

E-BOOK

FIGHTING INSIDE THE HARAM



Maḥmūd Ibn Aḥmad al Dosary (PhD)

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INTRODUCTION

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

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

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

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

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

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

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



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

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

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

أَوَلَمْ يَرَوْا أَنَّا جَعَلْنَا حَرَمًا ءَامِنًا وَيُتَخَطَّفُ النَّاسُ مِنْ حَوْلِهِمْ

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

And Allah Most High said:

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

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

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

But the criterion of differentiation of the Holy Land that singles it out is not a material one: religion is the basis of its distinction from all other lands and countries;



it is the Holy Land of Allah, on it lies the Honourable Ka'ba, the sacred and glorified places, it is the qibla (direction) of the Muslims, in it takes place the greatest gathering of people on Earth to worship Allah Most High by accomplishing the Hajj and 'Umra.

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

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

Our Lord creates what He wills and He chooses:

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

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



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

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

وَرَبُّكَ يَخْلُقُ مَا يَشَاءُ وَيَخْتَارُ

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

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

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

Importance of the subject and method:

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

¹ Zād al-ma’ād, Ibn al-Qayyim (42/1).

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

³ Zād al-ma’ād, (49 – 50/1).



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

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

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Section I:

Fighting Inside The Haram

Part I: Interdiction of fighting inside the Haram

The ulama agreed on the interdiction of fighting in Mecca.⁴

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.**⁵
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**

⁴ 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); *Fath al-Bārī* (207/12).

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



of the Conquest), and it will not be made lawful to anyone after me (to fight therein).⁶

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.**⁷

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.⁸

Part II: Fighting oppressors inside the Ḥaram

Firstly: Oppressors start the fighting.

The ulama agreed that if oppressors⁹ start a battle inside the Ḥaram, it is permitted to fight them¹⁰.

Evidence:

1. The word of Allah Most High:

وَلَا تُقَاتِلُوهُمْ عِنْدَ الْمَسْجِدِ الْحَرَامِ حَتَّىٰ يُقَاتِلُوكُمْ فِيهِ ۖ فَإِنْ قَاتَلُوكُمْ
فَاقْتُلُوهُمْ ۚ كَذَٰلِكَ جَزَاءُ الْكَافِرِينَ

⁶ Reported by al-Bukhārī (857/2), H. 2302; Muslim (988/2), H. 1355.

⁷ Reported by al-Bukhārī (51/1), H. 104.

⁸ *Al-Muḥallā* (498/10).

⁹ **Oppressors** (*bughāt*): or tyrants who disobey the chief of the Muslims. See: *Lisān al-‘Arab* (215/3).

¹⁰ See: *Aḥkām al-Qur’ān*, Ibn al-‘Arabī (153/1); *Badā’i’ aṣ-ṣanā’i* (114/7); *Zād al-masār* (199/1); *al-Mughnī* (92/9).



“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 Haram, 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.¹¹

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:

فَإِنْ أَنْتَ هَؤُلَاءِ 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 حَتَّىٰ لَا تَكُونَ فِتْنَةٌ وَيَكُونَ الدِّينُ لِلَّهِ ۚ فَإِنْ أَنْتَ هَؤُلَاءِ 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

¹¹ Tafsīr at-Ṭabarī (192/2); see: Tafsīr Muqātil Ibn Sulaymān (101/1).



verse this well known rule: when one is confronted with two sins, the lesser sin is committed in order to avoid the worst.¹²

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.

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

Secondly: Fighting the oppressors inside the Haram before they attack.

The ulama diverged on the rule on fighting the oppressors inside the Haram 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 reason¹³. This is the opinion chosen by Ibn Hāzīm¹⁴, Ibn al-ʿArabī¹⁵, al-Muḥibb aṭ-Ṭabarī¹⁶, Ibn Taymiya¹⁷ and Ibn al-Qayyim¹⁸.

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 ʿAbbās, Abū Hurayra and Abū Shurayḥ (rp).¹⁹

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.

