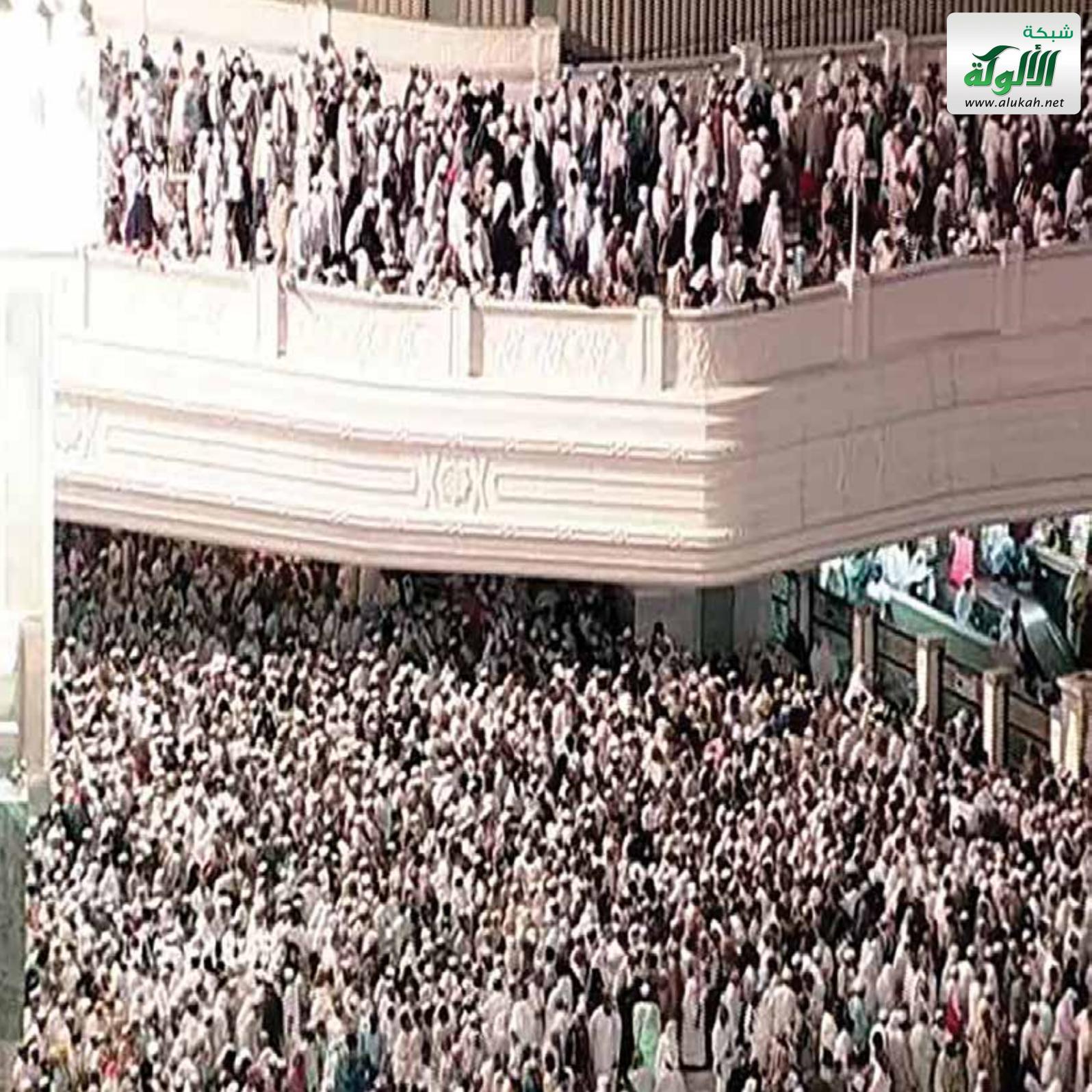


**The rules  
concerning  
the  
Holy Land**

**By**

**Mahmūd Ibn Ahmad al Dosary (PhD).**



## The rules concerning the Holy Land

This chapter is divided into ten sections:

Section I: The Ḥaram is safe since the dawn of time.

Section II: The intention of committing a sin inside the Holy Land.

Section III: Magnification of ḥasanāt and sayy'āt inside the Ḥaram.

Section IV: The disbelievers inside the Ḥaram.

Section V: Cutting trees inside the Ḥaram.

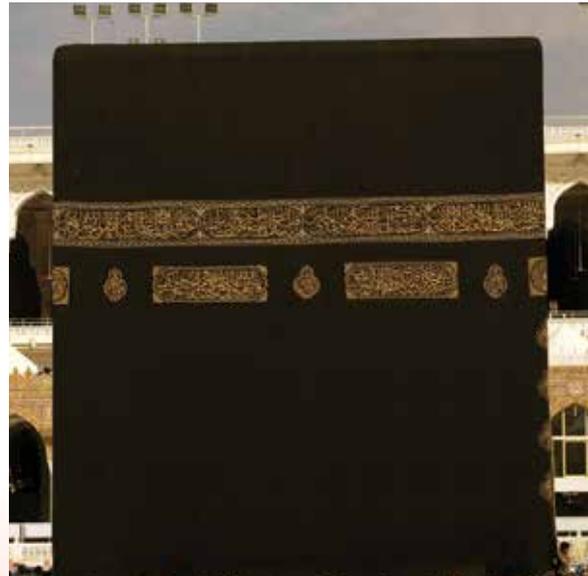
Section VI: The game of the Ḥaram.

Section VII: Lost things inside the  
Ḥaram.

Section VIII: Fighting inside the Ḥaram.

Section IX: Killing vermin inside the  
Ḥaram.

Section X: Punishing inside the Ḥaram.



## Section I:

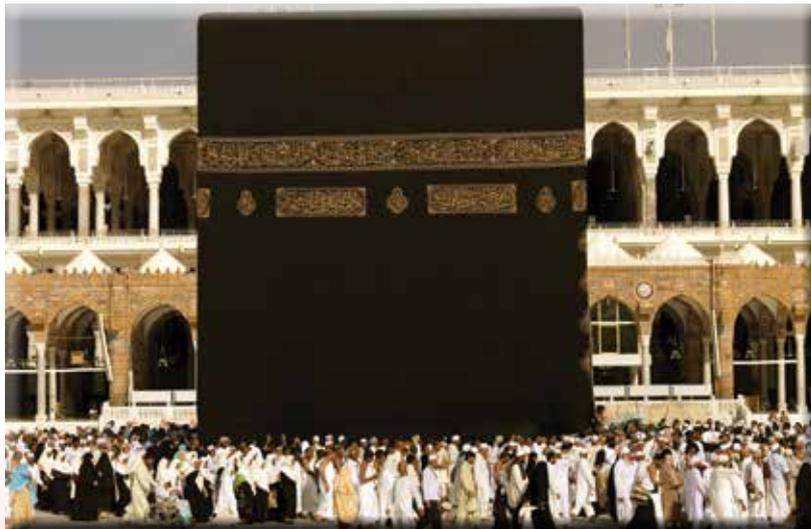
### The Ḥaram is safe since the dawn of time

**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.<sup>(1)</sup>

**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.**<sup>(2)</sup>



**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 asked his lord to protect its dwellers from starvation and drought and for its dwellers to receive fruits.<sup>(3)</sup>



## The rules concerning the Holy Land

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 أَفْعَدَةً 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).<sup>(4)</sup>

### 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.**<sup>(5)</sup>

**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 hallowing to him: **Verily Ibrāhīm made Mecca sacred.**<sup>(6)</sup>

**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 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 aṭ-Ṭabarī (m).

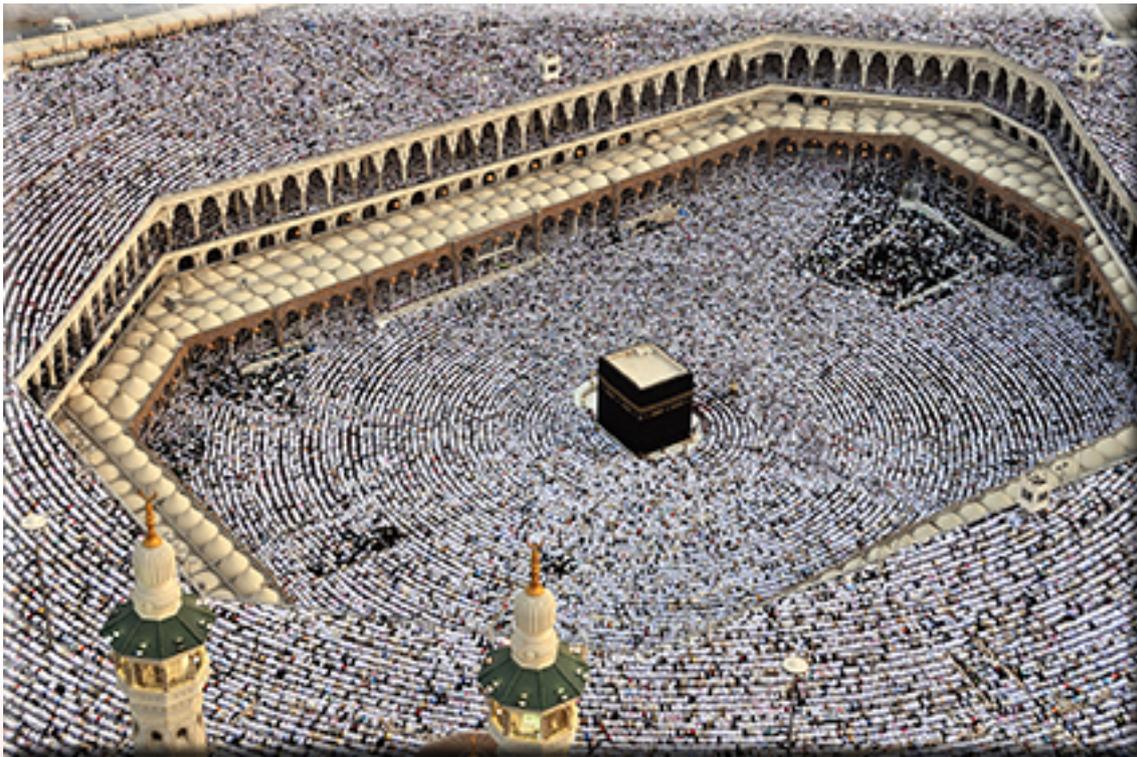
Aṭ-Ṭabarī (m) said: The correct opinion to us on the matter is that Allah Most High with His word made Mecca sacred when He created it as the Prophet (s) informed us, since He created the heavens and the earth, without any supplication pronounced by any prophet or messenger, but instead by making it 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.<sup>(7)</sup>



## 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.**<sup>(8)</sup> 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.<sup>(9)</sup>



## 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 بِالْحَكَاكِ يُظَلِّمْ نَفْسَهُ مِنْ عَذَابِ 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:** “intends” stands for the effort of willing and the inclination of the soul toward committing an evil action.<sup>(10)</sup>

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.<sup>(11)</sup>



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.<sup>(12)</sup>
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.<sup>(13)</sup>

**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.<sup>(14)</sup>



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 بِالْحَكَاِمِ يُظَلِّمِ نَفْسَهُ مِنْ عَذَابِ 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.<sup>(15)</sup>

**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.

## Evidence:

### 1. The word of Allah Most High:

﴿وَمَنْ يُرِدْ فِيهِ بِالْحَاكِمِ يُظَلِّمِ نَفْسَهُ مِنْ عَذَابِ 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...<sup>(16)</sup>



## 2. The word of Allah Most High:

﴿أَلَمْ تَرَ كَيْفَ فَعَلَ رَبُّكَ بِأَصْحَابِ الْفِيلِ ﴿١﴾ أَلَمْ يَجْعَلْ كَيْدَهُمْ فِي تَضَلِيلٍ ﴿٢﴾﴾

“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 Ḥaram and He destroyed them even before they concretized their evil intention.<sup>(17)</sup>

## 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.**<sup>(18)</sup>

**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 Ḥaram 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 bad deed) and actually did it, then Allah will write one bad deed in his account.**<sup>(19)</sup>
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.**<sup>(20)</sup>

**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-Hajj: 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.<sup>(21)</sup>

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

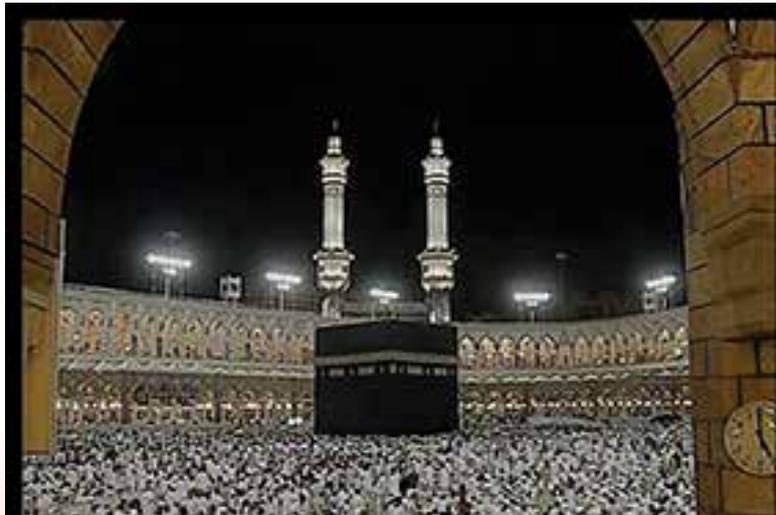


a sin and hurt his faith, and therefore these ḥadīths mentioned among others do not apply to him, contrary to he who only thinks about committing a sin, without preparing himself to disobedience and without a strong determination. There is a difference to notice between mere thoughts and a firm determination.

**Concerning mere thoughts which are not taken into account:** They are only thoughts without mental preparation, promise, wilfulness, firm intention or determination.<sup>(22)</sup>

**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.<sup>(23)</sup>

**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**

This section is divided into two parts:

Part I: The general legal basis about the magnification.

Part II: The magnification 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:**

The word of Allah Most High:

﴿مَنْ جَاءَ بِالْحَسَنَةِ فَلَهُ عَشْرُ أَمْثَالِهَا وَمَنْ جَاءَ بِالسَّيِّئَةِ فَلَا يُجْزَى 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.

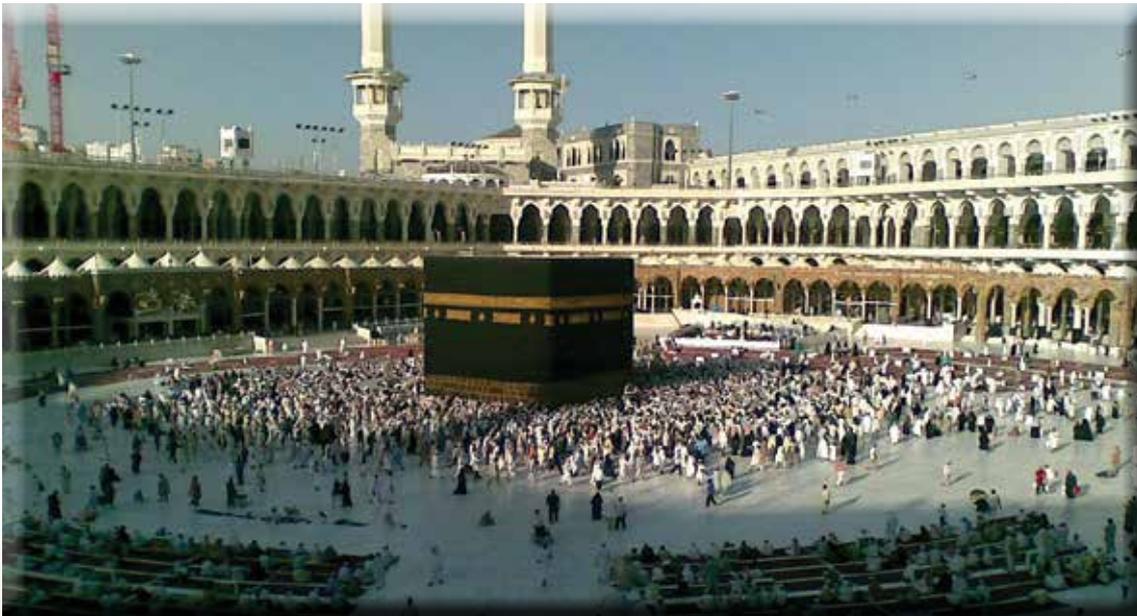
The ḥadīth narrated by Ibn ‘Abbās (r2): The Prophet (s) said about his Lord the Exalted Majestic: **Verily Allah has written down the good deeds (ḥasanāt) and the evil deeds sayy’āt), and then explained it: Whosoever intended to perform a good deed, but did not do it, then Allah writes it down with Himself 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.**<sup>(24)</sup>



# The rules concerning the Holy Land

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.<sup>(25)</sup>



## **Part II: The magnification inside the Haram**

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 Haram 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.<sup>(26)</sup>



## The rules concerning the Holy Land

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 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.<sup>(27)</sup>

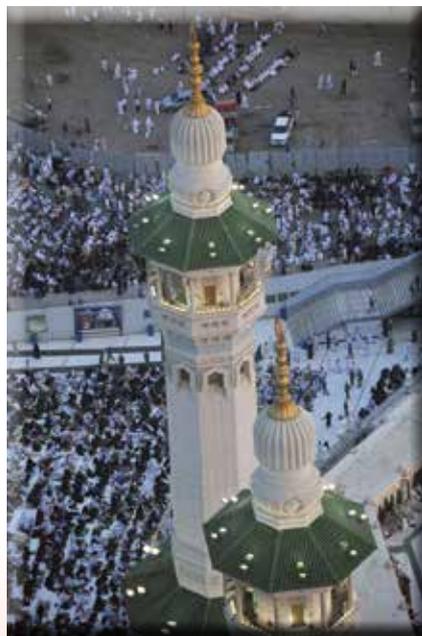
### Evidence:

#### 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.<sup>(28)</sup>

**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 Ḥaram itself needs evidence.

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.**<sup>(29)</sup>

**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 بِالْحَاجِّ يَظْلَمِ نَفْسَهُ مِنْ عَذَابِ 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 months<sup>(30)</sup>, the first ten days of Dhū al-Ḥijja<sup>(31)</sup> and the Night of Destiny<sup>(32)</sup> or concerning some people, like the wives of the Prophet (s) for their honour, eminence and sanctity to Allah Most High<sup>(33)</sup>. Therefore, if a special sanctity may be attributed to some periods of time and to some people, this also applies to special places like the Sanctuary of Mecca, may Allah increase its honour.<sup>(34)</sup>

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.<sup>(35)</sup>

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):

﴿يَنْسَاءَ النَّبِيِّ مَنْ يَأْتِ مِنْكُنَّ بِفَحِشَةٍ مُبَيَّنَةٍ يُضَعَّفُ 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:



## The rules concerning the Holy Land

﴿وَمَنْ يَقْنُتْ مِنْكَ لِلَّهِ وَرَسُولِهِ وَتَعْمَلَ صَالِحًا تُوْتِيهَا أَجْرَهَا مَرَّتَيْنِ وَأَعْتَدْنَا لَهَا رِزْقًا كَرِيمًا وَمَنْ

يَقْنُتْ﴾

“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 obvious on a white skin. It is said: the ḥasanāt of the righteous are like sayy’āt for those brought near to Allah.<sup>(36)</sup>

Ibn al-‘Arabī (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.<sup>(37)</sup>



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.<sup>(38)</sup>

### 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.<sup>(39)</sup>



## Section IV:

### The disbelievers inside the Ḥaram

This section is divided into five parts:

Part I: Interdiction for the disbelievers to enter the Ḥaram.

