا

“Glorified be He Who carried His servant by night from the Sacred Mosque to the Farthest Mosque” Surat al-Isrā’ – The Night Journey: 1.

Significance: The scholars agreed that the Prophet (s) was carried from the house of Umm Hāni’ (rh), which was actually situated outside the Mosque; therefore the Sacred Mosque here means the whole Sanctuary.⁶³

An-Nawawī (m) said: The Sacred Mosque here means the whole Ḥaram. An idolater is never allowed to enter the Ḥaram; even if he conveys a message for

⁶¹ *Fath al-bārī fī sharḥ ṣaḥīḥ al-Bukhārī*, Ibn Rajab (482/2).

⁶² See: *at-Tafsīr al-Kabīr* (22/16).

⁶³ See: *at-Tafsīr al-Kabīr* (22/16); *ash-Sharḥ al-kabīr*, Ibn Qudāma (621/10).



someone or for an important matter; then the person concerned has to go out of it to meet him; and if an idolater enters it secretly, sick or dead, he has to be expelled from it or exhumed.⁶⁴

Allah is the one who enriches and makes rich:

The noble verse indicates that Allah Most High is the only one who enriches, even if the disbelievers cannot approach the Ḥaram anymore or its markets and this even in case of an economic crisis or difficult circumstances. Subsistence is not limited to only one door or one way; instead no door is shut without many others to open. The grace of Allah is great and His liberalities are wide, especially for he who gives up something for the countenance of Allah the Bountiful; and certainly Allah is the most generous. Indeed Allah honoured His promise as He enriched the Muslims from His grace and provided them with what He did not give the richest of men or the kings. His word:

إِنْ شَاءَ

“If He wills” explains that richness is conditioned by His will alone. Richness in this world (duniā) is not a matter of faith and it is not conditioned by the love of Allah, this is why Allah linked it with His will; Allah gives duniā to whom He loves and to whom He does not love whereas He gives faith and religion only to whom He loves.

إِنَّ اللَّهَ عَلِيمٌ حَكِيمٌ

“Indeed, Allah is Knowing and Wise”; i.e. His knowledge is wide; He knows whom richness suits and whom it does not and He puts everything in its proper place.⁶⁵

On the basis of this, the Mosque in the verse is meant for the whole Ḥaram within its well known limits and not only the Mosque. This opinion lead to the drawing of the frontiers of the Ḥaram, a place honoured by Allah Most High as the sole land on the face of the earth that allows its entry only to he who has a special visa, an authorization that has no link with any kind of intercession, nepotism or diplomacy; this special visa is the faith in Allah Most High, submission to Him and the statement of this on an official passport; only this opens the door of the Ḥaram,

⁶⁴ Sharḥ an-Nawawī ‘alā ṣaḥīḥ Muslim (116/9).

⁶⁵ Tafsīr as-Sa’dī (333-334/1).



the honour of which has been made eternal by Allah, and its loftiness will remain until Allah inherits earth and those on it.

Part IV: Punishing the disbeliever who enters the Ḥaram

Many scholars spoke about the matter of a disbeliever who enters the Ḥaram and therefore violates the legal texts; among them, al-Māwardī (m) who explains this opinion: No one who refutes the religion of Islam, dhimmī (non-Muslim citizen of an Islamic state) or anyone with whom a treaty has been concluded, has the right to enter the Ḥaram, pass through it or reside therein; this the view of the Shāfi'ī School and most scholars... The word of Allah Most High:

إِنَّمَا الْمُشْرِكُونَ نَجَسٌ ۖ فَلَا يَقْرَبُوا الْمَسْجِدَ الْحَرَامَ

“Indeed the polytheists are impure, so let them not approach the Sacred Mosque” (9:28) is a text that forbids its entry to non-Muslims; if an idolater enters it without permission, he has to be punished, but not killed; if he entered it with a permission, he is not punished but the one who gave him permission is condemned and punished if necessary, and the idolater is safely conducted outside the Ḥaram. If an idolater wants to enter the Ḥaram to convert to Islam, he cannot; he first has to convert and then he is allowed to enter it. If an idolater dies within the Ḥaram, he cannot be buried therein, he has to be buried outside it; if he has been buried inside it, he has to be carried out of it, except for those who were buried there long time ago, like the dead of the Jāhiliya. Concerning all other mosques, they can receive permission to enter them if they do not only intend to eat or sleep there.⁶⁶

Part V: The disbelievers inside an Islamic state

There are three cases concerning the stay of disbelievers in an Islamic state:

Al-Baghawī (m) said: **The Islamic countries are divided into three categories regarding the rights of disbelievers:**

⁶⁶ Al-Aḥkām as-sultāniya, al-Māwardī (188/1).



The first one: The Ḥaram: The disbeliever is never allowed to enter it, may he be a dhimmī or asking for protection, in accordance with this verse. If a messenger comes from a non-Muslim country to visit the imam who is inside the Ḥaram, he is not allowed to enter the Ḥaram; instead, someone listens to his message outside the Ḥaram and then transmits it to the imam inside. Yet the people of Kufa permitted someone with whom a treaty had been concluded to enter the Ḥaram.

The second category of Islamic countries: The Ḥijāz (Arabian Peninsula): Non-Muslims can enter it if they receive permission; but they cannot stay more than the time of travelling, namely three days, according to the ḥadīth narrated by ‘Umar Ibn al-Khaṭṭāb (r) who heard the Messenger of Allah (s) say: **If I live, Allah willing, I will certainly expel the Jews and the Christians from the Arabian Peninsula so as to leave only Muslims in it.**⁶⁷ The Messenger of Allah (s) also recommended: **Expel the idolaters from the Arabian Peninsula**⁶⁸; Abū Bakr (r) did not have enough time to achieve that, but ‘Umar (r) did it during his caliphate and he allowed the merchants among them to enter it for a period of three days. **The Arabian Peninsula** extends from the southernmost part of Aden (Yemen) until the countryside of Iraq in its length and from Jidda and its coast until the Levant (ash-Shām) its width.

The third category: The rest of Islamic countries: a non-Muslim is authorized to stay in them as a dhimmī or under a protection, but he cannot enter mosques except with permission given by a Muslim.⁶⁹

⁶⁷ Reported by Muslim (1388/3), H. 1767.

⁶⁸ Reported by al-Bukhārī (1111/3), H. 2888; and Muslim (1258/3), H. 1637.

⁶⁹ *Tafsīr al-Baghawī* (281-282/2).



هذا الكتاب منشور في