¹² *Tafsīr as-Saʿdī* (89/1).

¹³ See: *Badāʾiʿ aṣ-ṣanāʾiʿ* (170/7).

¹⁴ See: *al-Muḥallā* (498/10).

¹⁵ See: *Aḥkām al-Qurʾān* (153/1).

¹⁶ See: *al-Qirā li-qāṣid umm al-qurā* (p. 640).

¹⁷ See: *Sharḥ al-ʿumda fī bayān manāsik al-Ḥajj wa-l-ʿUmra*, Ibn Taymiya, updating: Dr. Ṣāliḥ al-Ḥasan (349/2).

¹⁸ See: *Zād al-maʿād* (443/3).

¹⁹ Previously quoted, see also further.



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.**²⁰

Significance: It is an absolute refusal meant for all.²¹

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.²²
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.²³

Part III: Carrying arms inside the Ḥaram

The ulama diverged on the rule concerning carrying arms inside the Ḥaram; there are two opinions, **the prevailing one** states that it is permitted to carry arms inside the Ḥaram if it is needed and necessary; this is the view of Mālik²⁴, ash-Shāfi'ī²⁵ and the majority of scholars²⁶.

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

²⁰ Reported by al-Bukhārī (51/1), H. 104.

²¹ See: *Fatḥ al-Bārī* (48/4).

²² *Al-Aḥkām as-sulṭāniya* (187/1).

²³ *Al-Muḥallā* (496/10).

²⁴ See: *al-Qirā li-qāsid umm al-qurā* (p. 646); *Shifā' al-gharām* (113/1).

²⁵ See: *al-Qirā li-qāsid umm al-qurā* (p. 646); *al-Majmū'* (471/7).

²⁶ See: *Ṣaḥīḥ Muslim bi-sharḥ an-Nawawī* (131/9).



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 cases²⁷. They asked: What does weapons in cases mean? He replied: The bag of armament with its contents^{28,29}

Significance: The Prophet (s) entered Mecca the following year, for 'Umra al-qaḍā, with weapons in their cases in accordance with the treaty.³⁰

2. Anas Ibn Mālik (r) narrated that **on the day of the Conquest, the Prophet (s) entered Mecca, wearing a helmet on his head**^{31,32}

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.³³

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.³⁴ Jābir (r) narrated: I heard the Prophet (s) saying: **It is not permissible for anyone to carry weapons in Mecca.**³⁵

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:

²⁷ **Weapons in cases** (*julubbān as-silāh*): see: *Tahdhīb al-lughā* (65/11); *Tāj al-'arūs* (79/2).

²⁸ **Bag of armament:** swords in their sheaths and arms encased in their covers.

²⁹ Reported by al-Bukhārī (959/2), H. 2551.

³⁰ *Ṣaḥīḥ Muslim bi-sharḥ an-Nawawī* (131/9).

³¹ A helmet (*mighfar*): see: *an-Nihāya fī gharīb al-ḥadīth wa al-athar* (374/3).

³² Reported by al-Bukhārī (1561/4), H. 4035.

³³ *Al-Muḥallā* (498/10).

³⁴ *Al-Futūḥāt al-makkiya* (897/1).

³⁵ Reported by Muslim (989/2), H. 1356.



1. Carrying weapons is not permissible except if there is fear and need.³⁶
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.³⁷

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-qadā 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.

³⁶ See: *Mawāhib al-jalīl* (204/3); *ad-Dībāj 'alā Muslim* (402/3); *Nayl al-awṭār* (204/5).

³⁷ See: *Fatḥ al-Bārī* (455/2).



Section II:

Killing Vermin Inside The Haram

Part I: Defined vermin

Firstly: The rule:

Most ulama permit to kill six kinds of vermin inside and outside the Haram, even in the state of ihrām, namely kites, mice or rats, snakes, scorpions, speckled crows and vicious dogs.³⁸

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 Haram and in the state of ihrām: the mouse or the rat, the scorpion, the crow, the kite and the vicious dog.**³⁹
2. Hafsa (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.**⁴⁰

³⁸ 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).