Part II: Meaning of the stain of idolaters.

Part III: The meaning of The Sacred Mosque.

Part IV: Punishing the disbeliever who enters the Ḥaram.

Part V: The disbelievers inside an Islamic state.



## Part I: Interdiction for the disbelievers to enter the Haram

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.<sup>(40)</sup>



### Evidence:

#### 1. The word of Allah Most High:

﴿يَا أَيُّهَا الَّذِينَ ءَامَنُوا إِنَّمَا الْمُشْرِكُونَ نَجَسٌ فَلَا يَقْرَبُوا الْمَسْجِدَ  
الْحَرَامَ بَعْدَ ءَامِهِمْ هَذَا﴾

“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.

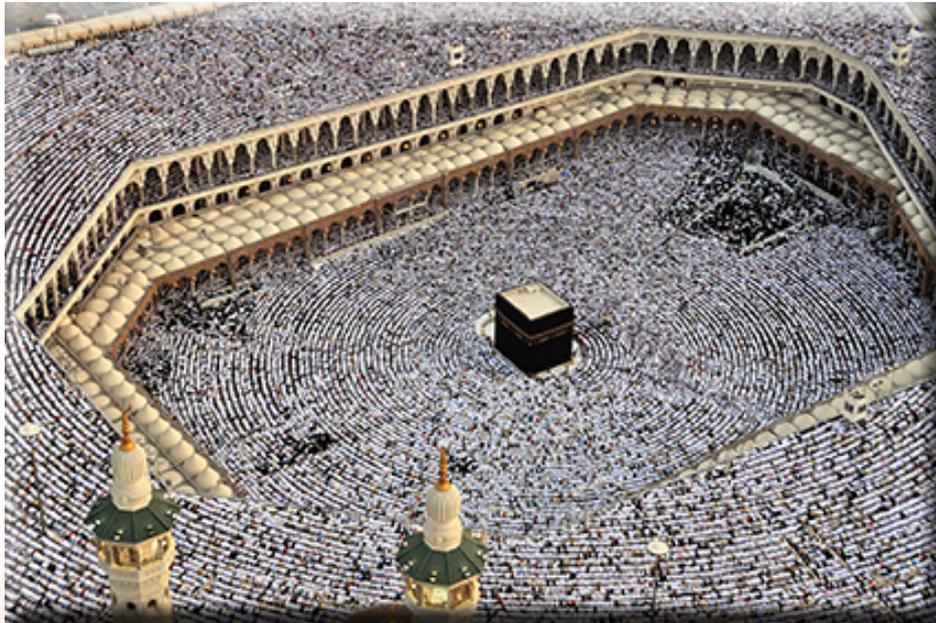
Ibn al-Kathīr (m) said: Allah commanded His believing servants, who are pure in religion and person, to expel the idolaters who are impure in the religious sense, from the Sacred Mosque. After the revelation of this verse, idolaters were no longer allowed to approach it. This verse was revealed in the 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.**<sup>(41)</sup> Allah completed this decree, made it a legislative ruling as well as a fact of reality.<sup>(42)</sup>

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 person**<sup>(43)</sup>



allowed to perform ṭawāf around the House.<sup>(44)</sup>

‘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.**<sup>(45)</sup>



## Entering the Ḥaram is forbidden to all the disbelievers:

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 الصَّدَقَتُ 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-Ḥarām) 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 ula-



ma; 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.<sup>(46)</sup>

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:

﴿إِنَّمَا الْمُشْرِكُونَ نَجَسٌ﴾

“Indeed the polytheists are impure<sup>(47)</sup>”:

**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.<sup>(48)</sup>

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.<sup>(49)</sup>

**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 Muslims<sup>(50)</sup>. 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.<sup>(51)</sup> 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.<sup>(52)</sup>



### 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 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...<sup>(53)</sup>

### 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:



## The rules concerning the Holy Land

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.<sup>(54)</sup>



### **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 surroundings, the whole city of Mecca or Mecca and its surroundings. There are legal texts explaining these four meanings<sup>(55)</sup>:

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.



## The rules concerning the Holy Land

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.**<sup>(56)</sup> And in his words (s): **Journey should not be undertaken to visit a mosque except towards three...etc.**<sup>(57)</sup>
3. It means the whole city of Mecca; as in the word of Allah Most High:

﴿ سُبْحَانَ الَّذِي أَسْرَى 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 (Ḥaram) surrounding it, as in the word of Allah Most High:

﴿ فَلَا يَفْرُبُوا الْمَسْجِدَ الْحَرَامَ بَعْدَ عَامِهِمْ هَذَا ﴾

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

### 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.<sup>(58)</sup>

### Evidence:

1. The word of Allah Most High:

﴿ وَإِنْ خِفْتُمْ عَيْلَةً فَسَوْفَ يُغْنِيكُمُ اللَّهُ مِنْ فَضْلِهِ ۗ  
إِنْ شَاءَ إِنَّ اللَّهَ عَلِيمٌ حَكِيمٌ ﴾

“And if you fear privation, Allah will enrich you from His bounty if He wills. In-



deed, 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.<sup>(59)</sup>

## 2. The word of Allah Most High:

﴿سُبْحَانَ الَّذِي أَسْرَى 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 Hānī’ (rh), which was actually situated outside the Mosque; therefore the Sacred Mosque here means the whole Sanctuary.<sup>(60)</sup>

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 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.<sup>(61)</sup>



**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.<sup>(62)</sup>

**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 autho-

rization 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, 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 en-



ter 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.<sup>(63)</sup>



## **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:

**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.

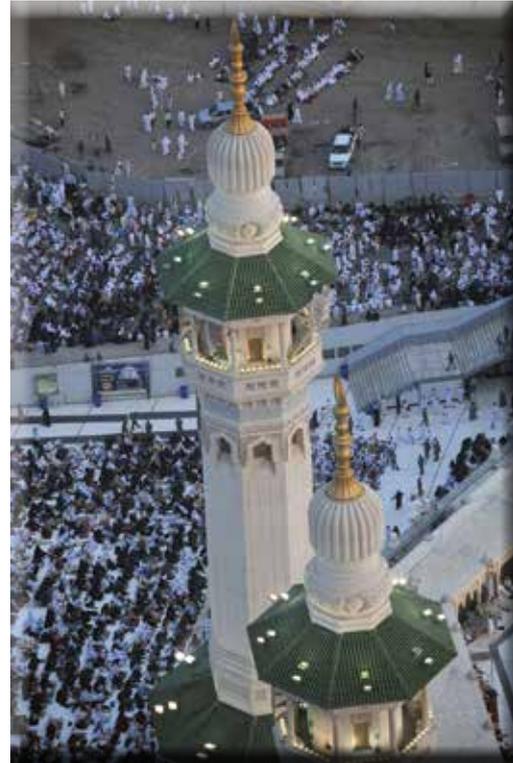


**The second category of Islamic countries: The Ḥijāz (Arabian Peninsula):** Non-Muslims can enter it if they receive permission; but they cannot stay more than the time of travelling, namely three days, according to the ḥadīth narrated by ‘Umar Ibn al-Khaṭṭāb (r) who heard the Messenger of Allah (s) 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.**<sup>(64)</sup> The Messenger of Allah (s) also recommended: **Expel the idolaters from the Arabian Peninsula**<sup>(65)</sup>; 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.<sup>(66)</sup>



## Section V:

### Cutting trees inside the Haram

This section is divided into two parts:

Part I: What is forbidden to be cut.

Part II: What is allowed to be cut.



## Part I: What is forbidden to be cut

### Firstly: Interdiction of cutting trees.

The ulama agreed on the interdiction of cutting trees inside the Ḥaram.<sup>(67)</sup>

#### 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...<sup>(68)</sup>

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...<sup>(69)</sup>

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



## Secondly: Interdiction of cutting the shrubs and grass.

The ulama agreed on the interdiction of cutting the shrubs and grass<sup>(70)</sup> inside the Ḥaram.

### 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...<sup>(71)</sup>

**Significance:** The ḥadīth indicates that it is forbidden inside the Ḥaram 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 Ḥaram. There are two opinions: the prevailing one states that it is forbidden to cut thorny bushes inside the Ḥaram; this is the view of the majority<sup>(72)</sup>, the Ḥanafī School<sup>(73)</sup> and an important part of the Ḥanbalī School<sup>(74)</sup>; an-Nawawī<sup>(75)</sup> preferred it as well as Ibn Qudāma<sup>(76)</sup> and Ibn al-Qayyim<sup>(77)</sup>.



## Evidence:

Ibn ʿAbbās (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...**<sup>(78)</sup>

1. 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.**<sup>(79)</sup>

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 shaken.**<sup>(80)</sup>

3. **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.<sup>(81)</sup>

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.<sup>(82)</sup>



## 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 Ḥanīfa<sup>(83)</sup>, Aḥmad<sup>(84)</sup>, it is also an opinion of the Shāfi'ī School<sup>(85)</sup> and Ibn Ḥazm preferred it<sup>(86)</sup>.

### Evidence:

1. Mujāhid (m) reported that ('Abd Allah) Ibn 'Umar (r2) participated in the Conquest of Mecca<sup>(87)</sup> and that he was around twenty years old. He had with him a restive



horse<sup>(88)</sup> and a heavy spear. Ibn ‘Umar went to uproot grass for his horse; then the Prophet (s) said: **Indeed ‘Abd Allah, indeed ‘Abd Allah<sup>(89)</sup>.<sup>(90)</sup>**

And in another version: **Where is ‘Abd Allah? Where is ‘Abd Allah<sup>(91)</sup>?<sup>(92)</sup>**

**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.<sup>(93)</sup>

**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.

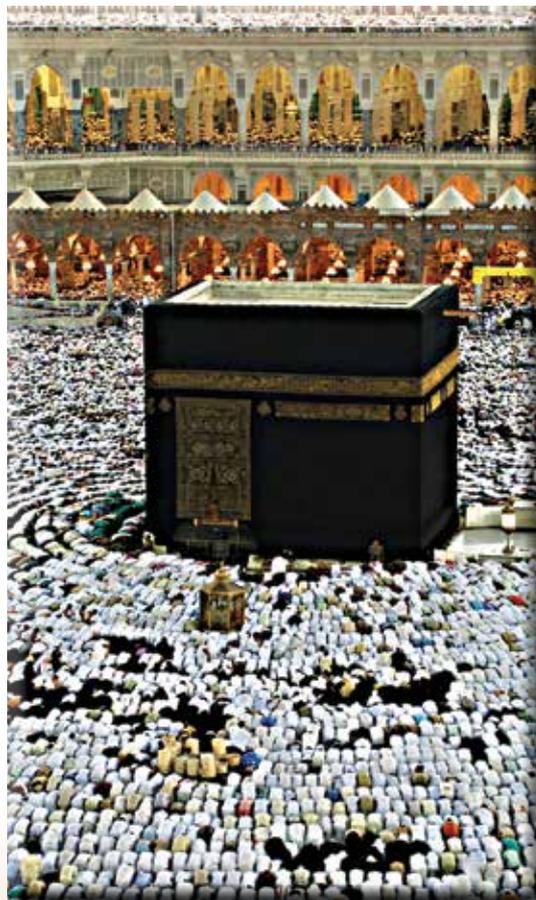
3. Aṭ-Ṭahāwī (m) said: This happened to ‘Umar (r) in the presence of other Companions of the Messenger of Allah (s), they did not reject what he did and did not oppose him; which shows that they followed his opinion on the matter.<sup>(94)</sup>

## 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 required. This is the view of ‘Aṭā’<sup>(95)</sup>, Mālik<sup>(96)</sup>, Abū Thawr<sup>(97)</sup>, Dāwūd<sup>(98)</sup>; Ibnal-Mundhir<sup>(99)</sup> and Ibn Ḥazm<sup>(100)</sup> 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.<sup>(101)</sup>



- 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.<sup>(102)</sup>
- 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.<sup>(103)</sup>
- 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.<sup>(104)</sup>



## 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 cymbopogon<sup>(105)</sup> among the plants of the Ḥaram; it is permitted to cut it.<sup>(106)</sup>

### 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 houses<sup>(107)</sup>. He said: **Except the *idhkhir*.**<sup>(108)</sup>
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*.**<sup>(109)</sup>
3. In another version: al-‘Abbās (r) said: Except the *idhkhir* for our goldsmiths and our graves<sup>(110)</sup>. He said: **Except the *idhkhir*.**<sup>(111)</sup>



**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 Ḥaram 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 Ḥaram in order to cure; there are two opinions, the prevailing one states that it is permitted to cut what is necessary as medication among the trees of the Ḥaram, like the senna<sup>(112)</sup> for example. It is the view of Mālik<sup>(113)</sup> and ash-Shāfiʿī<sup>(114)</sup>.

They diverged on picking the siwāk from the Ḥaram; there are two opinions, the prevailing one authorized it, as it is useful, like the idhkhir; this is the view of the two imams Mālik<sup>(115)</sup> and ash-Shāfiʿī<sup>(116)</sup>.

### Evidence:

1. The people need medications more than idhkhir.
2. 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.<sup>(117)</sup>



## b. Useful for the people as food:

The **ulama agreed** on picking what is edible from the Ḥaram, like truffles or purslane; this is the view of the majority from the Ḥanafī School<sup>(118)</sup>, the Mālikī School<sup>(119)</sup>, the Shāfi'ī School<sup>(120)</sup> and the Ḥanbalī School<sup>(121)</sup>.

### 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 Ḥaram.<sup>(122)</sup>
4. Ibn Qudāma (m) said: It is allowed to pick truffles inside the Ḥaram<sup>(123)</sup>.
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.<sup>(124)</sup>



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

**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-Mundhir<sup>(125)</sup>, al-Qāḍī ‘Ayyāḍ<sup>(126)</sup>, al-Kāsānī<sup>(127)</sup> and Ibn Qudāma<sup>(128)</sup>.

**They diverged** on cutting the trees of the Ḥaram 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.<sup>(129)</sup>

**Evidence:**

Since the time of the Prophet (s) until nowadays people have always planted and harvested inside the Ḥaram 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 Ḥaram; 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 Ḥaram: purslane, crops, basil, etc.<sup>(130)</sup>

2. **Ibn Baṭṭāl (m)** said: The ulama agreed on the permission of cutting what is grown by the people inside the Ḥaram 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.<sup>(131)</sup>

3. **As-Sarakhsī (m)** said: Concerning what the people usually grow, it does not have the sanctity of the Ḥaram; 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.<sup>(132)</sup>



#### **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 grass of the Ḥaram. This is the opinion of the majority backed by Abū Ḥanīfa<sup>(133)</sup>, ash-Shāfi‘ī<sup>(134)</sup> and Aḥmad<sup>(135)</sup>. An-Nawawī<sup>(136)</sup>, Ibn Taymiya<sup>(137)</sup> and Ibn al-Qayyim<sup>(138)</sup> 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**<sup>(139)</sup>.<sup>(140)</sup>

**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 game<sup>(141)</sup>; al-‘Aynī (m) said: No problem concerning cutting what is dry; it is like dead game.<sup>(142)</sup>
3. It is permitted to cut dry plants and dry trees, as they are not growing anymore<sup>(143)</sup>. 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.<sup>(144)</sup>



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

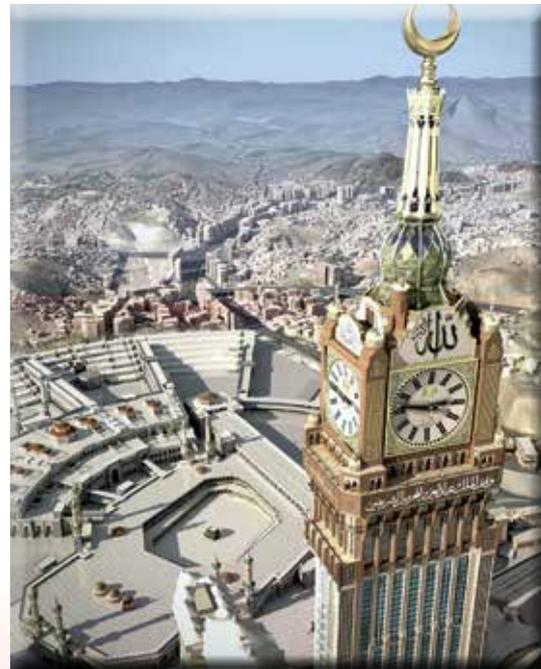
**Significance** on the permission for using broken branches, uprooted trees and fallen leaves.<sup>(145)</sup>

#### Evidence:

1. The word of the Prophet (s) concerning Mecca: **It is not permitted to cut its trees.**<sup>(146)</sup>
2. His word (s): **Its trees should not be cut.**<sup>(147)</sup>

**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.

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.<sup>(148)</sup>
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.<sup>(149)</sup>



## 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 Mālik<sup>(150)</sup>, ash-Shāfi'ī<sup>(151)</sup> and Aḥmad in the other narration<sup>(152)</sup> and Abū Yūsuf<sup>(153)</sup>, 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.<sup>(154)</sup>

**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.<sup>(155)</sup>
3. The need of the people for grazing their beasts is like their needs for idhkhir.<sup>(156)</sup>

Ibn 'Ābidīn (m) said: leading the beasts outside the Ḥaram for grazing is great hardship.<sup>(157)</sup>

**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.

## Section VI:

### The game of the Ḥaram

This section is divided into five parts:

Part I: Defining the game.

Part II: The rule on the game of the Ḥaram.

Part III: Penalty for killing the game, in the state of iḥrām or not.

Part IV: The difference between making an error voluntarily and involuntarily.

Part V: Bringing game inside the Ḥaram.



## Part I: Defining the game

Allah Most High forbade killing the game inside the Ḥaram in His word, exalted be He:

﴿ يَا أَيُّهَا الَّذِينَ ءَامَنُوا لَا تَقْتُلُوا الصَّيْدَ وَأَنْتُمْ حُرُمٌ ﴾

“O you who have believed, do not kill wild game while you are in the state of iḥrām” Surat al-Mā’ida – The Table spread: 95. Then, what is the meaning of killing game here?



The meaning of the game in the verse refers to three points:

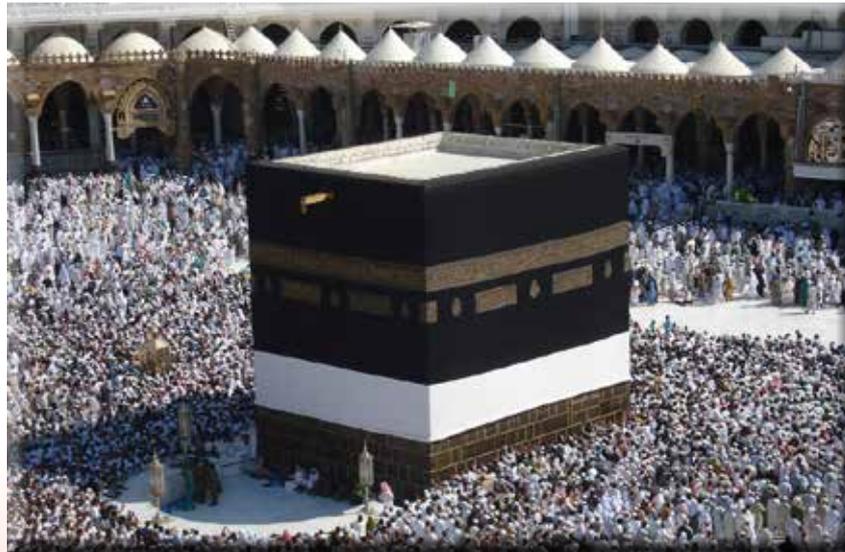
## The first one: The game has to be ḥalāl food.