³⁹ Reported by al-Bukhārī (649/2), H. 1731; Muslim (his version), (857/2), H. 1199.

⁴⁰ Reported by al-Bukhārī (34/4), H. 1828; Muslim (his version), (858/2), H. 1200.



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.**⁴¹
4. al-Qāsim Ibn Muḥammad narrated: I heard 'Ā'isha (rh) the wife of the Prophet (s) say: I 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.⁴²
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.**⁴³

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.⁴⁴

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.

Ibn al-Athīr (m) said: **The kite** is this known bird of prey.⁴⁵

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

⁴¹ Reported by al-Bukhārī (1204/3), H. 3136 and Muslim (856/2), H. 1198.

⁴² Reported by Muslim (856/2), H. 1198.

⁴³ Reported by Muslim (856/2), H. 1198.

⁴⁴ *Sharḥ an-Nawawī 'alā Ṣaḥīḥ Muslim* (113/8).

⁴⁵ *An-Nihāya fī gharīb al-ḥadīth wa al-athar* (349/1).



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.⁴⁶

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 family 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 Haram 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.⁴⁷

Ibn Bakīr (m) said: He ordered the killing of the mouse as it gnaws water skins and shoes which are essential for the traveller;⁴⁸ it may even have stolen money from people.⁴⁹

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 brings⁵⁰. 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**

⁴⁶ 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).

⁴⁷ See: *Amālī Ibn Sam‘ūn* (57/2).

⁴⁸ *Tafsīr al-Qurṭubī* (303/6).

⁴⁹ See: *Badā’i’ aṣ-Ṣanā’i’* (197/2).

⁵⁰ See: *Sharḥ Ṣaḥīḥ al-Bukhārī*, Ibn Baṭṭāl (77/6).



vermin⁵¹ (the mouse or the rat) should pull away the wick and thus burn the people of the house.⁵²

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.⁵³**

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.⁵⁴

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.⁵⁵ It tries to bite and it stings.⁵⁶

Among the causes of the permission to kill the scorpions inside and outside the Ḥaram is that 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 scorpion⁵⁷ which does not spare he who prays and he who does not pray; kill it inside and outside the Ḥaram.⁵⁸**

Significance: The Prophet (s) ordered the killing of the scorpion inside and outside the Ḥaram as it is a harmful vermin.⁵⁹

⁵¹ **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).

⁵² Reported by al-Bukhārī, his version (2320/5), H. 5937; Muslim (1594/3), H. 2012.

⁵³ Reported by Abū Dāwūd (363/4); H. 5247. Authenticated by al-Albānī in *Ṣaḥīḥ sunan Abī Dāwūd* (289/3), H. 5247.

⁵⁴ *Al-Istidhkār* (156/4).

⁵⁵ *Tafsīr al-Qurṭubī* (303/6).

⁵⁶ *Badā’i’ aṣ-Ṣanā’i’* (197/2).

⁵⁷ **Allah cursed the scorpion:** the ḥadīth indicates that it 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.

⁵⁸ Reported by Ibn Māja (395/1), H. 1246. Authenticated by al-Albānī in *Ṣaḥīḥ sunan Ibn Māja* (372/1), H. 1037.

⁵⁹ See: *Fayḍ al-qadīr* (270/5).



Abū Hurayra (r) narrated: **The Prophet (s) ordered killing the two black things⁶⁰ in prayer: the scorpion and the snake.**⁶¹

Ibn Hajar (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.⁶²

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.⁶³
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.⁶⁴
3. **Ibn al-Mundhir (m)** said: We do not know any divergence concerning the permission to kill the scorpion.⁶⁵

Fourthly: The snake.

The snake: Ibn ‘Abbās (r2) said: Snakes are of many kinds.⁶⁶

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.⁶⁷

Al-Kasānī (m) said: The scorpion bites and stings; so does the snake.⁶⁸

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

⁶⁰ **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); *Hāshiya as-sanadī ‘alā sunan an-nisā’ī* (10/3).

⁶¹ Reported by at-Tirmidhī (234/2), H. 390, he said: ḥasan ṣaḥīḥ (good and sound). Authenticated by al-Albānī in *Ṣaḥīḥ sunan Ibn Māja* (372/1), H. 1036.

⁶² *Faṭḥ al-Bārī* (398/6).

⁶³ *Sharḥ ma‘ānī al-āthār* (167/2).

⁶⁴ *Al-Istidhkār* (156/4).

⁶⁵ *Faṭḥ al-Bārī* (39/4).

⁶⁶ *Ṣaḥīḥ al-Bukhārī* (1201/3).

⁶⁷ See: *Tafsīr al-Qurṭubī* (303/6).

⁶⁸ *Badā’i’ aṣ-Ṣanā’i’* (197/2).



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)**⁶⁹ for both of them affect the eyesight adversely⁷⁰ and cause miscarriage.⁷¹ ‘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.⁷²

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.⁷³

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.**⁷⁴

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.**⁷⁵

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.**⁷⁶

Al-Qārī (m) said: It is clear that these ḥadīths are absolute, with the exception of the snakes living in the houses.⁷⁷

⁶⁹ Naḍr Ibn Shamīl said that no pregnant women would look at it without having a miscarriage because of fear.

⁷⁰ Affect the eyesight adversely: They blur the sight merely when someone crosses its eyes; this is the particularity Allah Most High gave it.

⁷¹ 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).

⁷² Reported by al-Bukhārī, his version (1201/3), H. 3123; Muslim (1752/4), H. 2233.

⁷³ *Sharḥ an-Nawawī ‘alā Ṣaḥīḥ Muslim* (230/14).

⁷⁴ Reported by Abū Dāwūd (363/4), H. 5250. Authenticated by al-Albānī in *Ṣaḥīḥ sunan Abī Dāwūd* (289/3), H. 5250.

⁷⁵ Reported by Abū Dāwūd (363/4), H. 5251. Authenticated by al-Albānī in *Ṣaḥīḥ sunan Abī Dāwūd* (290/3), H. 5251.

⁷⁶ Reported by Abū Dāwūd (363/4), H. 5249. Authenticated by al-Albānī in *Ṣaḥīḥ sunan Abī Dāwūd* (289/3), H. 5249.



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.**⁷⁸

Ibn Hajar (m) said: Most of ulama refer to this ḥadīth to permit killing the snake and the scorpion during prayer.⁷⁹

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

1. Ibn Baṭṭāl (m) said: **The ulama unanimously agreed** on the permission to kill the snake inside and outside the Haram.⁸⁰
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 Haram.⁸¹

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.⁸²

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.⁸³

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 Haram; the ulama who backed this opinion see a restricted meaning that

⁷⁷ *Mirqāt al-mafātīḥ* (48/8).

⁷⁸ Previously quoted; see: footnote 526.

⁷⁹ *Fath al-Bārī* (398/6).

⁸⁰ *Sharḥ Ṣaḥīḥ al-Bukhārī* (493/4).

⁸¹ *Al-Miṣbāḥ al-munīr* (478/2); *at-Tamhīd* (163/15).

⁸² *Al-Ḥayawān*, al-Jāḥiẓ (431/3); *Lisān al-‘Arab* (642/1).

⁸³ Reported by Muslim (856/2), H. 1198.



invalidates the expression in the absolute⁸⁴. This is the view of Ibn al-Mundhir⁸⁵, Ibn Khuzayma⁸⁶ etc.

Words of scholars on the matter:

1. **Ibn Khuzayma (m)** said: Chapter: Explanation of the encompassing terms mentioned concerning some of the permitted things to be killed for he who is in state of ihrām 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.⁸⁷
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.⁸⁸
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.⁸⁹

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.⁹⁰

⁸⁴ See: *al-Bināya* (305/4); *Mawāhib al-jalīl* (235/4); *Faṭḥ al-Bārī* (38/4); *‘Umda al-Qārī* (180/10); *al-Mughnī* (342/3).