Imam Aḥmad (m) said: Expiation is for the game that is legal to eat.<sup>(158)</sup>

## The second one: The game has to be wild.

No divergence between the ulama that beasts which are not wild like the cattle, horses, chicken, etc. can be slaughtered or eaten by the muḥrim if they are not wild as they are bred for that. This has been reported by Ibn Ḥazm<sup>(159)</sup>, Ibn Qudāma<sup>(160)</sup>, Ibn Ḥajar and others.

Ibn Ḥajar (m) said: They agreed that the game here only means what is lawful as food from wild beasts and that nothing permits one to kill it.<sup>(161)</sup>



**The third one: The game has to be game from the land not game from the sea.**

Allah Most High said:

﴿ أَجَلٌ لَّكُمْ صَيْدُ الْبَحْرِ وَطَعَامُهُ مَتَاعًا لَّكُمْ وَلِلسَّيَّارَةِ ﴾

“Lawful to you is game from the sea and its food as provision for you and the travellers” Surat al-Mā’ida: 96.

Ibn al-‘Arabī (m) said: When Allah Most High said: “O you who have believed, do not kill wild game while you are in the state of iḥrām” (Surat al-Mā’ida – The Table spread: 95) it concerned all kind of game, from land and sea; then His word came, exalted be He: “Lawful to you is game from the sea” (Surat al-Mā’ida: 96). He then gave His absolute permission concerning game from the sea and He forbade game from the land for the people in the state of iḥrām. This differentiation and distinction indicates that the interdiction does not encompass game from the sea.<sup>(162)</sup>

There is a unanimous consensus between the ulama about the permission for the muḥrim concerning game from the sea; this was reported by Ibn al-Mundhir<sup>(163)</sup>, Ibn Ḥazm<sup>(164)</sup>, Ibn Qudāma<sup>(165)</sup>, etc.



## Part II: The rule on the game of the Haram

They ulama reached a consensus on the interdiction to hunt the game of the Haram for everyone, muḥrim or not.<sup>(166)</sup>

### Evidence:

1. Ibn 'Abbās (r2) narrated: The Messenger of Allah (s) said on the Day of the Conquest of Mecca: **Verily Allah made this city sacred, its thorny shrubs are not to be cut neither its game disturbed**<sup>(167)</sup> ...<sup>(168)</sup>
2. Abū Hurayra (r) narrated: When Allah granted His Messenger (s) victory over Mecca, he stood (to deliver an address) among the people, he praised Allah and glorified Him, and then he said: **... its game should not be disturbed.**<sup>(169)</sup>

**Significance:** Here is a statement about the interdiction to hunt the game of the Haram for everybody, muḥrim or not.

3. 'Ikrima, the servant of Ibn 'Abbās (r2), said: Do you know what disturbing the game means? It means driving it out of the shade to occupy its place.<sup>(170)</sup>



**Words of scholars on the matter:**

1. **An-Nawawī (m)** said: The ulama said: When the Prophet (s) spoke about disturbing the game it means harming it; as, if disturbing it is forbidden, consequently harming it comes even first.<sup>(171)</sup>
2. **Ibn al-Qayyim (m)** said: It cannot be moved from its place, as it is a respected animal in this place; as it was first there it has priority.<sup>(172)</sup>
3. **Al-Muḥibb aṭ-Ṭabarī (m)** said: No divergence: If one moved it without harm, there is no penalty; but it is a sin as he violated an interdiction. If he harmed it by moving it from its place, there is a penalty.<sup>(173)</sup>

**Evidence of the Consensus:**

Many scholars related a consensus over the interdiction to hunt the game of the Ḥaram for everyone (muḥrim or not); among them: Ibn al-Mundhir, Ibn Ḥazm, an-Nawawī, Ibn Qudāma<sup>(174)</sup>, etc.

1. **Ibn al-Mundhir (m)** said: They unanimously agreed that hunting the game of the Ḥaram is forbidden, in the state of iḥrām or not.<sup>(175)</sup>
2. **Ibn Ḥazm (m)** said: They unanimously agreed that, inside the Sanctuary of Mecca, hunting the game of the land that is legal as food is forbidden.<sup>(176)</sup>



3. An-Nawawī (m) said: Concerning hunting the game of the Ḥaram: it is forbidden, in the state of iḥrām or not; if one kills an animal, he will receive a penalty according to all the scholars.<sup>(177)</sup>

## Part III: Penalty for killing the game, in the state of iḥrām or not

### Firstly: Penalty for killing game inside the Ḥaram for the muḥrim.

**Significance** that penalty is compulsory for he who kills the game of the Ḥaram.

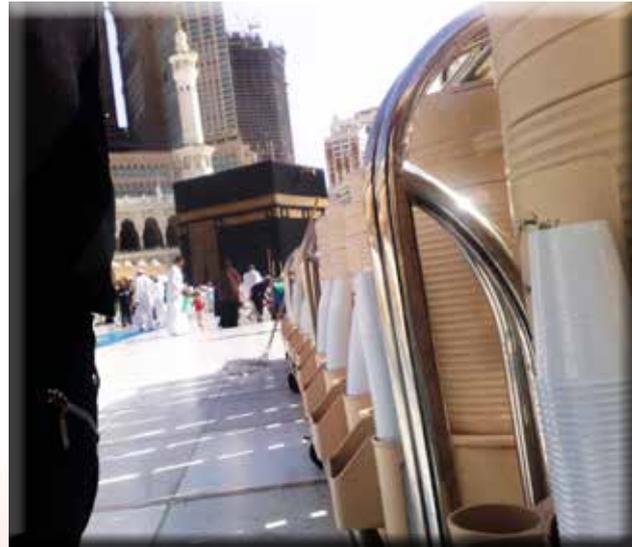


**Evidence:**

**The word of Allah Most High:**

﴿يَأَيُّهَا الَّذِينَ ءَامَنُوا لَا تَقْتُلُوا الصَّيْدَ وَأَنْتُمْ حُرْمٌ وَمَنْ قَتَلَهُ مِنْكُمْ مُتَعَمِّدًا فَجَزَاءٌ  
مِّثْلُ مَا قَتَلَ مِنَ النَّعْمِ يَحْكُمُ بِهِ ذَوَا عَدْلٍ مِّنكُمْ هَدِيًّا بَلِغَ الْكَعْبَةِ أَوْ كَفَّرَةٌ طَعَامُ  
مَسْكِينٍ أَوْ عَدْلٌ ذَلِكِ صِيَامًا لِيَذُوقَ وَبَالَ أَمْرِهِ عَفَا اللَّهُ عَمَّا سَلَفَ وَمَنْ عَادَ  
فَيَنْتَقِمُ اللَّهُ مِنْهُ وَاللَّهُ عَزِيزٌ ذُو انْتِقَامٍ﴾

“O you who have believed, do not kill game while you are in the state of ih̄rām. And whoever of you kills it intentionally – the penalty is an equivalent from sacrificial animals to what he killed, as judged by two just men among you as an offering (to Allah) delivered to the Ka’ba, or an expiation: the feeding of needy people or the equivalent of that in fasting, that he may taste the consequence of his deed. Allah has pardoned what is past; but whoever returns (to violation), then Allah will take retribution from him. And Allah is Exalted in Might and Owner of Retribution.” Surat al-Mā’ida – The Table Spread: 95.



## The rules concerning the Holy Land

**Significance:** The verse expresses the obligation of a penalty for the muḥrim who killed game inside the Ḥaram.

### Evidence of the Consensus:

Many scholars related a consensus over the obligation of a penalty for the muḥrim who killed game inside the Ḥaram; among them: Ibn Rushd<sup>(178)</sup>, Ibn Qudāma, Ibn Baṭṭāl<sup>(179)</sup>, etc.

Ibn Qudāma (m) said: The penalty is absolutely compulsory for the muḥrim who killed game inside the Ḥaram; the scholars unanimously agreed on this obligation and Allah Most High stated it.<sup>(180)</sup>

### Secondly: Penalty for killing game inside the Ḥaram for a person who is not in a state of iḥrām.

The ulama diverged on imposing a penalty for he who killed game inside the Ḥaram but who is not a muḥrim. There are two opinions; the prevailing one states that there is a penalty; this is the view of the majority and of the four imams.<sup>(181)</sup>

### Evidence:

1. The word of Allah Most High: “And whoever of you kills it intentionally – the penalty is equivalent from sacrificial animals to what



an  
he

killed” Surat al-Mā’ida – The Table Spread: 95.

**Significance:** By analogy with the penalty incumbent on the muḥrim for killing game; as the game of the Ḥaram has been made forbidden for the sake of Allah Most High, it is comparable with iḥrām; this is why it is followed by expiation.<sup>(182)</sup>

Ash-Shirbīnī (m) said: There is no distinction between people in the state of iḥrām and others inside the Ḥaram because of the interdiction to oppose divine law.<sup>(183)</sup>

Ibn Qudāma (m) said on hunting the game of the Ḥaram for people who are not in the state of iḥrām: It is forbidden to hunt it by divine authority; it is similar to the case of a muḥrim.<sup>(184)</sup>



## 2. The word of Allah Most High:

﴿وَأَنْتُمْ حُرُمٌ﴾

“... while you are in the state of iḥrām...” Surat al-Mā’ida – The Table Spread: 95.

**Significance:** The words “in the state of iḥrām” refer to the state, namely the iḥrām, and the place: the Ḥaram.

Ibn al-‘Arabī (m) said about the word of Allah Most High “in the state of iḥrām<sup>(185)</sup>”: It has a general meaning referring to either time, space or the state of iḥrām; but according to a consensus, the connection to time here has been rejected, therefore only the connection to the place and the state of iḥrām remained the cause of the penalty.<sup>(186)</sup>



There is a penalty – expiation for hunting the game of the Ḥaram for people who are not in the state of iḥrām – according to many Companions (rp); among them the two righteous caliphs ‘Umar and ‘Uthmān (r2) and no one objected to them, it is therefore a consensus.<sup>(187)</sup>

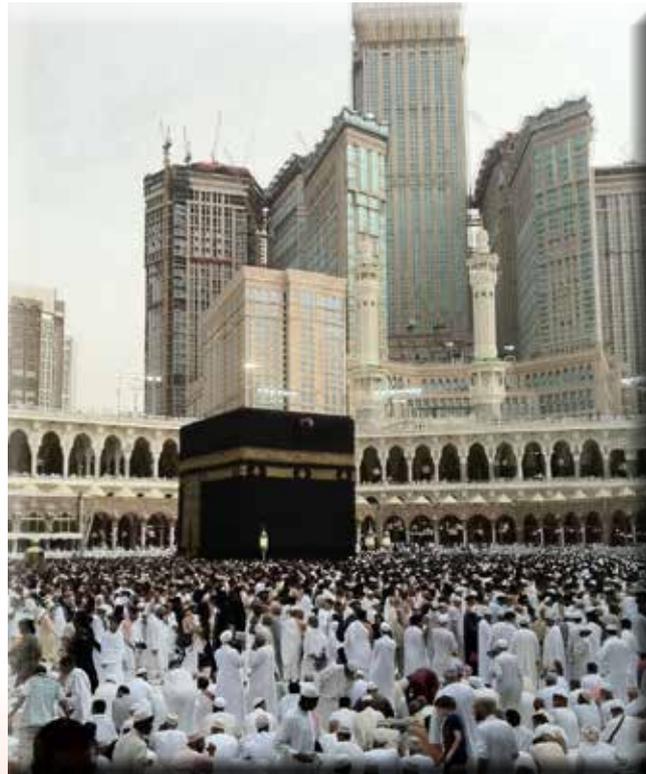
**Among the most important established acts of the Companions are the following:**

- a. Nāfi’ Ibn ‘Abd al-Ḥārith narrated: ‘Umar Ibn al-Khaṭṭāb (r) arrived in Mecca a Friday and he entered Dār an-Nadwa (a house where political affairs used to be discussed) as he intended to take a short cut to go to the Sacred Mosque. Inside the house, he threw his cloak on a pillar where a bird of the kind of the pigeon settled. He drove it away to a place where a snake bit it and killed it. After he performed the Friday prayer, I visited him with ‘Uthmān Ibn ‘Affān (r). ‘Umar



told us: Give me your opinion on something I did today: I entered this house as I intended to take a short cut to the Sacred Mosque. Inside it I threw my cloak on this pillar where a bird of the kind of the pigeon settled. I feared that it might soil my cloak with its excrement so I drove it away and it settled on this other pillar where a snake bit it and killed it. I said to myself that I was the cause of that. It was in a safe place and I drove it to death. I (Nāfi') said to 'Uthmān (r): What do you think of a russet little goat<sup>(188)</sup> as an atonement that we could impose to the Commander of the Faithful? 'Uthmān agreed and 'Umar obeyed.<sup>(189)</sup>

- b. What was reported by Ṣāliḥ Ibn al-Mahdī whose father told him: I was in Mecca with 'Uthmān (r) for the pilgrimage. I prepared him his bed and he fell asleep. A pigeon settled on an opening in the wall next to his bed and started to scratch (that place) with its feet. I feared that it might wake him up so I drove it away and it settled on another opening. Then a snake came and killed it. When 'Uthmān (r) woke up



I informed him of what happened and he said: You have to sacrifice a ewe as atonement. I replied: I drove it away for you! He said: I will sacrifice a ewe as well.<sup>(190)</sup>

- c. Ibn ‘Abbās (r2) said that the penalty for a pigeon of the Ḥaram, imposed on people in iḥrām or not, was a ewe.<sup>(191)</sup>
- d. According to another narration, Ibn ‘Abbās (r2) stated that for each dove of Mecca, the penalty was a ewe.<sup>(192)</sup>
- e. Ash-Shāfi‘ī (m) said: ‘Umar, ‘Uthmān, Nāfi‘ Ibn ‘Abd al-Ḥārith, ‘Abd Allah Ibn ‘Umar, ‘Āṣim Ibn ‘Umar, Sa‘īd Ibn al-Musayyib and ‘Aṭā’ said so.<sup>(193)</sup>



## Part IV: The difference between making an error voluntarily and involuntarily

The ulama diverged on the expiation for killing game of the Ḥaram; is it compulsory for he who did it involuntarily as for he who did it intentionally? There are two opinions; **the prevailing one** states that there is no expiation for he who killed game involuntarily. Imam Aḥmad backed this opinion in one of the two versions he quoted<sup>(194)</sup>. This view is preferred by Ibn al-Mundhir<sup>(195)</sup>, Ibn Ḥazm<sup>(196)</sup> and Ibn al-Jawzī<sup>(197)</sup>; and among the contemporaries who chose it: as-Sa‘dī<sup>(198)</sup>, Ibn Bāz<sup>(199)</sup> and Ibn ‘Uthaymīn<sup>(200)</sup>.



**Evidence:**

**1. The word of Allah Most High:**

﴿وَمَنْ قَتَلَهُ مِنْكُمْ مُتَعَمِّدًا فَجَزَاءٌ مِّثْلُ مَا قَتَلَ مِنَ النَّعَمِ﴾

“And whoever of you kills it intentionally – the penalty is an equivalent from sacrificial animals to what he killed” Surat al-Mā’ida – The Table Spread: 95.

**Significance:** the atonement has to be observed if one disobeys on purpose; therefore it does not concern acts committed by accident.



## The rules concerning the Holy Land

Ibn ‘Uthaymīn (m) said: “intentionally” is the very cause of the sanction. When a description (intentionally) is linked to a rule, the rule is conditioned by it, so if the description disappears, the rule is cancelled. Therefore, if someone committed something by accident, the sanction is cancelled. The verse is a law in the matter.<sup>(201)</sup>

Ibn Bāz (m) said: The verse of the Qur’ān indicates that atonement is compulsory only for he who acted intentionally, this is the most obvious meaning, and a person in the state of iḥrām may kill an animal by accident, especially if he drives a car; Allah Most High said:

﴿يُرِيدُ اللَّهُ بِكُمُ الْيُسْرَ وَلَا يُرِيدُ بِكُمُ الْعُسْرَ﴾

“Allah intends for you ease and does not intend for you hardship” Surat al-Baqara: 185.<sup>(202)</sup>

2. Qabīṣa Ibn Jābir al-Asadī narrated: We were heading to Mecca to perform Ḥajj and we were squabbling, in the state of iḥrām, about which was the fastest: the antelope or the horse? While we were like that, an antelope appeared and a man among us threw it a stone that hit its *khushashā’* (a thin bone not covered by hairs behind the ear)<sup>(203)</sup>, the antelope fell on its head, broke its neck and died. When we approached Mecca, we went to ‘Umar



and my friend told him the story. ‘Umar (r) asked him: Did he kill it intentionally or not? He said: I wanted to throw it a stone, but I did not want to kill it. ‘Umar (s) said: It is between intentionally and by accident. He then turned to a man at his side and spoke with him for a while. Then he called my friend and said to him: Take a ewe lamb, sacrifice it, give its meat as alms and make a water-skin from its leather.<sup>(204)</sup>

**According to another version;** Qabīṣa Ibn Jābir al-Asadī narrated that he heard ‘Umar Ibn al-Khaṭṭāb, ‘Abd ar-Raḥmān Ibn ‘Awf was with him, asking a man who killed an antelope while in the state of iḥrām: Did you kill it intentionally or not? The man replied: I wanted to throw it a stone but I did not intend to kill it. ‘Umar then said: I see that you acted between intentionally and by accident; take a ewe lamb and sacrifice it, give its meat as alms and make a water-skin out of its leather.<sup>(205)</sup>

**Significance:** There is a distinction between killing the game of the Ḥaram intentionally and killing it by accident; as ‘Umar (r) made it clear and ‘Abd ar-Raḥmān Ibn ‘Awf (r) did not question him.

Ibn Ḥazm (m) said after quoting this story: If, for ‘Umar and ‘Abd ar-Raḥmān (r2), there was no distinction between killing the game intentionally and killing it by accident, then why ‘Umar did ask him if he killed it intentionally or not? ‘Abd ar-Raḥmān (r) did not question ‘Umar; the silence of ‘Abd ar-Raḥmān (r) indicates that he agreed with ‘Umar (r).<sup>(206)</sup>



## Part V: Bringing game inside the Ḥaram

The **ulama diverged** about permission to bring game inside the Ḥaram. There are two opinions, the **prevailing one** states that it is legal to bring game inside the Ḥaram; this is the view of the two imams Mālik<sup>(207)</sup> and ash-Shāfi‘ī<sup>(208)</sup> and Ibn al-Mundhir<sup>(209)</sup> and Ibn Ḥazm<sup>(210)</sup> preferred it.

### Evidence:

Ṣāliḥ Ibn Kaysān **(m)** narrated: I saw game being sold alive in Mecca under the emirate of Ibn Zubayr **(r2)**.<sup>(211)</sup>

Ḥammād Ibn Zayd said: It has been said to Hishām Ibn ‘Urwa: ‘Aṭā’ considers slaughtering poultry a disliked act (makrūh); he (Hishām) said: What does ‘Aṭā’ know? Here is the Commander of the Faithful (Ibn Zubayr **(r2)**) at Mecca who sees *al-qamārī*<sup>(212)</sup> and *ad-dabāsī* in cages (without saying anything about it)<sup>(213)</sup>.