⁸⁵ See: *Faṭḥ al-Bārī* (38/4); *‘Umda al-Qārī* (180/10).

⁸⁶ See: *Ṣaḥīḥ Ibn Khuzayma* (191/4).

⁸⁷ *Ṣaḥīḥ Ibn Khuzayma* (191/4).

⁸⁸ *Faṭḥ al-Bārī* (38/4).

⁸⁹ *‘Umda al-Qārī* (180/10).

⁹⁰ See: *at-Tamhīd* (160/15).



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.⁹¹
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...
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 magpie⁹² is not concerned as it does not eat carrion and does not cause harm.⁹³
3. **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.⁹⁴

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 majority⁹⁵. Vicious means aggressive.⁹⁶

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.⁹⁷
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.⁹⁸

⁹¹ See: *Amālī Ibn Sam‘ūn* (354/1).

⁹² The **magpie** 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: *Faṭḥ al-Bārī* (38/4).

⁹³ *Badā’i’ aṣ-Ṣanā’i’* (197/2).

⁹⁴ *Tafsīr al-Qurṭubī* (303/6).

⁹⁵ 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).

⁹⁶ See: *Sharḥ an-Nawawī ‘alā Ṣaḥīḥ Muslim* (115/8).

⁹⁷ *Al-Muwatṭa’* (357/1).



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.⁹⁹

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 Haram 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 Haram; 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.¹⁰⁰

Al-Kāsānī (m) said: The vicious dog is by its nature aggressive towards people and it attacks first most of the time.¹⁰¹

Part II: Non defined vermin

Firstly: The rule.

The ulama diverged on killing vermin that have not been mentioned within the Haram. There are two opinions; **the prevailing one** states that it is permitted to kill all vermin in the Haram, the mentioned vermin and what looks alike; this is the view of the majority of scholars, among them the three imams: Mālik¹⁰², ash-Shāfi'ī¹⁰³ and Aḥmad¹⁰⁴.

An-Nawawī (m) said: **The great majority of scholars agreed** on killing them inside and outside the Haram, 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.¹⁰⁵

The evidence:

⁹⁸ *Sharḥ Ṣaḥīḥ al-Bukhārī* (490/4).

⁹⁹ *An-Nihāya fī gharīb al-ḥadīth wa al-athar* (275/3); see: *Lisān al-'Arab* (594/4).

¹⁰⁰ *Tafsīr al-Qurṭubī* (303/6).

¹⁰¹ *Badā'ī' aṣ-Ṣanā'ī'* (197/2).

¹⁰² See: *at-Tamhīd* (162/15); *adh-Dhakhīra* (3159/3).

¹⁰³ 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).

¹⁰⁴ See: *al-Mughnī* (342/3); *al-Iqnā'* (583/1).

¹⁰⁵ *Sharḥ an-Nawawī 'alā Ṣaḥīḥ Muslim* (113/8).



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 four¹⁰⁶, sometimes it is five¹⁰⁷, sometimes it is six¹⁰⁸ and finally sometimes there is no mention of a number at all¹⁰⁹.
- b. The different vermin mentioned from a ḥadīth to another;** sometimes the snake is mentioned whereas the scorpion is not¹¹⁰ or the scorpion is mentioned and not the snake¹¹¹; sometimes the snake and the crow are not mentioned¹¹²; sometimes the expression “fierce beast” appears¹¹³; 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.¹¹⁴

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-‘Īd (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

¹⁰⁶ Reported by Muslim (856/2), H. 1198.

¹⁰⁷ Reported by al-Bukhārī (1204/3), H. 3136; Muslim (856/2), H. 1198.

¹⁰⁸ Reported by Abū ‘Awāna in his *Musnad* (412/2); H. 3635. See: *Fath al-Bārī* (36/4).