**Significance:** Ibn Zubayr **(r2)** saw game being sold in cages inside Mecca and he did not question that; this indicates that it is permitted to enter game inside the Ḥaram.

Originally it is permitted to enter game inside the Ḥaram as nothing can make it forbidden except if there is evidence; moreover it is facilitation for the people of Mecca and the pilgrims. “If it was forbidden, it would have been very complicated for them.”<sup>(214)</sup>



## Section VII:

### Lost things inside the Ḥaram

The **ulama diverged** about lost things found inside the Ḥaram: should one pick them up and keep them in order to publicize them or is it permissible to appropriate them? There are two opinions: **the prevailing one** states that it is utterly forbidden to appropriate them, instead one has to pick them up in order to make the find public. This is the view of ash-Shāfi'ī<sup>(215)</sup> and Aḥmad in one of the two versions he quoted<sup>(216)</sup>, and it has been preferred by the majority of contemporary and ancient scholars.<sup>(217)</sup>



## The rules concerning the Holy Land

### Evidence:

1. Ibn 'Abbās (r2) narrated that the Prophet (s) said: No one is to pick up the dropped things<sup>(218)</sup> except one who makes a public announcement of it<sup>(219), (220)</sup>

In another version: It is not permitted to pick up its dropped things except for he who makes a public announcement for it.<sup>(221)</sup>

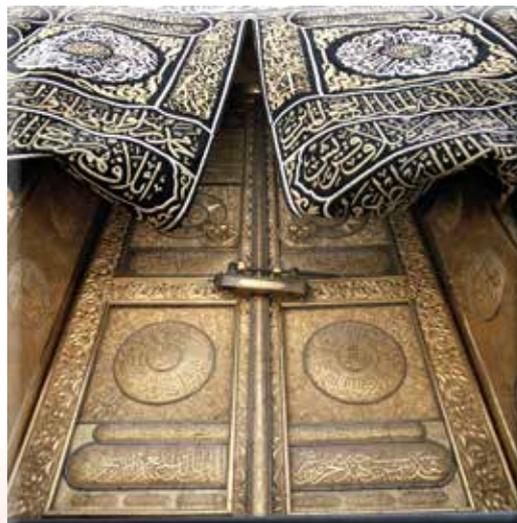
2. Abū Hurayra (r) narrated: The Messenger of Allah (s) said: It is not permitted to pick up its fallen things except for he who makes public announcement for it.<sup>(222)</sup>

In another version: Picking up its fallen things<sup>(223)</sup> is not permitted except for he who makes public announcement for it<sup>(224), (225)</sup>

3. 'Abd ar-Raḥmān Ibn 'Uthmān at-Taymī (r) narrated: The Messenger of Allah (s) forbade taking lost things from the pilgrim.<sup>(226)</sup>

**Significance:** It is not permitted to pick up lost things except for making a public announcement for it in order to find its owner.

4. Al-Azharī (m) said: He (s) made a distinction between lost things inside the Ḥaram and lost things anywhere else around the world. The rule for lost things found anywhere but the Ḥaram is that he who finds a dropped thing has to make a public announcement for it and after one year he is



allowed to use it; whereas something found inside the Ḥaram cannot be used by he who found it even after a public announcement for it and even after a long period of time. He ruled that it is not allowed to pick up dropped things inside the Ḥaram except with the intention of making public announcement for them for life. Therefore it is allowed to pick up dropped things inside the Ḥaram for making a public announcement for them, but it is not permitted to use these things, even after one year, as it is the case in any other places on earth but the Ḥaram.<sup>(227)</sup>

5. An-Nawawī (m) said: In all the ḥadīths of the chapter is evidence that picking up dropped things and keeping them do not need the decision of a judge or permission of the governor; there is a consensus about it and there is no distinction between the poor and the rich; this is our opinion and the opinion of the majority.<sup>(228)</sup>

### The reason for the interdiction of picking up things inside the Ḥaram:

Ibn Ḥajar (m) spoke about the wisdom on the matter: The most probable is that he who finds a lost thing in Mecca despairs of finding its owner and its owner despairs of finding it before leaving for a remote place. He who finds a lost thing in Mecca may initially desire to possess his finding and may not want to make a public announcement for it but the law forbids it and states that no one is permitted to pick up a lost thing in Mecca except for making a public announcement for it in order to find its owner. This differs from the findings of soldiers in non Muslim countries (*Dār al-ḥarb*; House of War): after they left a country, there is no need



## The rules concerning the Holy Land

to make a public announcement according to a unanimous agreement; whereas for something found in Mecca it is a duty to make a public announcement for it because of the possibility for its owner to come back to Mecca and then to know the finder.<sup>(229)</sup>

Ibn al-Qayyim (m) said: Our sheikh said: This is a particularity of Mecca; the difference between Mecca and the rest of the world is that people coming from different countries can come back, ask for their lost things and find them.<sup>(230)</sup>



## Section VIII:

### Fighting inside the Ḥaram

This section is divided into three parts:

Part I: Interdiction of fighting inside the Ḥaram.

Part II: Fighting oppressors inside the Ḥaram.

Part III: Carrying arms inside the Ḥaram.

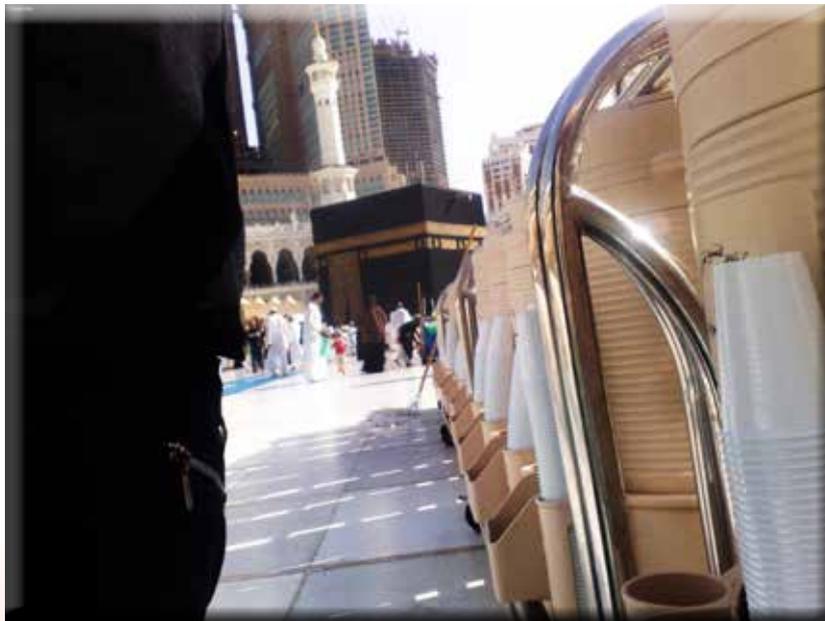


## Part I: Interdiction of fighting inside the Haram

**Significance** on the interdiction of fighting in Mecca.<sup>(231)</sup>

### Evidence:

1. Ibn 'Abbās (r2) narrated that the Messenger of Allah (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. It was not permitted to fight therein for anyone before me; it was made lawful for me only for a part of one day and it is sacred by the sacredness conferred on it by Allah until the Day of Resurrection.<sup>(232)</sup>



2. Abū Hurayra (r) narrated: When Allah granted his Messenger (s) victory on the Day of the Conquest of Mecca; he (s) stood up among the people, praised Allah and exalted Him; then he said: Allah withheld the elephant from Mecca and empowered His Messenger and the believers over it. It has not been made lawful (i.e. fighting in it) for anyone before me, but it has been lawful for me only for a few hours on a day (the Day of the Conquest), and it will not be made lawful to anyone after me (to fight therein).(233)
3. 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. If anyone seeks permission to fight in it because the Messenger of Allah fought in it, say to him: Allah permitted his Messenger (to fight therein) but He did not permit you. Rather permission was given to me (to fight therein) for a short period one day; and now its sanctity has been restored as it was before. Let those who are present convey (this news) to those who are absent.(234)

**Significance:** The ḥadīths indicate that it is forbidden to fight and to shed blood in Mecca because of its sacredness conferred by Allah the Exalted Majestic.

Ibn Ḥazm (m) said: These are three reports of three companions of the Messenger of Allah (s): Abū Hurayra, Ibn ‘Abbās and Abū Shurayḥ; each of them quoting the Messenger of Allah (s) saying: Mecca has been made sacred by Allah Most High.<sup>(235)</sup>



## Part II: Fighting oppressors inside the Haram

Firstly: Oppressors start the fighting.

**Significance** that if oppressors<sup>(236)</sup> start a battle inside the Haram, it is permitted to fight them<sup>(237)</sup>.

**Evidence:**

**1. The word of Allah Most High:**

﴿وَلَا تَقَاتِلُوهُمْ عِنْدَ الْمَسْجِدِ الْحَرَامِ حَتَّى يُفْتَلُوهُ فِيهِ فَإِنْ قَتَلْتُمْهُمْ فَاقْتُلُوهُمْ كَذَلِكَ جَزَاءُ الْكَافِرِينَ﴾



“And do not fight them at the Sacred Mosque until they first attack you there. But if they fight you, then kill them. Such is the reward of disbelievers” Surat al-Baqara – The Cow: 191.

**Significance:** Allah Most High permitted the believers to fight the idolaters in the Holy Land if they attacked them and fought them.

**Meaning of the verse:** O Muslims! Do not first attack the idolaters at the Sacred Mosque until they first attack you. If they attack you first there, at the Sacred Mosque in the Ḥaram, then kill them. Allah made death the reward of disbelievers for their disbelief and their evil deeds in this world and long ignominy in the hereafter.<sup>(238)</sup>

Therefore it is not permitted to fight the disbelievers inside the Sacred Mosque except if they started to fight; then they are to be fought as a reward for their attack;



this is the permanent rule until they stop disbelieving and convert to Islam; then Allah would accept their repentance even if they previously rejected Allah and gave him associates inside the Sacred Mosque, and even if they prevented the Messenger and the believers to reach the Sacred Mosque:

﴿ فَإِنِ انْتَهَوْا فَإِنَّ اللَّهَ غَفُورٌ رَحِيمٌ ﴾

“And if they cease, then indeed, Allah is Forgiving and Merciful.” Surat al-Baqara: 192. This is a mercy from Him and a grace bestowed to His servants.

Fighting inside the Sacred Mosque is considered a sin committed inside this Holy Land; but Allah Most High informed us that the sin of persecution at that place, giving Allah associates and preventing people from entering Islam is a sin worse than murder:



﴿وَقَاتِلُوهُمْ حَتَّى لَا تَكُونَ فِتْنَةٌ وَيَكُونَ الدِّينُ لِلَّهِ فَإِنِ انْتَهَوْا فَلَا عُدْوَانَ إِلَّا عَلَى الظَّالِمِينَ﴾

“And fight them until persecution is no more, and religion is for Allah. But if they cease, then let there be no hostility except against oppressors” Surat al-Baqara: 193. Therefore, O Muslims, you have permission to fight them. We can conclude from this verse this well known rule: when one is confronted with two sins, the lesser sin is committed in order to avoid the worst.<sup>(239)</sup>

1. This rule from Allah Most High concerning fighting the idolaters and the disbelievers was specific and relevant at the time of the Messenger of Allah (s) when the idolaters and the disbelievers had power in the Haram and were its people. Later, after Mecca became forbidden for idolaters and disbelievers, it became the duty of the Muslims to prevent them entering it and to fight them if they tried. Fighting them at the Sacred Mosque as mentioned in the verse remains valid until the Day of Resurrection.



## The rules concerning the Holy Land

2. Concerning oppressors who are not idolaters and who pretend to be Muslims, they are permitted to enter the Ḥaram; but if they gather inside the Ḥaram and start fighting there, it is a duty to fight them, as it enters the rule of this noble verse.

3. Secondly: Fighting the oppressors inside the Ḥaram before they attack.

The ulama diverged on the rule on fighting the oppressors inside the Ḥaram before they attack; there are two opinions; the prevailing one states that it is forbidden; instead, they must be compelled to go out of it or to see reason<sup>(240)</sup>. This is the opinion chosen by Ibn Ḥazm<sup>(241)</sup>, Ibn al-‘Arabi<sup>(242)</sup>, al-Muḥibb aṭ-Ṭabari<sup>(243)</sup>, Ibn Taymiya<sup>(244)</sup> and Ibn al-Qayyim<sup>(245)</sup>.

### Evidence:

1. The ḥadīths previously mentioned concerning the interdiction to fight in Mecca for it is sacred; it has been permitted to fight therein only for the Prophet (s) and for no one else before or after him. Allah Most High gave him permission only for a while on a specific day; as it appears in the ḥadīths of Ibn ‘Abbās, Abū Hurayra and Abū Shurayḥ (rp).<sup>(246)</sup>

**Significance:** The Prophet (s) insisted on the interdiction to shed blood in Mecca and to fight therein. There was an exception for the Messenger of Allah (s)



only for a while on one day and it will not be permissible for anyone after him.

2. The ḥadīth previously quoted and narrated by Abū Shurayḥ (r): The word of the Prophet (s) concerning Mecca: **It is not permissible for any man who believes in Allah and the Last Day to shed blood in it.**<sup>(247)</sup>

**Significance:** It is an absolute refusal meant for all.<sup>(248)</sup>

### Words of scholars on the matter:

1. Al-Māwardī (m) said about Mecca: Its people cannot be fought because of the interdiction given by the Messenger of Allah (s); some scholars think that even if they committed an injustice against right people they cannot be fought but have to be compelled (peacefully) to come back to justice and right their wrongs.<sup>(249)</sup>
2. Similarly Ibn Ḥazm (m) said: It is not permissible to fight anyone, no idolater nor Muslim inside the Ḥaram of Mecca; instead people are lead outside of it where they are to be fought, made prisoners or punished; if they refuse and fight us first, we therefore fight them inside the Ḥaram as ordered by Allah Most High; this is the way we treat any oppressor or tyrant among the Muslims.<sup>(250)</sup>



## Part III: Carrying arms inside the Haram

The ulama diverged on the rule concerning carrying arms inside the Haram; there are two opinions, the prevailing one states that it is permitted to carry arms inside the Haram if it is needed and necessary; this is the view of Mālik<sup>(251)</sup>, ash-Shāfi‘ī<sup>(252)</sup> and the majority of scholars<sup>(253)</sup>.

### Evidence:

1. Al-Barā’ Ibn al-Āzib (r2) said: When the Messenger of Allah (s) concluded the peace treaty of Ḥudaybiya, ‘Alī drew up the agreement and he wrote in it: Muḥammad, the Messenger of Allah (s). The idolaters said: Do not write “Muḥammad, the Messenger of Allah”, for if you were a messenger we would not fight with you. The Messenger of Allah asked ‘Alī: **Rub it out!** But ‘Alī (r) said: I will not be the person who rubs it



out. So the Messenger of Allah (s) rubbed it out with his hand and made peace with them on the condition that the Prophet and his companions would enter Mecca and stay there for three days, and that they would not enter except with their weapons in cases<sup>(254)</sup>. They asked: What does weapons in cases mean? He replied: The bag of armament with its contents<sup>(255)</sup>,<sup>(256)</sup>

**Significance:** The Prophet (s) entered Mecca the following year, for 'Umra al-qaḍā, with weapons in their cases in accordance with the treaty.<sup>(257)</sup>

2. Anas Ibn Mālik (r) narrated that **on the day of the Conquest, the Prophet (s) entered Mecca, wearing a helmet on his head**<sup>(258)</sup>,<sup>(259)</sup>

**Significance:** When the Prophet (s) entered Mecca on the year of the Conquest he was ready to fight.

On that part of the day on that occasion, Allah Most High made it permissible for the Prophet (s) to fight therein; then Allah informed him the next day that the sacredness of Mecca was restored until the Day of Resurrection.<sup>(260)</sup>



## Interdiction to carry arms in Mecca if not necessary:

Carrying weapons inside a land that has been made a safe sanctuary by Allah Most High is meaningless and contradictory; it is either a sign of fear, a desire to take revenge or a way for a transgressor to defend his possessions.<sup>(261)</sup> Jābir (r) narrated: I heard the Prophet (s) saying: **It is not permissible for anyone to carry weapons in Mecca.**<sup>(262)</sup>

The combination between the ḥadīth that forbids and the ḥadīths that permits to carry arms:

The majority of ulama underlined two points concerning the reason of the interdiction to carry weapons in Mecca:

1. Carrying weapons is not permissible except if there is fear and need.<sup>(263)</sup>
2. Because weapons are carried insolently, with arrogance or in such a manner that it can be harmful for the people; especially at crowded places and narrow ways.<sup>(264)</sup>

### Summary:

It is permissible to carry weapons in Mecca if it is necessary and needed because the Prophet (s) did it when he entered Mecca the year of the Conquest.



**If one says that** the Prophet (s) received permission to carry weapons in Mecca only for a short period on one specific day, **we reply that** he laid down his conditions for the 'Umra al-qaḍā in the treaty of Ḥudaybiya, among them to carry weapons. So he entered Mecca with weapons as mentioned in the terms of the treaty and this was not the day of the Conquest.

Moreover, security guards responsible for the protection and the safety of the Sanctuary are allowed to carry weapons for it is required and necessary. Keeping security and protecting the Sacred Mosque and the Honourable Ka'ba are important demands that have to be achieved; they are daunting responsibilities for those in charge and they cannot accomplish their mission without weapons in order to repel attacks or aggression.



## Section IX:

### Killing vermin inside the Haram

This section is divided into two parts:

Part I: Defined vermin.

Part II: Non defined vermin.



## Part I: Defined vermin

Firstly: The rule:

**Most ulama** permit to kill six kinds of vermin inside and outside the Ḥaram, even in the state of iḥrām, namely kites, mice or rats, snakes, scorpions, speckled crows and vicious dogs.<sup>(265)</sup>

**Evidence:**

1. Ibn 'Umar (r2) narrated: The Prophet (s) said: There are five (kinds of animals) for which there is no sin on he who kills them inside the Ḥaram and in the state of iḥrām: the mouse or the rat, the scorpion, the crow, the kite and the vicious dog.<sup>(266)</sup>
2. Ḥafṣa (rh), the wife of the Prophet (s) narrated: The Messenger of Allah (s) said: There are five animals, all of them are harmful and there is no sin on he who kills them: the scorpion, the crow, the kite, the mouse or the rat and the vicious dog.<sup>(267)</sup>
3. 'Ā'isha (rh) narrated: The Prophet (s) said: Five vermin can be killed in the Ḥaram: the mouse or the rat, the scorpion, the kite, the crow and the vicious dog.<sup>(268)</sup>
4. al-Qāsim Ibn Muḥammad narrated: I heard 'Ā'isha (rh) the wife of the Prophet (s) say: heard the Messenger of Allah (s) say: There are four animals all of which are vermin and they can be killed inside or outside the Ḥaram: the



kite, the crow, the mouse or the rat and the vicious dog. Someone said: I asked al-Qāsim: What about the snake? He said: Let it be killed with disgrace.<sup>(269)</sup>

5. ‘Ā’isha (rh) also narrated that the Prophet (s) said: There are five kinds of vermin which may be killed inside or outside the Ḥaram: the snake, the speckled crow, the mouse or the rat, the vicious dog and the kite.<sup>(270)</sup>

**Significance:** It is stipulated that it is permitted to kill six kinds of vermin inside the Ḥaram because they are harmful, namely the kite, the mouse or the rat, the snake, the scorpion, the speckled crow and the vicious dog.