¹⁰⁹ Reported by Aḥmad in *al-Musnad* (285/6), H. 26482; Abū Dāwūd (170/2), H. 1848. Al-Albānī declared it weak in *ḍa‘īf sunan Abī Dāwūd* (p. 145), H. 1848.

¹¹⁰ Reported by Muslim (856/2), H. 1198.

¹¹¹ Reported by al-Bukhārī (1204/3), H. 3136; Muslim (856/2), H. 1198.

¹¹² Reported by Muslim (856/2), H. 1198.

¹¹³ Reported by at-Tirmidhī (198/3), H. 838, he said it was ḥasan (good).

¹¹⁴ *Sharḥ al-‘umda fī al-fiqh* (139/3).



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.¹¹⁵

- 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 ۤأَفٌّ

“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.¹¹⁶

- 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.¹¹⁷
- 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 predators, animals the meat of whom is forbidden, birds of prey like the falcon, the eagle, the vulture and their

¹¹⁵ *Iḥkām al-aḥkām* (32-33/2).

¹¹⁶ *Al-Ḥāwī al-kabīr* (360/4).

¹¹⁷ *Al-Mughnī* (164/3).



fellows, harmful insects, wasps, bugs, mosquitoes, fleas and flies; this is the view of ash-Shāfi'ī.¹¹⁸

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.¹¹⁹ **Arguments in support of this:**

a. The word of Allah Most High:

وَمَا عَلَّمْتُمْ مِّنَ 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.¹²⁰

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.¹²¹

b. The narration of Abū 'Aqrab (r)¹²²: 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.¹²³

¹¹⁸ *Ash-Sharḥ al-kabīr* (303/3).

¹¹⁹ *Al-Muwatta'a* (357/1).

¹²⁰ *Gharīb al-ḥadīth* (169/2).

¹²¹ *Al-Ḥawī al-kabīr* (360/4).

¹²² 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'im al-Aṣbahānī (2488/5).

¹²³ Reported by al-Hākim in *al-Mustadrak* (588/2), H. 3984. He said its chain is authentic; the two sheikhs did not reject it. Ibn Hajar made it ḥasan (good) in *Fath al-Bārī* (39/4).



Significance: Here the lion is bound to the term *kalb* (dog).¹²⁴

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 Mālik¹²⁵ and Aḥmad¹²⁶.

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.¹²⁷
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.¹²⁸
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.¹²⁹

¹²⁴ See: *Gharīb al-ḥadīth*, Ibn Salām (169/2).

¹²⁵ See: *al-Muwaṭṭa’* (357/1); *Mawāhib al-jalīl* (253/4).

¹²⁶ See: *al-Mughnī* (164/3), *al-Iqnā’* (582/1).

¹²⁷ *Badā’i’ aṣ-ṣanā’i’* (197/2).

¹²⁸ *Aḥkām al-Qur’ān* (175/2).

¹²⁹ *An-Nihāya fī gharīb al-ḥadīth wa al-athar* (275/3); see: *Lisān al-‘Arab* (594/4).



Section III:

Punishing Inside The Haram

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

The ulama reached a consensus: If a person inside the Haram commits a crime that has to be punished, he will be punished inside the Haram; among those who reported the consensus: aṭ-Ṭabarī¹³⁰, Ibn al-Jawzī¹³¹, Ibn ‘Abd al-Barr¹³², Ibn Qudāma¹³³, al-Qurṭubī¹³⁴ and others.

Evidence:

1. The word of Allah Most High:

وَلَا تُقَاتِلُوهُمْ عِنْدَ الْمَسْجِدِ الْحَرَامِ حَتَّىٰ يُقَاتِلُوكُمْ فِيهِ ۖ فَإِنْ قَاتَلُوكُمْ
فَاقْتُلُوهُمْ ۚ كَذَٰلِكَ 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:

¹³⁰ Tafsīr aṭ-Ṭabarī (14/4).

¹³¹ Muthīr al-‘azm as-sākin ilā ashraf al-amākin (191/1).

¹³² Al-Istidhkār (256/8).

¹³³ Al-Mughnī (239/8).