An-Nawawī (m) said: There are six stipulated kinds of animals; and the majority of ulama agreed on the permission to kill them inside or outside the Ḥaram, whether in iḥrām or not.<sup>(271)</sup>



## Secondly: Description and cause of the permission to kill them:

We found it appropriate to highlight all the kinds of vermin and to explain the wisdom behind the permission to kill them inside or outside the Ḥaram and in iḥrām.

### Firstly: The kite:

The kite is a bird that hunts rats.

Ibnal-Athīr (m) said: **The kite** is this known bird of prey.<sup>(272)</sup>

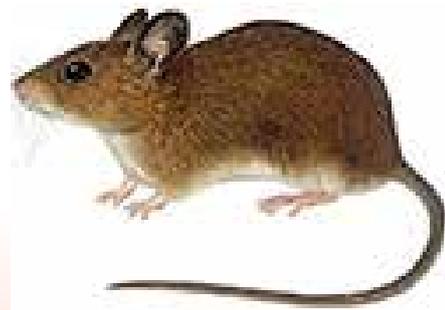
#### **Cause of the permission to kill it:**

The kite is a bird of prey and the most despicable of birds; it does not hunt, instead it kidnaps. This is the reason for which it was nicknamed Abū al-Khaṭṭāf (the abductor) and the father of the hook or the father of claws; it kidnaps chicks and little puppies; it may catch a prey that does not suit it if they are red, as it takes it for meat. The kite usually likes meat and guts; it grabs the meat spread by the people when they slaughter animals or sacrifice them, sometimes from their hands, and it seizes other things.<sup>(273)</sup>



### Secondly: The mouse or the rat:

**The mouse** and **the rat** are nicknamed “the destructors” (*Umm Kharāb*), or the mothers of destruction; both of them have the sense of hearing and sight and the similarity between the mouse and the rat is comparable to the similarity between the buffalo and the cow. Among their fam-

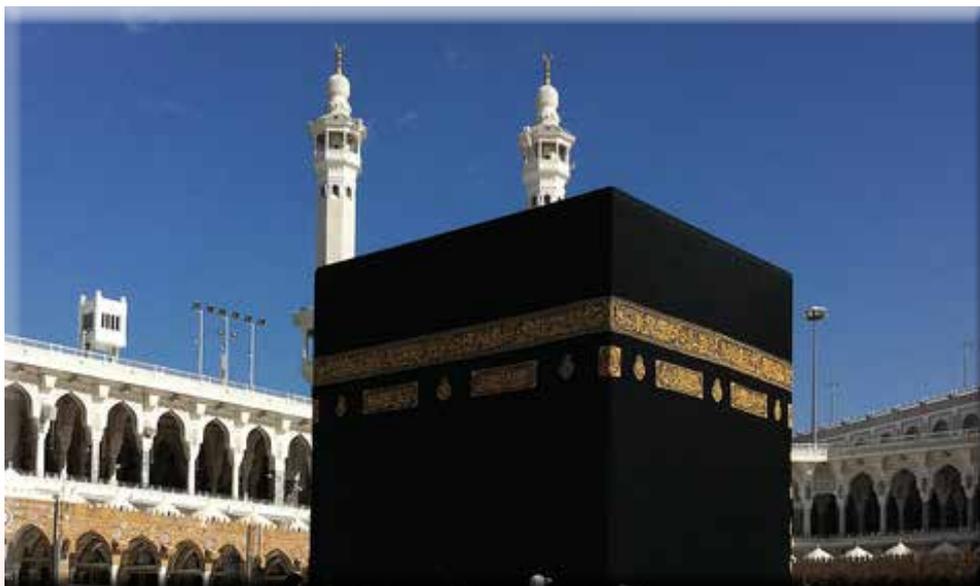


ily are gerbils, shrews which are deaf, moles which are blind, muskrats, etc. **The house mouse is that little vermin** that the Prophet (s) ordered to kill inside the Ḥaram or outside it, whether in state of iḥrām or not.

### Cause of the permission to kill it:

There is no such harmful and destructive vermin as the mouse; it does not spare the rich and the poor alike. Wherever it goes, it brings damage and havoc; this is why it has been nicknamed the destructor. **As its wont**, when the mouse finds a flask with a narrow neck, it uses cunning until it manages to enter its tail inside of it, then, when its tail is wet it takes it out and sucks it until the flask gets empty.<sup>(274)</sup>

Ibn Bakīr (m) said: He ordered the killing of the mouse as it gnaws water skins and shoes which are essential for the traveller;<sup>(275)</sup> it may even have stolen money from



people.<sup>(276)</sup>

**Among the ravages caused by the mouse:** it sets fire to the people's houses; this is why the Prophet (s) named it the little vermin, for the damages and harms it brings<sup>(277)</sup>. Jābir Ibn 'Abd Allah (r2) said: The Messenger of Allah (s) said: **Cover the utensils, close the doors, and put out the lights, lest the little vermin<sup>(278)</sup> (the mouse or the rat) should pull away the wick and thus burn the people of the house.**<sup>(279)</sup>

Ibn 'Abbās (r2) also narrated: A mouse came dragging a wick and dropped it before the Messenger of Allah (s) on the mat on which he was sitting with the result that it burned a hole in it about the size of a dirham. He (the Prophet) said: **When you go to sleep, put out the lights, for the devil guides a creature like this to do this and sets you on fire.**<sup>(280)</sup>



Ibn 'Abd al-Barr (m) said: **The ulama unanimously agreed** on the permission to kill the mouse or the rat inside and outside the Sanctuary.<sup>(281)</sup>

### Thirdly: The scorpion.

**The scorpion** is an insect of the class of the arachnids; it has a venomous sting and bites people.



#### **Cause of the permission to kill it:**

Among the most obvious causes of the permission to kill the scorpion is that it is venomous, as al-Qurṭubī put it: It has been permitted to kill the scorpion because of its sting.<sup>(282)</sup> It tries to bite and it stings.<sup>(283)</sup>

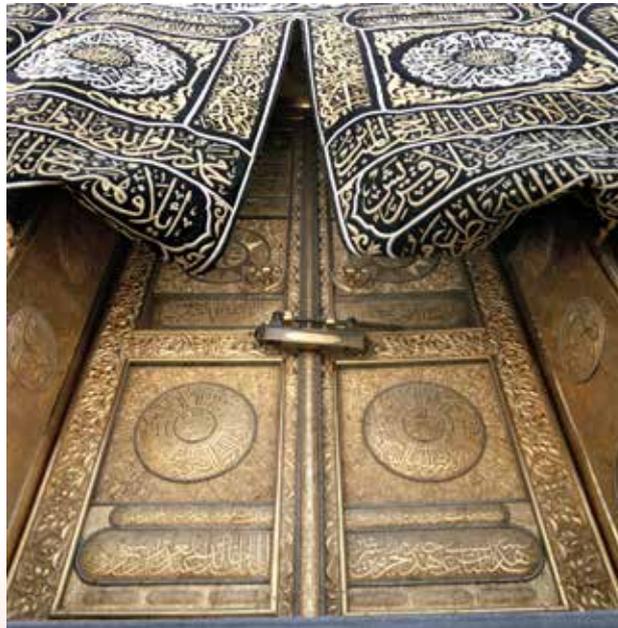


Among the causes of the permission to kill the scorpions inside and outside the Ḥaram is that it they are vermin; moreover, a scorpion bit the Prophet (s) while he was praying:

‘Ā’isha (rh) said: A scorpion bit the Prophet (s) while he was performing prayer; he said: **Allah cursed the scorpion<sup>(284)</sup> which does not spare he who prays and he who does not pray; kill it inside and outside the Ḥaram.<sup>(285)</sup>**

**Significance:** The Prophet (s) ordered the killing of the scorpion inside and outside the Ḥaram as it is a harmful vermin.<sup>(286)</sup>

Abū Hurayra (r) narrated: **The Prophet (s) ordered killing the two black things<sup>(287)</sup> in prayer: the scorpion and the snake.<sup>(288)</sup>**



## The rules concerning the Holy Land

Ibn Ḥajar (m) said: Most ulama referred to this ḥadīth to permit the killing of the snake and the scorpion during prayer; among them: Ibn ‘Umar (r2), al-Ḥasan and this is the view of Abū Ḥanīfa, ash-Shāfi‘ī, Aḥmad, Ishāq, etc.<sup>(289)</sup>

Many scholars reported a **consensus** on the permission to kill the scorpion inside and outside the Ḥaram; among them:

1. **Abū Ja‘far aṭ-Ṭaḥāwī (m)** said: They **unanimously agreed** that the Prophet (s) permitted killing the scorpion in the state of iḥrām inside the Ḥaram.<sup>(290)</sup>
2. **Ibn ‘Abd al-Barr (m)** said: **The ulama unanimously agreed** on the permission to kill the mouse or the rat inside and outside the Ḥaram and so for the scorpion.<sup>(291)</sup>
3. **Ibn al-Mundhir (m)** said: We do not know any divergence concerning the permission to kill the scorpion.<sup>(292)</sup>

### Fourthly: The snake.

**The snake:** Ibn ‘Abbās (r2) said: Snakes are of many kinds.<sup>(293)</sup>

#### **Cause of the permission to kill it:**

The causes of the permission to kill the snake are similar to the causes of the permission to kill the scorpion, as it is venomous, it bites and stings, and for the damages and harms it causes. It is among vermin, this is why the order came to kill it inside and outside the Ḥaram.<sup>(294)</sup>



Al-Kasānī (m) said: The scorpion bites and stings; so does the snake.<sup>(295)</sup>

Among the damage and harm caused by the snake: it blurs the vision and it makes pregnant women lose their child, as Ibn 'Umar (r2) narrated that he heard the Prophet (s) addressing the people from the minbar and he said: **Kill snakes and kill Dhū-aṭ-Ṭufyatayn (i.e. a snake with two white lines on its back) and al-Abtar (i.e. a blue short-tailed snake)<sup>(296)</sup> for both of them affect the eyesight adversely<sup>(297)</sup> and cause miscarriage.<sup>(298)</sup>** 'Abd Allah Ibn 'Umar (r2) further added: Once while I was chasing a snake in order to kill it, Abū Lubāba called me saying: Do not kill it! I said: The Messenger of Allah (s) ordered us to kill snakes. He said: But later on, he prohibited the killing of snakes living in the houses, which are called al-'Awāmir.<sup>(299)</sup>

An-Nawawī (m) said: According to a group of ulama, the interdiction of killing the snakes living in houses before warning them is general for all countries; whereas snakes living outside of the houses should be killed without warning... Some ulama stated that the order to kill snakes is absolute apart from the snakes living in the houses; except al-Abtar and Dhū-aṭ-Ṭufyatayn which have to be killed anyway, inside or outside the houses.<sup>(300)</sup>

The Prophet (s) ordered the chasing of snakes because they cause great trouble. Ibn 'Abbās (r2) narrated: The Messenger of Allah (s) said: **He who leaves the snakes along through fear of their pursuit, does not belong to us. We have not made peace with them**



since we have fought with them.<sup>(301)</sup>

The Prophet (s) ordered them to be killed for the same reason: al-'Abbās Ibn 'Abd al-Muṭṭalib (r) narrated that he said to the Messenger of Allah (s): We wish to draw from Zamzam, but there are some of these small snakes in it; so **the Prophet (s) ordered that they should be killed.**<sup>(302)</sup>

Ibn Mas'ūd (r) narrated: The Messenger of Allah (s) said: **Kill all the snakes, and he who fears their revenge does not belong to me.**<sup>(303)</sup>

Al-Qārī (m) said: It is clear that these ḥadīths are absolute, with the exception of the snakes living in the houses.<sup>(304)</sup>

The order to kill the snakes takes effect even during the prayer, as previously mentioned in the ḥadīth narrated by Abū Hurayra (r): **The Prophet (s) ordered killing the two black things in prayer: the scorpion and the snake.**<sup>(305)</sup>

Ibn Ḥajar (m) said: Most of ulama refer to this ḥadīth to permit killing the snake and the scorpion during prayer.<sup>(306)</sup>

Many scholars reported a **consensus** on the permission to kill the snake inside and outside the Ḥaram; among them:

1. Ibn Baṭṭāl (m) said: **The ulama unanimously agreed** on the permission to kill the snake in-



side and outside the Ḥaram.<sup>(307)</sup>

2. Ibn ‘Abd al-Barr (m) said: There is **no divergence** between Mālik and the majority of scholars about the permission to kill the snake inside and outside the Ḥaram.<sup>(308)</sup>

### Five: The speckled crow:

The **crow** is a black bird. The **speckled crow** has a black colour speckled with white and it is more vicious than the crow; the expression *speckled crow* is used as a symbol of wickedness. The **speckled crow is strange and it is the crow of ill omen**; every crow is called “a crow of ill omen” as it is considered ominous. It is small and its nickname is due to the fact that it lives in deserted houses.<sup>(309)</sup>



### The meaning of the crow in the ḥadīth:

The term “the crow” designates all the crows in the absolute as it appears in most ḥadīths; except for a version reported by Muslim of the ḥadīth narrated by ‘Ā’isha (rh), elevated and attributed to the Prophet (s), the words **speckled crow** appeared.<sup>(310)</sup>

The **ulama diverged** on the meaning of this; there are two opinions, **the prevailing one** states that only the speckled crow may be killed inside and outside the Ḥaram; the ulama who backed this opinion see a restricted meaning that invalidates the expression in the absolute<sup>(311)</sup>. This is the view of Ibn al-Mundhir<sup>(312)</sup>, Ibn Khuzayma<sup>(313)</sup> etc.

### **Words of scholars on the matter:**

1. Ibn Khuzayma (m) said: Chapter: Explanation of the encompassing terms mentioned

## The rules concerning the Holy Land

concerning some of the permitted things to be killed for he who is in state of iḥrām and evidence that the Prophet (s) permitted the muḥrim to kill some crows, not all of them; he permitted the killing of the speckled crow only, as an exception among the crows.<sup>(314)</sup>

2. Ibn Hajar (m) said: The ulama agreed to make an exception for the little crow which eats seeds and which is called the crow of plantations and also called the carrion crow; they stated the permission to eat it; the rest of the crows are considered as speckled crows.<sup>(315)</sup>

3. Al-'Aynī (m) said: The versions referring to the absolute are limited by this restricting version reported by Muslim; the speckled crow may be killed for the evil it does first, and no crow perpetrates evil except the speckled crow; the other crows do not hurt, so it is not permitted to kill them: like the magpie and the crow of plantations, which is called the carrion crow; they stated the permission to eat it; the rest of the crows are considered as speckled crows; among them the raven; this is the correct opinion according to the Shāfi'ī school.<sup>(316)</sup>

### Cause of the permission to kill it:

The cause of the permission to kill the speckled crow inside and outside the Ḥaram is the deterioration, the ravages and the damage it causes; among them: the speckled crow goes on the back of camels and mounts and pecks at their ulcers and sores which leads to acute pains; moreover it may have seized meat from the people's hands.<sup>(317)</sup>

**Words of scholars on the matter:**

1. **Ibn Sam'ūn (m)** said about the speckled crow: When it sees an ulcer on the back of a mount or a sore on its neck, it goes there and pecks at the bones of the neck and the vertebrae.<sup>(318)</sup>
2. **Al-Kāsānī (m)** said: The reason for the permission to kill them is the harm they cause and their hostility towards people in general ... the crow goes on the ulcers of the mount even if its owner is close to it...
3. **Abū Yūsuf** said: The crow mentioned in the ḥadīth is the crow that eats carrion or that stays close to it as this kind of crow causes harm whereas the magpie<sup>(319)</sup> is not concerned as it does not eat carrion and does not cause harm.<sup>(320)</sup>
4. **Al-Qurṭubī (m)** said about the permission to kill the crow inside and outside the Ḥaram: As for the kite and the crow, as both of them steal meat from the hands of the people; the crow because it comes on its back (of the mount) and pecks at its flesh.<sup>(321)</sup>

**Six: The vicious dog.**

**The meaning of vicious dog:**

The **ulama diverged** on the meaning of the terms vicious dog in the ḥadīth; there are many opinions, **the prevailing one** states that the terms “vicious dog” stands for all aggressive predators in general, like the lion, the tiger, the wolf, the cheetah and so on. This is the view of the majority<sup>(322)</sup>. Vicious means aggressive.<sup>(323)</sup>



## Words of scholars on the matter:

1. **Imam Mālik (m)** said: It concerns every beast that attacks the people and frightens them, like the lion, the tiger, the cheetah and the wolf; all these are vicious dogs.<sup>(324)</sup>
2. **Ibn Baṭṭāl (m)** said: The domestic dog is not a vicious dog; the terms vicious dog refers to wild and ferocious beasts; Mālik, Ibn 'Uyayna and the linguists explained it like that.<sup>(325)</sup>
3. **Ibn al-Athīr (m)** said: The vicious dog: it concerns all wild and ferocious beasts that attack, kill and prey on like the lion, the tiger and the wolf; they are called dogs as all of them have in common their ferocity.<sup>(326)</sup>

## Cause of the permission to kill it:

The cause of the permission to kill the vicious dog and these fierce predators inside and outside the Ḥaram lies in the fact that they are aggressive to the people, they frighten them and attack them as they take people for prey. This is why it is permitted to kill these fierce lethal predators like the lion, the tiger, the wolf, etc. inside and outside the Ḥaram; for the harm they cause; as mentioned in the tafsīr of al-Qurṭubī: The vicious dog (is to be killed) for the great harm it causes to the people.<sup>(327)</sup>

**Al-Kāsānī (m)** said: The vicious dog is by its nature aggressive towards people and it attacks first most of the time.<sup>(328)</sup>

## Part II: Non defined vermin

### Firstly: The rule.

The ulama diverged on killing vermin that have not been mentioned within the Ḥaram. There are two opinions; the prevailing one states that it is permitted to kill all vermin in the Ḥaram, the mentioned vermin and what looks alike; this is the view of the majority of scholars, among them the three imams: Mālik<sup>(329)</sup>, ash-Shāfi'ī<sup>(330)</sup> and Aḥmad<sup>(331)</sup>.



An-Nawawī (m) said: The great majority of scholars agreed on killing them inside and outside the Ḥaram, whether in state of iḥrām or not. They also agreed on the permission for the muḥrim to kill what looks alike (defined vermin), but they diverged concerning what enters in this category.<sup>(332)</sup>

### The Evidence:

1. The mentioning of the number of vermin in the previous ḥadīths is not a specific limitation; for two reasons:
  - a. The difference of numbers from a ḥadīth to another; sometimes the number mentioned is four<sup>(333)</sup>, sometimes it is five<sup>(334)</sup>, sometimes it is six<sup>(335)</sup> and finally sometimes there is no mention of a number at all<sup>(336)</sup>.
  - b. The different vermin mentioned from a ḥadīth to another; sometimes the snake is mentioned whereas the scorpion is not<sup>(337)</sup> or the scorpion is mentioned and

not the snake<sup>(338)</sup>; sometimes the snake and the crow are not mentioned<sup>(339)</sup>; sometimes the expression “fierce beast” appears<sup>(340)</sup>; all this clearly indicates that mentioning their numbers as a limitation was not the objective.