¹³⁴ Tafsīr al-Qurṭubī (111/2).



وَمَنْ يُرِدْ فِيهِ بِإِلْحَادٍ بِظُلْمٍ ۖ نُذِقْهُ مِنْ عَذَابٍ أَلِيمٍ

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

Significance: These are two clear and precise verses; the rule mentioned is to punish inside the Haram whoever committed wrongdoing, was unjust and went too far.¹³⁵

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 Haram 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 Haram in order to be punished. If he killed or stole outside the Haram 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 Haram, he may be judged and punished therein.¹³⁶

4. The people of the Haram, 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 Haram, the limits imposed by Allah would not be respected and evil would prevail against the Haram and its people.¹³⁷
5. He who commits a crime inside the Haram is actually violating its sanctity by disobeying and therefore deserves to be punished therein as an appropriate reward.¹³⁸
6. He who commits a crime in the Haram is similar to a mischief-maker who perpetrates a crime at the King’s court, inside His House and Sanctuary; he therefore deserves punishment.¹³⁹

¹³⁵ See: *al-Muḥallā* (497/10).

¹³⁶ 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.

¹³⁷ See: *al-Mughnī* (239/8); *Zād al-Ma‘ād* (448/3).

¹³⁸ See: *al-Mughnī* (239/8); *Zād al-Ma‘ād* (448/3).

¹³⁹ See: *Zād al-Ma‘ād* (448/3).



Evidence of the Consensus:

Many scholars reported a consensus on the fact that, inside the Haram, whoever commits a crime that deserves to be punished, shall be punished inside the Haram; among them:

1. **Aṭ-Ṭabarī (m)** said: The unanimous opinion is that whoever his caught inside it (the Haram) for committing a transgression has to be punished inside it; the rules for both questions gathered unanimity as described.¹⁴⁰
2. **Ibn ‘Abd al-Barr (m)** said: They unanimously agreed that whoever kills in the Haram or commits a transgression shall be punished therein.¹⁴¹
3. **Al-Qurṭubī (m)** said: They unanimously agreed that he who kills inside the Haram 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.¹⁴²

In that lies a protection for the Haram, 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 Haram 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 Haram and to dare to defy Allah in His land and sanctuary; such a crime deserves to be punished in the Haram, in order for the punishment to suit the crime.

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

The ulama diverged on he who perpetrated a crime outside the Haram 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 Haram, 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:

¹⁴⁰ *Tafsīr aṭ-Ṭabarī* (14/4).

¹⁴¹ *Al-Istidhkār* (256/8).

¹⁴² *Tafsīr al-Qurṭubī* (111/2).



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.¹⁴³

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 punished¹⁴⁴.

- 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.¹⁴⁵

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.¹⁴⁶

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).¹⁴⁷

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

¹⁴³ See: *Muthīr al-‘azm as-sākin ilā ashraf al-amākin* (191/1); *Nayl al-awṭār* (43/7).

¹⁴⁴ Previously quoted; see footnote 601.

¹⁴⁵ Reported by ‘Abd ar-Razzāq in his *Muṣannaf* (153/5), n°9229; al-Azraqī, in *Akhbār Makka* (139/2), its chain is authentic (ṣaḥīḥ).

¹⁴⁶ *Zād al-ma‘ād* (444/3).

¹⁴⁷ *Zād al-ma‘ād* (448/3).



agreed: if he committed his misdeed outside the Ḥaram and then took refuge in it, he cannot be punished inside of it.¹⁴⁸

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.¹⁴⁹
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 inside 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.¹⁵⁰

¹⁴⁸ *Tafsīr at-Ṭabarī* (14/4).

¹⁴⁹ *Majmū‘ al-fatāwā* (343/18).

¹⁵⁰ *Aḍwā‘ al-bayān* (139/5).



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.”¹⁵¹

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.

¹⁵¹ *l'āna aṭ-ṭālibīn 'alā ḥall alfāz fath al-mu'īn*, al-Bakrī ad-Dimiāṭī (344/4).



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