Ibn Taymiya (m) said: He did not say **five** in order to limit; as in one of the two ḥadīths the snake is mentioned whereas in the other it is the scorpion; and in another one it is quoted in addition to the fierce aggressive beast; therefore he wanted to highlight what was really important, namely these animals, and he justified this by the harm they do.<sup>(341)</sup>



2. The words “five vermin” as a non defined expression is the most usual; which indicates that the reason for the permission to kill these animals inside and outside the Ḥaram is the evil they do and it actually concerns all evil creatures. Sometimes the expression used is **the five vermin**; which stands for these five defined animals and no other with them.

### Words of scholars on the matter:

- a. Ibn Daqīq al-ʿĪd (m) said: The known expression **five vermin** is non defined and the expression **the five vermin** is defined, which indicates a subtle difference in the meaning; where it is defined, the rule comes to kill five specific vermin, it is a specification (excluding other animals) and does not take the concept of being harmful into account; whereas when it is not defined, it describes five vermin as harmful, it expresses the idea that the rule, namely the order to kill vermin, stems from the harmfulness, which therefore includes all wicked creatures, in opposition with the meaning of the other expression that made a limitation.<sup>(342)</sup>

- b. **Al-Māwardī (m)** said: He stated on the killing of what causes little harm in order to show the permission to kill what causes great harm: he quoted the crow and the kite to attract attention to the eagle and the vulture; he quoted the mouse or the rat to attract attention to little creatures of the ground; he quoted the scorpion to attract attention to the snake and the vicious dog for the fierce beast, the cheetah and all beasts close to them. When the text expresses a direct meaning with an indication, the rule of the indication takes it over the direct meaning; as in the word of Allah Most High:

﴿فَلَا تَقُلْ لَهُمَا أُفٍّ﴾



“Say not “Fie” unto them” Surat al-Isrā’: 23. Here lies a warning towards the interdiction of hitting. The direct meaning does not forbid hitting; but obviously if it is forbidden to say “fie”, consequently it is forbidden to hit.<sup>(343)</sup>

- c. **Ibn Qudāma (m)** said: The text actually mentions these five animals as the standards of little importance in shape in order to attract attention to all the animals similar or greater in shape; for instance, the quotation of the crow and the kite are indication and warning against the falcon and its fellows; the quoting of the mouse or the rat is a warning against creatures of the ground; the quoting of the scorpion a warning against the snake, and the quoting of the vicious dog a warning against predators which are more dangerous than it.<sup>(344)</sup>



- d. He also said: Upon this, it is authorized to kill every vermin and pest which is harmful to the people themselves and to their possessions; like all the fierce

## The rules concerning the Holy Land

predators, animals the meat of whom is forbidden, birds of prey like the falcon, the eagle, the vulture and their fellows, harmful insects, wasps, bugs, mosquitoes, fleas and flies; this is the view of ash-Shāfi'ī.<sup>(345)</sup>

3. Any animal that is aggressive towards the people and that attacks them and frightens them is a vicious dog:

We already mentioned the word of Imam Mālik (m): It concerns every beast that attacks the people and frightens them like the lion, the tiger, the cheetah and the wolf; all these are vicious dogs.<sup>(346)</sup> **Arguments in support of this:**

a. The word of Allah Most High:

﴿وَمَا عَلَّمْتُمْ مِنَ الْجَوَارِحِ مُكَلِّبِينَ﴾

“And those beasts and birds of prey which you have trained as hounds (*mukallabīn*) are trained” Surat al-Mā'ida, The Table Spread: 4.

Abū 'Ubayd Ibn al-Qāsim (m) said: This noun (*mukallabīn*) is derived from the word dog (*kalb*), then it came to include the chasing of the cheetah, the falcon and the vulture; all of them came to enter in this category; for this reason, every fierce predator is called: a vicious dog.<sup>(347)</sup>

Al-Māwardī (m) said: The name *kalb* (dog) designates predators in the language and in the law. **In the language**, because it stems from *at-takallub* which means aggressiveness, fierceness and harm and all these are found in predators.<sup>(348)</sup>



- b. The narration of Abū ‘Aqrab (r)<sup>(349)</sup>: Lahab Ibn Abī Lahab insulted the Prophet (s) who said: **O Allah! Send him your dog!** One day while he (Lahab) was heading to the Levant in a convoy with his companions, he stopped at a place and said: By Allah! I am afraid of the supplication of Muḥammad! (s) They replied: No! They surrounded him with their effects and sat guard on him; then came the lion that grabbed him and took him away.<sup>(350)</sup>

**Significance:** Here the lion is bound to the term *kalb* (dog).<sup>(351)</sup>

### Secondly: Cause of the permission to kill them:

The **ulama diverged** on the reason for the permission to kill the creatures described or what is close to it; there are three opinions, **the prevailing one** points out the fact that they frighten the people, they attack them and they may cause damage to their bodies and possessions; this is the view of Imam Mālik<sup>(352)</sup> and Aḥmad<sup>(353)</sup>.

#### **Words of scholars on the matter:**

1. **Al-Kāsānī (m)** said: The reason for the permission is that they are harmful and aggressive towards the people in general.<sup>(354)</sup>
2. **Ibn al-‘Arabī (m)** said: Our scholars say: it is permitted for the muḥrim to kill fierce predators which are attacking first; like the lion, the tiger, the wolf, the cheetah, the vicious dog and what is like them.<sup>(355)</sup>
3. **Ibn al-Athīr (m)** said: The vicious dog: it concerns all wild and ferocious beasts that attack, kill and prey like the lion, the tiger and the wolf; they are called dogs as all of them have in common their ferocity.<sup>(356)</sup>

## Section X:

### Punishing inside the Ḥaram

This section is divided into two parts:

Part I: Perpetrating inside the Ḥaram a crime that has to be punished.

Part II: Perpetrating outside the Ḥaram a crime that has to be punished.

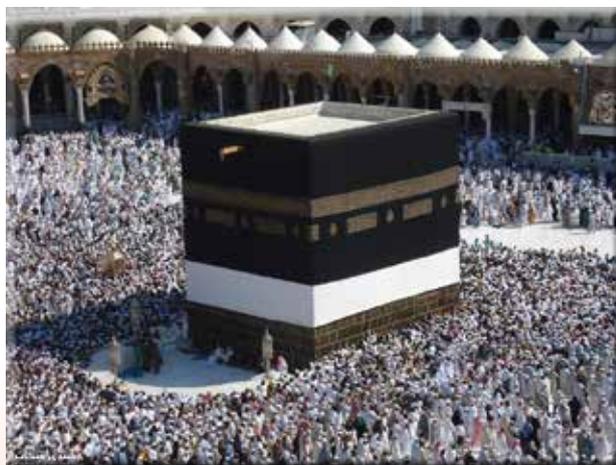
### Part I: Perpetrating inside the Ḥaram a crime that has to be punished

**The ulama reached a consensus:** If a person inside the Ḥaram commits a crime that has to be punished, he will be punished inside the Ḥaram; among those who reported the consensus: aṭ-Ṭabarī<sup>(357)</sup>, Ibn al-Jawzī<sup>(358)</sup>, Ibn ‘Abd al-Barr<sup>(359)</sup>, Ibn Qudāma<sup>(360)</sup>, al-Qurṭubī<sup>(361)</sup> and others.

#### **Evidence:**

#### **1. The word of Allah Most High:**

﴿وَلَا تُقْتَلُوهُمْ عِنْدَ الْمَسْجِدِ الْحَرَامِ حَتَّىٰ  
يُقْتَلُوا فِيهِ ۖ فَإِن قَتَلْتُمْ فَأَقْتُلُوهُمْ كَذَلِكَ  
جَزَاءُ الْكَافِرِينَ﴾



“And do not fight them at the Sacred Mosque until they fight you there. But if they fight you, then kill them. Such is the recompense of the disbelievers.” Surat al-Baqara – The Cow: 191.

**2. The word of Allah Most High:**



﴿ وَمَنْ يُرِدْ فِيهِ بِالْحَادِ بِظُلْمٍ نُدِقُهُ مِنْ عَذَابِ الْيَوْمِ ﴾

“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:** These are two clear and precise verses; the rule mentioned is to punish inside the Ḥaram whoever committed wrongdoing, was unjust and went too far.<sup>(362)</sup>

3. The word of Ibn ‘Abbās (r2) about the verse:



﴿ وَمَنْ دَخَلَهُ كَانَ آمِنًا ﴾

“And whoever enters it shall be safe.” Surat Āl-‘Imrān: 97. Ibn ‘Abbās (r2) said: He who killed someone or stole outside the Ḥaram and then entered it, no one can keep company with him, speak with him or shelter him; instead, people have to exhort him to leave the Ḥaram in order to be punished. If he killed or stole outside the Ḥaram and then was entered inside it, if people want to judge him for his crimes, they have to take him outside in order to punish him; whereas if he killed or stole inside the Ḥaram, he may be judged and punished therein.<sup>(363)</sup>

4. The people of the Ḥaram, as any other people, need to protect their souls, their possessions and their honour; if punishment was not prescribed for those who perpetrated crimes inside the Ḥaram, the limits imposed by Allah would not be respected and evil would prevail against the Ḥaram and its people.<sup>(364)</sup>
5. He who commits a crime inside the Ḥaram is actually violating its sanctity by disobeying and therefore deserves to be punished therein as an appropriate reward.<sup>(365)</sup>
6. He who commits a crime in the Ḥaram is similar to a mischief-maker who perpetrates a crime at the King’s court, inside His House and Sanctuary; he therefore deserves punishment.<sup>(366)</sup>

#### Evidence of the Consensus:

Many scholars reported a consensus on the fact that, inside the Ḥaram, whoever commits a crime



that deserves to be punished, shall be punished inside the Ḥaram; among them:

1. **Aṭ-Ṭabarī (m)** said: The unanimous opinion is that whoever is caught inside it (the Ḥaram) for committing a transgression has to be punished inside it; the rules for both questions gathered unanimity as described.<sup>(367)</sup>
2. **Ibn 'Abd al-Barr (m)** said: They unanimously agreed that whoever kills in the Ḥaram or commits a transgression shall be punished therein.<sup>(368)</sup>
3. **Al-Qurṭubī (m)** said: They unanimously agreed that he who kills inside the Ḥaram shall be killed in it, and he who commits a transgression there shall be punished there; if one fights, he has to be fought and killed therein.<sup>(369)</sup>

In that lies a protection for the Ḥaram, an exaltation of its sanctity and a mark of respect towards it; punishing transgression therein is not incompatible with its sacredness as he who commits a crime that has to be punished inside the Ḥaram is actually perpetrating two crimes:

The first one is the crime that entails punishment itself.

The second one is the crime of violating the sanctity of the Ḥaram and to dare to defy Allah in His land and sanctuary; such a crime deserves to be punished in the Ḥaram, in order for the punishment to suit the crime.



## Part II: Perpetrating outside the Ḥaram a crime that has to be punished

The ulama diverged on he who perpetrated a crime outside the Ḥaram and then took refuge in it; does such a person have to be punished therein? There are two opinions, the prevailing one states that he shall not be punished until he gets out of the Ḥaram, then he shall be punished; this is the view of Ibn ‘Abbās (r2) as we saw it previously, Ibn ‘Umar (r2), the School of Abū Ḥanīfa, Aḥmad, etc.

### Evidence:

#### 1. The word of Allah Most High:

﴿وَمَنْ دَخَلَهُ كَانَ آمِنًا﴾

“And whoever enters it shall be safe.” Surat Āli-‘Imrān: 97.

**Significance:** It is an established rule, before and after Islam; it is an order.<sup>(370)</sup>

2. The words of some companions on the matter of he who perpetrated a crime outside the Ḥaram and then took refuge therein: he shall not be punished until he gets out of it:

a. Ibn ‘Abbās (r2) said about the verse “And whoever enters it shall be safe” (Surat

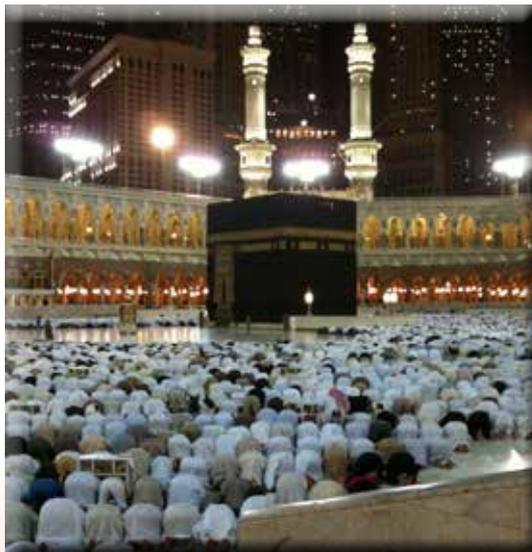


Āli-‘Imrān: 97): He who killed someone or stole outside the Ḥaram and then entered it, no one can sit with him, speak with him or offer him refuge; instead, people have to exhort him to leave the Ḥaram in order to be punished<sup>(371)</sup>.

b. Ibn ‘Umar (r2) said: If I find the murderer of ‘Umar (his own father) therein (the Sanctuary of Mecca), I would not punish him.<sup>(372)</sup>

Ibn al-Qayyim (m) said: This is the view of the majority of the followers (*tābi‘īn*) and those who came after them; there is no report of a divergence coming from a follower or a companion; this is also the view of Abū Ḥanīfa and the people of Iraq and Imam Aḥmad and his disciples from the people of ḥadīth.<sup>(373)</sup>

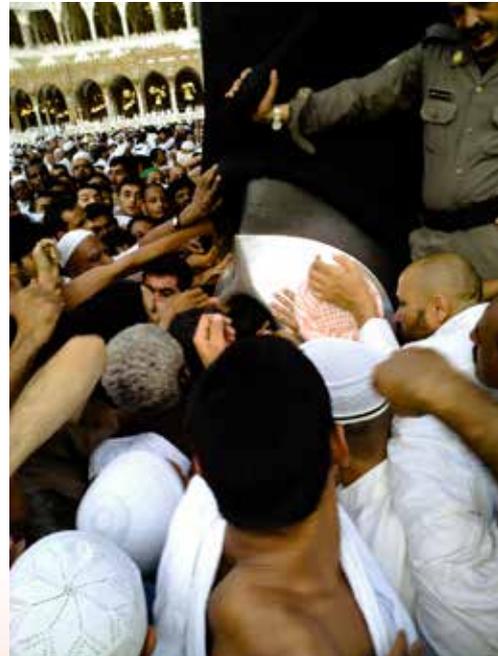
3. He who seeks refuge inside the Ḥaram has the status of a true repentant, he seeks refuge in the House of the Lord Most High, taking hold of its cloth (of the Ka’ba), thus it is inappropriate to disturb the quietude of the House and the Sanctuary in



order to punish him; in opposition to he who commits a crime inside the Ḥaram. The difference is obvious. The word of Ibn ‘Abbās (r2) is the right understanding of the jurisprudence (fiqh).<sup>(374)</sup>

### Words of scholars on the matter:

1. **Aṭ-Ṭabarī (m)** said: If someone asks: Why not enforce the punishment on the criminal inside the Ḥaram? The answer: Because all the Pious Predecessors agreed: if he committed his misdeed outside the Ḥaram and then took refuge in it, he cannot be punished inside of it.<sup>(375)</sup>
2. **Ibn Taymiya (m)** said: The view of most scholars: He who committed a crime outside the Ḥaram and then took refuge in it, cannot be punished until he leaves it; as reported by Ibn ‘Umar and Ibn ‘Abbās (rp); this is the position of Abū Ḥanīfa, Aḥmad and others.<sup>(376)</sup>
3. **Ash-Shanqīṭī (m)** said: The implementation of the law and the enforcement of punishments are imposed by Allah Most High and they are a way of getting closer to Him. Therefore, taking refuge inside the Ḥaram after having committed a crime outside it does not cancel the sanctions which have to be executed. This is a fundamental principle of law. A criminal or an offender cannot remain unpunished even if he took refuge in-



side the Sanctuary. The delay of the punishment does not mean that it is cancelled. According to all the texts and juridical opinions, such a person has to be boycotted, no one can trade with him, speak with him or keep company with him until he is constrained to leave the Sanctuary to be judged and punished for his crimes. Then law is implemented and the sanctity of the place is respected.<sup>(377)</sup>

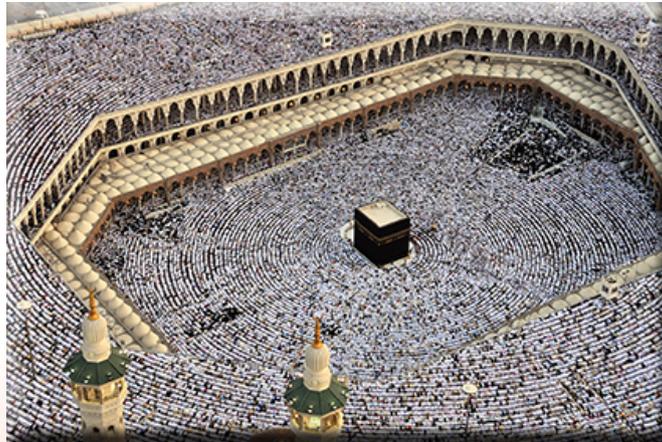


## Conclusion

This was done with the help of Allah and He facilitated me in this subject. Ibn Wardi (m) wonderfully said: "People do not write to be criticized or humiliated, instead they hope for acknowledgement, supplications to Allah in their favour and gratefulness; and Allah will certainly reward everyone according to his efforts. Whoever seeks for flaws and defects let him start by himself. Dear reader, if you find in this book some good, pray Allah in my favour, and if you find lapses ask Him to forgive me."<sup>(378)</sup>

**To conclude:** I ask Allah the Tremendous, Lord of the Noble Throne to make my endeavours beneficial, to bless them and to forgive every lapse, oversight or negligence.

I seek refuge and protection in Allah Most High against knowledge that is not beneficial, a heart that is not submitted and from a supplication that is not heard. And praise be to Allah, Lord of the Worlds, and peace and blessings be upon our noble Prophet, his family and companions.



## Endnotes

- (1) See: Tafsīr aṭ-Ṭabarī (541/1).
- (2) Reported by al-Bukhārī (1164/3), H. 3017. Muslim (986/2), H. 1353.
- (3) See: Tafsīr aṭ-Ṭabarī (542/1).
- (4) See: Tafsīr aṭ-Ṭabarī (542/1).
- (5) Reported by al-Bukhārī (749/2), H. 2022. Muslim (991/2), H. 1360.
- (6) See: Tafsīr aṭ-Ṭabarī (544/1).
- (7) Tafsīr aṭ-Ṭabarī (543/1).
- (8) Reported by al-Bukhārī (1567/4), H. 4059.
- (9) Tafsīr al-Khāzin (108/1).
- (10) See: al-Mufradāt fī gharīb al-Qurʾān, p. 206.
- (11) Al-Kashshāf (152/3).
- (12) Previously quoted, see footnote 222.
- (13) 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-Ḥāfiẓ Ibn Ḥajar in Fat ḥ al-Bārī (210/12).
- (14) Tafsīr al-Qurṭubī (35-36/12).
- (15) Zād al-maʿād (51/1).

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

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

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

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

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

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

(22) Sharḥ an-Nawawī ‘alā ṣaḥīḥ Muslim (151/2).

(23) Previously quoted, see footnote 222.

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

(25) Sharḥ al-arba‘īn an-nawawiya (32/1).

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

(27) 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).

(28) Previously quoted, see footnote 262.

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

(30) 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.

- (31) 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.
- (32) Allah Most High said: لَيْلَةُ الْقَدْرِ خَيْرٌ مِّنْ أَلْفِ شَهْرٍ “The Night of Destiny is better than a thousand months” Surat al-Qadr: 3.
- (33) Allah Most High said: يٰۤاَيُّهَا النِّسَاءُ الَّذِي لَسْتُنَّ كَأَحَدٍ مِّنَ النِّسَاءِ “O wives of the Prophet, you are not like anyone among women” Surat al-Aḥzāb – The Combined Forces: 32.
- (34) Allah Most High said: ذٰلِكَ وَمَنْ يُعِظْمِ حُرْمَتِ اٰلِهٖ فَهُوَ خَيْرٌ لَّهٗۤ عِنْدَ رَبِّهٖۤ “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.
- (35) Al-Majmū‘ (207/8).
- (36) Maṭālib ulī an-nuhā (386/2).
- (37) Aḥkām al-Qur’ān (277/3).
- (38) Zād al-ma‘ād (369/1).
- (39) See: Faḍā’il Makka al-mukarrama (p. 116).
- (40) See: Zād al-masīr (419/3); Tafsīr Ibn Kathīr (347/2); al-Majmū‘ (518/2); ash-Sharḥ al-Kabīr, Ibn Qudāma (621/10).
- (41) Reported by al-Bukhārī (586/2), H. 1543; Muslim (982/2), H. 1347.
- (42) Tafsīr Ibn Kathīr (347/2).

- (43) Naked person: This used to be a ritual during the Jāhiliya. See: Sharḥ an-Nawawī ‘alā Ṣaḥīḥ Muslim (116/9).
- (44) Reported by al-Bukhārī (586/2), H. 1543; Muslim (982/2), H. 1347.
- (45) 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.
- (46) Al-Jawāb aṣ-ṣaḥīḥ li-man baddala dīn al-masīḥ, Ibn Taymiya (118-119/3); Daqā’iq at-tafsīr (69/2).
- (47) Impure: See: Zād al-masīr (416/3).
- (48) Zād al-masīr (416-417/3).
- (49) At-Taḥrīr wa-t-tanwīr (160/10).
- (50) See: Tafsīr Ibn Kathīr (347/2).
- (51) Sharḥ an-Nawawī ‘alā ṣaḥīḥ Muslim (66/4).
- (52) Al-Majmū‘ (518/2).
- (53) Tafsīr as-Sa’dī (333-334/1).
- (54) Ighātha al-lahfān (59-60/1).
- (55) See: al-Majmū‘ (189-190/3).
- (56) Reported by al-Bukhārī in his version (398/1), H. 1133, and Muslim (1012/2), H. 1394.
- (57) Reported by al-Bukhārī (703/2), H. 1893 and Muslim (1014/2), H. 1397.
- (58) Faṭḥ al-bārī fī sharḥ ṣaḥīḥ al-Bukhārī, Ibn Rajab (482/2).

- (59) See: at-Tafsīr al-Kabīr (22/16).
- (60) See: at-Tafsīr al-Kabīr (22/16); ash-Sharḥ al-kabīr, Ibn Qudāma (621/10).
- (61) Sharḥ an-Nawawī ‘alā ṣaḥīḥ Muslim (116/9).
- (62) Tafsīr as-Sa’dī (333-334/1).
- (63) Al-Aḥkām as-sulṭāniya, al-Māwardī (188/1).
- (64) Reported by Muslim (1388/3), H. 1767.
- (65) Reported by al-Bukhārī (1111/3), H. 2888; and Muslim (1258/3), H. 1637.
- (66) Tafsīr al-Baghawī (281-282/2).
- (67) 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).
- (68) Reported by al-Bukhārī (452/1), H. 1284.
- (69) Reported by al-Bukhārī (51/1), H. 104.
- (70) 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); Faḥ al-bārī (48/4).
- (71) Reported by al-Bukhārī (452/1), H. 1284.
- (72) See: Iḥkām as-sājid bi-aḥkām al-masājid (p. 157); Faḥ al-Bārī (44/4).
- (73) See: al-Mabsūṭ (104/4).
- (74) See: al-Mughnī (169/3).
- (75) See: Sharḥ an-Nawawī ‘alā Ṣaḥīḥ Muslim (126/9).

(76) See: al-Mughnī (169/3).

(77) Zād al-ma‘ād (450/3).

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

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

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

(81) Al-Mughnī (169/3).

(82) Fatḥ al-Bārī (44/4).

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

(84) See: al-Furū‘ (477/3); al-Inṣāf (555/3).

(85) See: al-Majmū‘ (453/7); Mughnī al-muḥtāj (307/2).

(86) See: al-Muḥallā (261/7).

(87) 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.

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

(89) 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).

- (90) 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.
- (91) Where is ‘Abd Allah?: His questioning was a reprimand for what he did.
- (92) 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).
- (93) 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-ṣaghīr wa zawā‘idihi wa al-Jāmi‘ al-kabīr, his version (251/14), n°3199. Its chain is authenticated (ṣaḥīḥ).
- (94) Sharḥ mushkil al-āthār (180/8).
- (95) See: Tahdhīb al-āthār, aṭ-Ṭabarī (235/1).
- (96) See: al-Muwaṭṭa’ (420/1); al-Mudawwana (451/1).
- (97) See: al-Mughnī (170/3).
- (98) See: al-Bināya (356/4).
- (99) See: al-Furū’ (478/3).
- (100) See: al-Muḥallā (261/7).
- (101) al-Muwaṭṭa’ (420/1).
- (102) Al-Mughnī (170/3); see: Sharḥ Ṣaḥīḥ al-Bukhārī, Ibn Baṭṭāl (498/4).
- (103) Al-Muḥallā (261/7).
- (104) Ar-Rawḍa an-nadya (84/2).

- (105) **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).
- (106) See: al-Ijmāʿ, Ibn al-Mundhir (p. 57); Sharḥ an-Nawawī ʿalā Ṣaḥīḥ Muslim (125/9); al-Mughnī (349/3); Faḥ al-Bārī (44/4); al-Qirā li-Qāṣid umm al-qurā (p. 641); lʿlām as-sājid bi-aḥkām al-masājid, az-Zarkashī (p.160).
- (107) **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 ʿalā Ṣaḥīḥ Muslim (127/9).
- (108) Reported by al-Bukhārī (1164/3), H. 3017; Muslim (986/2), H. 1353.
- (109) Reported by al-Bukhārī (1567/4), H. 4059.
- (110) **for our goldsmiths and our graves:** it was needed to fill in the gaps between the slabs of cracked graves. See: Sharḥ an-nawawī ʿalā Ṣaḥīḥ Muslim (127/9).
- (111) Reported by al-Bukhārī (452/1), H. 1284.
- (112) **The senna** is a plant of the Ḥijāz, 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-maʿād (75/4).
- (113) See: al-Mudawwana (451/1); at-Tāj wa al-iklīl (262/4).
- (114) See: al-Majmūʿ (451/7); Mughnī al-muḥtāj (307/2).
- (115) See: Ḥāshiya ad-dasūkī (321/2); Ḥāshiya al-ʿadawī (373/2).
- (116) See: lʿlām as-sājid (p. 159); Mughnī al-muḥtāj (306/2).

- (117) I'lām as-sājid bi-aḥkām al-masājid (p. 158).
- (118) See: al-Mabsūṭ (105/4); Badā'i' aṣ-ṣanā'i' (316/2).
- (119) See: Mawāhib al-jalīl (264/4).
- (120) See: al-Ḥāwī al-kabīr (313/4); Mughnī al-muḥtāj (307/4).
- (121) See: al-Mughnī (351/3); al-Furū' (475/3).
- (122) See: al-Majmū' (379/7).
- (123) Al-Mughnī (170/3).
- (124) Ash-Sharḥ al-mumti' (253/7).
- (125) See: al-Ijmā' (p. 57).
- (126) See: Sharḥ Ṣaḥīḥ Muslim, al-Qāḍī 'Ayyāḍ (471/4).
- (127) See: Badā'i' aṣ-ṣanā'i' (316/2).
- (128) See: al-Mughnī (349/3).
- (129) See: al-Mabsūṭ (103/4); at-Tāj wa-l-iklīl (262/4); al-Muhadhdhab (399/1); al-Inṣāf (553/3).
- (130) Al-Ijmā' (p.57).
- (131) Sharḥ Ṣaḥīḥ al-Bukhārī, Ibn Baṭṭāl (498/4).
- (132) Al-Mabsūṭ (103/4).
- (133) See: Badā'i' aṣ-ṣanā'i' (210/2); al-Baḥr ar-rā'iq (76/3).

- (134) See: Hidāya as-sālik (718/2); Mughnī al-muḥtāj (305/2).
- (135) See: al-Mughnī (350/3); al-Furū' (475/3).
- (136) See: al-Majmū' (448/7).
- (137) See: Majmū' al-fatāwā (117/26).
- (138) See: Zād al-ma'ād (450/3).
- (139) Shrubs/grass (khalā): moist pasture and grass. See: an-Nihāya fī gharīb al- ḥadīth wa al-athar (75/2); Lisān al-'arab (151/5).
- (140) Reported by al-Bukhārī (452/1), H. 1284.
- (141) See: al-Mughnī (350/3); Faḥ al-Bārī (48/4).
- (142) 'Umda al-qārī (166/2).
- (143) See: al-Hidāya (94/3).
- (144) Badā'i' aṣ-ṣanā'i' (210/2).
- (145) See: Badā'i' aṣ-ṣanā'i' (210/2); Radd al-muḥtār (603/3); Maṭālib ulī an-nuhā (378/2).
- (146) Reported by al-Bukhārī (452/1), H. 1284.
- (147) Reported by al-Bukhārī (51/1), H. 104.
- (148) Zād al-ma'ād (450/3).
- (149) Al-Mughnī (169/3).
- (150) Al-Mudawwan (451/1); Mawāhib al-jalīl (262/4).

- (151) Al-Muhadhdhab (400/1); Mughnī al-muḥtāj (307/2).
- (152) See: al-Mughnī (351/3); al-Iqnā' (606/1).
- (153) See: al-Mabsūṭ (104/4); al-Baḥr ar-rā'iq (78/3).
- (154) Reported by al-Bukhārī (187/1), H. 471; and Muslim (361/1), H. 504.
- (155) See: Radd al-muḥtār (606/3); Mughnī al-muḥtāj (305/2); al-Mughnī (351/3).
- (156) See: al-Muhadhdhab (400/1); Maṭālib ulī an-nuhā (378/2).
- (157) Minḥa al-khāliq 'alā al-baḥr ar-rā'iq in the margin of al-Baḥr ar-rā'iq (78/3).
- (158) Al-Mughnī (266/3).
- (159) See: Marātib al-ijmā' (p. 44).
- (160) See: al-Mughnī (267/3).
- (161) Faḥ al-Bārī (21/4).
- (162) Aḥkām al-Qur'ān (175/2).
- (163) See: al-Ijmā' (p. 51).
- (164) See: Marātib al-ijmā' (p. 44).
- (165) See: al-Mughnī (270/3).
- (166) See: Sharḥ an-Nawawī 'alā Ṣaḥīḥ Muslim (125/9); al-Mughnī (344/3); l'Ilām as-sājid bi-aḥkām al-masājid (p. 154).
- (167) Disturbed: not even moved from its place; he did not mean to kill them; i.e. driving it out of the shade to occupy its place. See: Tafsīr gharīb mā fi aṣ-Ṣaḥīḥayn al-Bukhārī wa Muslim,

Muḥammad Ibn Abī Naṣr (150/1).

(168) Reported by al-Bukhārī (575/2); Muslim (986/2), H. 1353.

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

(170) Reported by al-Bukhārī (651/2), n°1736.

(171) Sharḥ an-Nawawī ‘alā Ṣaḥīḥ Muslim (126/9).

(172) Zād al-ma‘ād (453/3).

(173) Al-Qirā li-qāṣid umm al-qurā (p. 642).

(174) Al-Mughnī (351/3).

(175) Al-Ijmā‘ (p. 57).

(176) Marātib al-ijmā‘ (p. 46).

(177) Sharḥ an-Nawawī ‘alā Ṣaḥīḥ Muslim (125/9).

(178) See: Bidāya al-mujtahid (358/2).

(179) Faṭḥ al-Bārī (21/4).

(180) Al-Mughnī (265/3).

(181) See: al-Mabsūṭ (97/4); al-Bināya (306/4); al-Muwaṭṭa‘ (356/1); Mawāhib al-jalīl (255/4); Sharḥ an-Nawawī ‘alā Ṣaḥīḥ Muslim (125/9); Faṭḥ al-Bārī (21/4); al-Mughnī (166/3); al-Iqnā‘ (605/1).

(182) See: al-Muntaqā (448/3); al-Muhadhdhab (398/1); al-Furū‘ (472/3).

(183) Mughnī al-muḥtāj (524/1).

(184) See: al-Mughnī (166/3).

(185) In Arabic the expression translated here by **in the state of iḥrām** may be used for someone entering the Ḥaram (without necessarily being in the state of iḥrām); it is said: a man is ḥarām (in the state of iḥrām) if he entered the sacred months, if he entered the Ḥaram, or if he entered the state of iḥrām. **The expression stands for either time, space or the state of iḥrām**. See: Tafsīr al-Qurṭubī (305/6).

(186) Aḥkām al-Qurʾān (175/2).

(187) See: al-Ḥāwī al-kabīr, al-Māwardī (315/4); al-Muntaqā (439/3); adh-Dhakhīra (325/3); al-Mughnī (265/3).

(188) See: an-Nihāya fī gharīb al-ḥadīth wa al-athar (261/3).

(189) Reported by ash-Shāfiʿī in his Musnad (p. 135). Authenticated by an-Nawawī in al-Majmūʿ (440/7); Ibn Ḥajar said its chain was ḥasan (good) in Talkhīṣ al-ḥabīr (285/2).

(190) Reported by Ibn Abī Shayba in his Muṣannaf (178/3), n°13221; it has other witnesses who make the chain even stronger. See: Akhbār Makka, al-Azraqī (142/2); Akhbār Makka, al-Fākihī (386/3), n°2269; Muṣannaf ʿAbd ar-Razzāq (418/4), n°8284.

(191) Reported by al-Bayhaqī in al-Kubrā (205/5); Ibn al-Mulaqqin in al-Badr al-munīr (404/6).

(192) Reported by ash-Shāfiʿī al-Umm (207/2); ʿAbd ar-Razzāq in his Muṣannaf (414/4) n°8265. An-Nawawī authenticated its chain in al-Majmūʿ (440/7) and al-Albānī in al-Irwāʿ (247/4), n°1056.

(193) Al-Umm (207/2).

(194) See: al-Mughnī (505/3); al-Furūʿ (398/3).

(195) See: al-Iqnāʿ (215/1).

- (196) See: al-Muḥallā (214/7).
- (197) See: al-Furū' (463/3).
- (198) See: Taysīr al-karīm ar-rahmān (p. 244).
- (199) See: Majmū' fatāwā wa maqālāt (204/17).
- (200) See: Sharḥ al-mumti' (231/7).
- (201) See: Sharḥ al-mumti' (226/7).
- (202) See: Majmū' fatāwā wa maqālāt (204/17).
- (203) See: Lisān al-'Arab (72/5).
- (204) Reported by aṭ-Ṭabarānī in al-Kabīr (127/1), n°259. Authenticated by an-Nawawī in al-Majmū' (425/7) and al-Albānī in al-Irwā' (245/4), n°1052.
- (205) Reported by Ibn Ḥazm in al-Muḥallā (214/7).
- (206) Al-Muḥallā (214/7).
- (207) See: al-Kāfi fī fiqh ahl al-madīna (p.155); Mawāhib al-jalīl (251/4).
- (208) See: al-Muhadhdhab (399/1); Mughnī al-muḥtāj (301/2).
- (209) See: al-Iqnā', Ibn al-Mundhir (218/1).
- (210) See: al-Muḥallā (248/7).
- (211) Reported by 'Abd ar-Razzāq in his Muṣannaf (426/4), n°8318; and Ibn Ḥazm in al-Muḥallā (252/7), its chain is authentic (ṣaḥīḥ).

- (212) **al-qamārī** a kind of pigeon with a beautiful voice and **ad-dabāsī**: another kind of pigeon.  
See: Lisān al-‘Arab (115/5 and 76/6); al-Mu‘jam al-wasīṭ (758/2).
- (213) Reported by al-Fākihī in Akhbār Makka (380/3) n°2250; its chain is authentic ṣaḥīḥ.
- (214) Mawāhib al-jalīl (178/3).
- (215) See: Sharḥ an-Nawawī ‘alā Ṣaḥīḥ Muslim (126/9); Hidāya as-sālik (728/2).
- (216) Al-Mughnī (706/5); Zād al-ma‘ād (453/3).
- (217) See: Fath al-Bārī (88/5).
- (218) The dropped things inside Mecca.
- (219) **A public announcement**: in order to keep it safe and give it back to its owner. See: ‘Umda al-qārī (274/12).
- (220) Reported by al-Bukhārī (857/2), H. 2301.
- (221) Reported by al-Bukhārī (857/2), H. 4059.
- (222) Reported by al-Bukhārī (857/2), H. 2302; Muslim (988/2), H. 1355.
- (223) Picking up anything dropped inadvertently by its owner.
- (224) **He who makes public announcement for it**: see: ‘Umda al-Qārī (164/2).
- (225) Reported by al-Bukhārī (2522/6), H. 6486; Muslim (989/2), H. 1355.
- (226) Reported by Muslim (1351/3), H. 1724.
- (227) Tahdhīb al-lughāt (222/11).
- (228) Sharḥ an-Nawawī ‘alā Ṣaḥīḥ Muslim (28/12).

(229) Faṭḥ al-Bārī (88/5).

(230) Zād al-ma'ād (454/3).

(231) See: ad-Dhakhīra (486/2); al-Muḥallā (498/10); al-Majmū' (390/7); Zād al-ma'ād (443/3); Iḥkām al-iḥkām (24/3); 'Umda al-qārī (143/2); Faṭḥ al-Bārī (207/12).

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

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

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

(235) Al-Muḥallā (498/10).

(236) **Oppressors** (bughāt): or tyrants who disobey the chief of the Muslims. See: Lisān al-'Arab (215/3).

(237) See: Aḥkām al-Qur'ān, Ibn al-'Arabī (153/1); Badā'i' aṣ-ṣanā'i' (114/7); Zād al-masīr (199/1); al-Mughnī (92/9).

(238) Tafsīr aṭ-Ṭabarī (192/2); see: Tafsīr Muqātil Ibn Sulaymān (101/1).

(239) Tafsīr as-Sa'dī (89/1).

(240) See: Badā'i' aṣ-ṣanā'i' (170/7).

(241) See: al-Muḥallā (498/10).

(242) See: Aḥkām al-Qur'ān (153/1).

(243) See: al-Qirā li-qāṣid umm al-qurā (p. 640).

(244) See: Sharḥ al-'umda fī bayān manāsik al-Ḥajj wa-l-'Umra, Ibn Taymiya, updating: Dr. Ṣāliḥ al-Ḥasan (349/2).

- (245) See: Zād al-ma'ād (443/3).
- (246) Previously quoted, see also further.
- (247) Reported by al-Bukhārī (51/1), H. 104.
- (248) See: Fath al-Bārī (48/4).
- (249) Al-Aḥkām as-sultāniya (187/1).
- (250) Al-Muḥallā (496/10).
- (251) See: al-Qirā li-qāṣid umm al-qurā (p. 646); Shifā' al-gharām (113/1).
- (252) See: al-Qirā li-qāṣid umm al-qurā (p. 646); al-Majmū' (471/7).
- (253) See: Ṣaḥīḥ Muslim bi-sharḥ an-Nawawī (131/9).
- (254) **Weapons in cases** (julubbān as-silāḥ): see: Tahdhīb al-lugha (65/11); Tāj al-'arūs (79/2).
- (255) Bag of armament: swords in their sheaths and arms encased in their covers.
- (256) Reported by al-Bukhārī (959/2), H. 2551.
- (257) Ṣaḥīḥ Muslim bi-sharḥ an-Nawawī (131/9).
- (258) A helmet (mighfar): see: an-Nihāya fī gharīb al-ḥadīth wa al-athar (374/3).
- (259) Reported by al-Bukhārī (1561/4), H. 4035.
- (260) Al-Muḥallā (498/10).
- (261) Al-Futūḥāt al-makkiya (897/1).
- (262) Reported by Muslim (989/2), H. 1356.

(263) See: Mawāhib al-jalīl (204/3); ad-Dībāj ‘alā Muslim (402/3); Nayl al-awṭār (204/5).

(264) See: Faṭḥ al-Bārī (455/2).

(265) See: Sharḥ Ṣaḥīḥ al-Bukhārī, Ibn Baṭṭāl (491/4); Tafsīr ar-Rāzī (73/12); Sharḥ an-Nawawī ‘alā Ṣaḥīḥ Muslim (113/8); ash-Sharḥ al-kabīr, Ibn Qudāma (114/3); Majmū‘ al-fatāwā (609/11); Tabyyin al-ḥaqā’iq (66/2); aṭ-Ṭuruq al-ḥukmiya (411/1).

(266) Reported by al-Bukhārī (649/2), H. 1731; Muslim (his version), (857/2), H. 1199.

(267) Reported by al-Bukhārī (34/4), H. 1828; Muslim (his version), (858/2), H. 1200.

(268) Reported by al-Bukhārī (1204/3), H. 3136 and Muslim (856/2), H. 1198.

(269) Reported by Muslim (856/2), H. 1198.

(270) Reported by Muslim (856/2), H. 1198.

(271) Sharḥ an-Nawawī ‘alā Ṣaḥīḥ Muslim (113/8).

(272) An-Nihāya fī gharīb al-ḥadīth wa al-athar (349/1).

(273) See: Amālī Ibn Sam‘ūn (226/1); at-Tamhīd (160/15); Tafsīr al-Qurṭubī (303/6); Badā’i‘ aṣ-Ṣanā’i‘ (197/2); Ḥayāt al-ḥayawān al-kubrā, ad-Damīrī (325/1).

(274) See: Amālī Ibn Sam‘ūn (57/2).

(275) Tafsīr al-Qurṭubī (303/6).

(276) See: Badā’i‘ aṣ-Ṣanā’i‘ (197/2).

(277) See: Sharḥ Ṣaḥīḥ al-Bukhārī, Ibn Baṭṭāl (77/6).

(278) **Little vermin**: fuwaysiqā: named like this as it goes out of its hole in order to spoil the

people's possessions. See: Faḥ al-Bārī fī sharḥ Ṣaḥīḥ al-Bukhārī, Ibn Rajab (2320/2).

(279) Reported by al-Bukhārī, his version (2320/5), H. 5937; Muslim (1594/3), H. 2012.

(280) Reported by Abū Dāwūd (363/4); H. 5247. Authenticated by al-Albānī in Ṣaḥīḥ sunan Abī Dāwūd (289/3), H. 5247.

(281) Al-Istidhkār (156/4).

(282) Tafsīr al-Qurṭubī (303/6).

(283) Badā'ī' aṣ-Ṣanā'ī' (197/2).

(284) **Allah cursed the scorpion:** the ḥadīth indicates that is permitted to curse vermin, but it is forbidden to curse animals as the Prophet (s) warned a woman who cursed her camel, he said: **A camel which was cursed cannot accompany us.** He also said: **The believer does not taunt or curse.** See: Sharḥ sunan Ibn Māja (88/1), H. 1246.

(285) Reported by Ibn Māja (395/1), H. 1246. Authenticated by al-Albānī in Ṣaḥīḥ sunan Ibn Māja (372/1), H. 1037.

(286) See: Fayḍ al-qadīr (270/5).

(287) **The two black things:** generally speaking, the two black things designate the scorpion and the snake; originally the name was only given to the snake; it was said that the scorpion of cities is also black. See: Tuḥfa al-uḥūdī (334/2); Ḥāshiya as-sanadī 'alā sunan an-nisā'ī (10/3).

(288) Reported by at-Tirmīdhī (234/2), H. 390, he said: ḥasan ṣaḥīḥ (good and sound). Authenticated by al-Albānī in Ṣaḥīḥ sunan Ibn Māja (372/1), H. 1036.

(289) Faḥ al-Bārī (398/6).

(290) Sharḥ ma'ānī al-āthār (167/2).

(291) Al-Istidhkār (156/4).

(292) Faḥ al-Bārī (39/4).

(293) Ṣaḥīḥ al-Bukhārī (1201/3).

(294) See: Tafsīr al-Qurṭubī (303/6).

(295) Badā'ī' aṣ-Ṣanā'ī' (197/2).

(296) Naḍr Ibn Shamīl said that no pregnant women would look at it without having a miscarriage because of fear.

(297) Affect the eyesight adversely: They blur the sight merely when someone crosses its eyes; this is the particularity Allah Most High gave it.

(298) Cause miscarriage: Most of the time, when a pregnant woman looks at them she gets afraid and loses her child. See: Sharḥ an-Nawawī 'alā Ṣaḥīḥ Muslim (230/14).

(299) Reported by al-Bukhārī, his version (1201/3), H. 3123; Muslim (1752/4), H. 2233.

(300) Sharḥ an-Nawawī 'alā Ṣaḥīḥ Muslim (230/14).

(301) Reported by Abū Dāwūd (363/4), H. 5250. Authenticated by al-Albānī in Ṣaḥīḥ sunan Abī Dāwūd (289/3), H. 5250.

(302) Reported by Abū Dāwūd (363/4), H. 5251. Authenticated by al-Albānī in Ṣaḥīḥ sunan Abī Dāwūd (290/3), H. 5251.

(303) Reported by Abū Dāwūd (363/4), H. 5249. Authenticated by al-Albānī in Ṣaḥīḥ sunan Abī Dāwūd (289/3), H. 5249.

(304) Mirqāt al-mafātīḥ (48/8).

- (305) Previously quoted; see: footnote 526.
- (306) Fatḥ al-Bārī (398/6).
- (307) Sharḥ Ṣaḥīḥ al-Bukhārī (493/4).
- (308) Al-Miṣbāḥ al-munīr (478/2); at-Tamhīd (163/15).
- (309) Al-Ḥayawān, al-Jāḥiẓ (431/3); Lisān al-‘Arab (642/1).
- (310) Reported by Muslim (856/2), H. 1198.
- (311) See: al-Bināya (305/4); Mawāhib al-jalīl (235/4); Fatḥ al-Bārī (38/4); ‘Umda al-Qārī (180/10); al-Mughnī (342/3).
- (312) See: Fatḥ al-Bārī (38/4); ‘Umda al-Qārī (180/10).
- (313) See: Ṣaḥīḥ Ibn Khuzayma (191/4).
- (314) Ṣaḥīḥ Ibn Khuzayma (191/4).
- (315) Fatḥ al-Bārī (38/4).
- (316) ‘Umda al-Qārī (180/10).
- (317) See: at-Tamhīd (160/15).
- (318) See: Amālī Ibn Sam‘ūn (354/1).
- (319) The *maggie* is a crow-shaped bird of the size of the dove; it leaves its young without food. Arabs used to see ominous sign in it. See: Fatḥ al-Bārī (38/4).
- (320) Badā’i‘ aṣ-Ṣanā’i‘ (197/2).
- (321) Tafsīr al-Qurṭubī (303/6).

- (322) See: Sharḥ as-sunna, al-Baghawī (160/4); Sharḥ Faṭḥ al-qadīr (75/3); Sharḥ an-Nawawī ‘alā Ṣaḥīḥ Muslim (115/8); Sharḥ Az-Zarkashī (155/3); Faṭḥ al-Bārī (39/4); Maṭālib ulī an-Nuhā (343/2); Nayl al-Awṭār (27/5).
- (323) See: Sharḥ an-Nawawī ‘alā Ṣaḥīḥ Muslim (115/8).
- (324) Al-Muwaṭṭa’ (357/1).
- (325) Sharḥ Ṣaḥīḥ al-Bukhārī (490/4).
- (326) An-Nihāya fī gharīb al-ḥadīth wa al-athar (275/3); see: Lisān al-‘Arab (594/4).
- (327) Tafsīr al-Qurṭubī (303/6).
- (328) Badā’i’ aṣ-Ṣanā’i’ (197/2).
- (329) See: at-Tamhīd (162/15); adh-Dhakhīra (3159/3).
- (330) See: al-Lubāb fī al-fiqh ash-Shāfi’ī, Aḥmad aḍ-ḍaby (p. 206); Sharḥ an-Nawawī ‘alā Ṣaḥīḥ Muslim (113/15); Faṭḥ al-Bārī (36/4).
- (331) See: al-Mughnī (342/3); al-Iqnā’ (583/1).
- (332) Sharḥ an-Nawawī ‘alā Ṣaḥīḥ Muslim (113/8).
- (333) Reported by Muslim (856/2), H. 1198.
- (334) Reported by al-Bukhārī (1204/3), H.3136; Muslim (856/2), H. 1198.
- (335) Reported by Abū ‘Awāna in his Musnad (412/2); H. 3635. See: Faṭḥ al-Bārī (36/4).
- (336) Reported by Aḥmad in al-Musnad (285/6), H. 26482; Abū Dāwūd (170/2), H. 1848. Al-Al-bānī declared it weak in ḍa’īf sunan Abī Dāwūd (p. 145), H. 1848.
- (337) Reported by Muslim (856/2), H. 1198.

- (338) Reported by al-Bukhārī (1204/3), H.3136; Muslim (856/2), H. 1198.
- (339) Reported by Muslim (856/2), H. 1198.
- (340) Reported by at-Tirmidhī (198/3), H. 838, he said it was ḥasan (good).
- (341) Sharḥ al-‘umda fī al-fiqh (139/3).
- (342) Iḥkām al-aḥkām (32-33/2).
- (343) Al-Ḥāwī al-kabīr (360/4).
- (344) Al-Mughnī (164/3).
- (345) Ash-Sharḥ al-kabīr (303/3).
- (346) Al-Muwaṭṭa’ (357/1).
- (347) Gharīb al-ḥadīth (169/2).
- (348) Al-Ḥāwī al-kabīr (360/4).
- (349) Abū ‘Aqrab (which means the father of the scorpion) was a companion famous for his name; there is a divergence on his first name, some say it is Khuwaylid Ibn Khālīd. See: aṭ-Ṭabaqāt al-kubrā, Ibn Sa’d (457/5); Ma’rifa aṣ-ṣaḥāba, Abū Na’īm al-Aṣbahānī (2488/5).
- (350) Reported by al-Ḥākīm in al-Mustadrak (588/2), H. 3984. He said its chain is authentic; the two sheikhs did not reject it. Ibn Ḥajar made it ḥasan (good) in Faṭḥ al-Bārī (39/4).
- (351) See: Gharīb al-ḥadīth, Ibn Salām (169/2).
- (352) See: al-Muwaṭṭa’ (357/1); Mawāhib al-jalīl (253/4).
- (353) See: al-Mughnī (164/3), al-Iqnā’ (582/1).

(354) Badā'ī' aṣ-Ṣanā'ī' (197/2).

(355) Aḥkām al-Qur'ān (175/2).

(356) An-Nihāya fī gharīb al-ḥadīth wa al-athar (275/3); see: Lisān al-'Arab (594/4).

(357) Tafsīr aṭ-Ṭabarī (14/4).

(358) Muthīr al-'azm as-sākin ilā ashraf al-amākin (191/1).

(359) Al-Istidhkār (256/8).

(360) Al-Mughnī (239/8).

(361) Tafsīr al-Qurṭubī (111/2).

(362) See: al-Muḥallā (497/10).

(363) Reported by 'Abd ar-Razzāq in his Muṣannaf (152/5), n°9226; al-Bayhaqī in his Sunan (214/9), (567/18); its chain is authentic.

(364) See: al-Mughnī (239/8); Zād al-Ma'ād (448/3).

(365) See: al-Mughnī (239/8); Zād al-Ma'ād (448/3).

(366) See: Zād al-Ma'ād (448/3).

(367) Tafsīr aṭ-Ṭabarī (14/4).

(368) Al-Istidhkār (256/8).

(369) Tafsīr al-Qurṭubī (111/2).

(370) See: Muthīr al-'azm as-sākin ilā ashraf al-amākin (191/1); Nayl al-awṭār (43/7).

(371) Previously quoted; see footnote 601.

(372) Reported by 'Abd ar-Razzāq in his Muṣannaf (153/5), n°9229; al-Azraqī, in Akhbār Makka (139/2), its chain is authentic (ṣaḥīḥ).

(373) Zād al-ma'ād (444/3).

(374) Zād al-ma'ād (448/3).

(375) Tafsīr aṭ-Ṭabarī (14/4).

(376) Majmū' al-fatāwā (343/18).

(377) Aḍwā' al-bayān (139/5).

(378) I'āna aṭ-ṭālibīn 'alā ḥall alfāz fath al-mu'īn, al-Bakrī ad-Dimiāṭī (344/4).

## Contents

### **The rules concerning the Holy Land**

<b>Section I: The Ḥaram is safe since the dawn of time.....</b>	<b>2</b>
<b>Section II: The intention of committing a sin inside the Holy Land.....</b>	<b>8</b>
<b>Section III: Magnification of ḥasanāt and sayy'āt inside the Ḥaram .....</b>	<b>17</b>
<b>Part I: The general legal basis about the magnification .....</b>	<b>18</b>
<b>Part II: The magnification inside the Ḥaram.....</b>	<b>21</b>
<b>Section IV: The disbelievers inside the Ḥaram.....</b>	<b>28</b>
<b>Part I: Interdiction for the disbelievers to enter the Ḥaram .....</b>	<b>29</b>
<b>Entering the Ḥaram is forbidden to all the disbelievers: .....</b>	<b>32</b>
<b>Part II: Meaning of the stain of idolaters .....</b>	<b>33</b>
<b>General meaning of the verse:.....</b>	<b>35</b>
<b>There are two kinds of impurity of shirk (polytheism/idolatry):.....</b>	<b>35</b>
<b>Part III: The meaning of “The Sacred Mosque” (al-Masjid al-Ḥarām) .....</b>	<b>37</b>
<b>The meaning of “The Sacred Mosque” in this verse: .....</b>	<b>39</b>

Allah is the one who enriches and makes rich:.....	42
<b>Part IV: Punishing the disbeliever who enters the Ḥaram .....</b>	<b>43</b>
<b>Part V: The disbelievers inside an Islamic state.....</b>	<b>45</b>
<b>Section V: Cutting trees inside the Ḥaram .....</b>	<b>48</b>
<b>Part I: What is forbidden to be cut .....</b>	<b>49</b>
<b>Firstly: Interdiction of cutting trees. ....</b>	<b>49</b>
<b>Secondly: Interdiction of cutting the shrubs and grass. ....</b>	<b>50</b>
<b>Thirdly: Interdiction of cutting thorny bushes.....</b>	<b>50</b>
<b>Fourthly: Interdiction of picking the fodder for feeding beasts.....</b>	<b>52</b>
<b>Fifthly: Penalty for cutting trees of the Ḥaram:.....</b>	<b>54</b>
<b>Part II: What is allowed to be cut .....</b>	<b>56</b>
<b>Secondly: Permission to pick what is useful from the trees. ....</b>	<b>57</b>
<b>Thirdly: It is permitted to cut what has been sown by the people.....</b>	<b>59</b>
<b>Fourthly: Permission for cutting dry trees and dry grass.....</b>	<b>61</b>
<b>Fifthly: Using what has been broken or uprooted from branches and trees. ....</b>	<b>63</b>
<b>Sixthly: Permission for grazing inside the Ḥaram. ....</b>	<b>64</b>

<b>Section VI: The game of the Ḥaram.....</b>	<b>66</b>
<b>Part I: Defining the game.....</b>	<b>67</b>
The first one: The game has to be ḥalāl food. ....	68
The second one: The game has to be wild. ....	68
The third one: The game has to be game from the land not game from the sea. ....	69
<b>Part II: The rule on the game of the Ḥaram .....</b>	<b>70</b>
<b>Part III: Penalty for killing the game, in the state of iḥrām or not.....</b>	<b>72</b>
Firstly: Penalty for killing game inside the Ḥaram for the muḥrim.....	72
Secondly: Penalty for killing game inside the Ḥaram for a person who is not in a state of iḥrām.....	74
<b>Part IV: The difference between making an error voluntarily and involuntarily ..</b>	<b>80</b>
<b>Part V: Bringing game inside the Ḥaram .....</b>	<b>84</b>
<b>Section VII: Lost things inside the Ḥaram .....</b>	<b>85</b>
The reason for the interdiction of picking up things inside the Ḥaram: .....	87
<b>Section VIII: .....</b>	<b>89</b>
<b>Fighting inside the Ḥaram .....</b>	<b>89</b>
<b>Part I: Interdiction of fighting inside the Ḥaram .....</b>	<b>90</b>

<b>Part II: Fighting oppressors inside the Ḥaram.....</b>	<b>92</b>
<b>Part III: Carrying arms inside the Ḥaram.....</b>	<b>98</b>
Interdiction to carry arms in Mecca if not necessary:.....	100
<b>Section IX: Killing vermin inside the Ḥaram.....</b>	<b>102</b>
<b>Part I: Defined vermin .....</b>	<b>103</b>
<b>Secondly: Description and cause of the permission to kill them:.....</b>	<b>105</b>
<b>Firstly: The kite: .....</b>	<b>105</b>
<b>Secondly: The mouse or the rat: .....</b>	<b>105</b>
<b>Thirdly: The scorpion. ....</b>	<b>108</b>
<b>Fourthly: The snake.....</b>	<b>110</b>
<b>Five: The speckled crow: .....</b>	<b>113</b>
<b>The meaning of the crow in the ḥadīth: .....</b>	<b>113</b>
<b>Six: The vicious dog.....</b>	<b>115</b>
<b>Part II: Non defined vermin .....</b>	<b>117</b>
<b>Firstly: The rule.....</b>	<b>117</b>
<b>Secondly: Cause of the permission to kill them:.....</b>	<b>121</b>

<b>Section X: Punishing inside the Ḥaram.....</b>	<b>122</b>
<b>Part I: Perpetrating inside the Ḥaram a crime that has to be punished .....</b>	<b>122</b>
<b>Part II: Perpetrating outside the Ḥaram a crime that has to be punished .....</b>	<b>127</b>
<b>Conclusion.....</b>	<b>131</b>
<b>Endnotes .....</b>	<b>132</b>

هذا الكتاب منشور في

