

Arabic Republic of Egypt
Ministry of Justice
Egyptian Fatwa Institute
Fatwa Department

“And ask the people of remembrance if you know not” [Nahl 43]

Praise be to Allah alone. May the salutations and peace be upon the final prophet, our master Muḥammad the messenger of Allah, and upon his family, companions and those who righteously follow him until the day of Judgment.

We perused the request no. 514 for 2011 of Muḥammad Sālim al- Ujayl dated 23/10/2011 which entails the following:

A certain group of people who are affiliated to the recent growing ideology - ascribed to the pious predecessors wrongfully and falsely – are carrying out destruction of the mausoleums of the saints, the scholars, the pious and the martyrs, digging up their graves with their hands, axes and big caterpillars. They do all of this in the darkness of night when no one is aware. We have attributed these acts to the followers of this ideology because they are the only ones in the country spreading these ideas amongst the people and they claim that the building of graves and mausoleums for the pious and saints is disbelief and misguidance. They prohibit the building of mosques over it, as well as praying in these mosques, claiming that this is an innovation and misguidance, while they are fully aware that some of these graves belong to the companions (may Allah be pleased with them) and to other great scholars who called to the path of Allah, and also those of the warriors and martyrs who died in battle while fighting the Italians. They exhume these graves even though they are protected by heritage, especially since most of them are more than five hundred years old, and most of them belong to the prophetic household (may Allah be pleased with him). All of this is documented with pictures found on the internet.

We request your legal verdict regarding this matter especially since they spread amongst the general public that they are indeed destroying disbelief and misguidance.

Answer:

Islam prohibited transgression against the sanctity of the deceased and it is therefore not permissible to dig up their graves. The reason for this is that the Muslim is given equal consideration whether he is dead or alive. And if the dweller of the grave is one of the pious saints, then transgression against it by opening it or removing it is more severely prohibited and considered a greater crime, because they are looked at favorably by Allah. Whoever inflicts harm on them has made war with Allah as described in a prophetic tradition: "Whoever harms one of my saints, I declare war on him". This tradition is narrated by Bukhārī through the narration of Abū Hurayrah (may Allah be pleased with him).

Something that is confirmed in sacred law is that the place of the grave either belongs to the person before his demise or it becomes an endowment for him afterwards. The condition stipulated by the one who established the endowment is like the stipulation made by the Lawmaker. So it is not permissible to dig up this grave or to remove whatever is built over it or to use its location for any other purpose.

As for the argument that prayers performed in mosques where the corpses of the saints and pious rest are prayers that are invalid, this view indeed is an innovation that has no substantiation. The prayers in these mosques are valid and permissible and may even reach the level of being recommended, as shown by the clear and authentic proofs from the Quran and the prophetic tradition, as well as the actions of Muslims in the earlier and later periods. Saying that it [i.e. the prayers in these mosques] is prohibited or invalid is itself an opinion that is incorrect and should not even be considered or looked at.

From the proofs of the Qur'an: *(Some) said, "Construct a building over them": Their Lord knows best about them: those who prevailed over their affair said, "Let us surely build a place of worship over them."*[Kahf 21]

The sequence of the verses points out that the first statement is that of the polytheists, while the second is that of the believers in the Oneness of Allah. Allah related both statements without showing any rejection to either of it, which proves the continuity of permissibility for both of them. In fact the context of the believers' statement shows praiseworthiness based on the comparison between it and between the statement of the polytheists. The latter is enshrouded in doubt while the words of the former are certain in the sense that their goal was not merely erecting a building, but taking the desired place as a place of worship.

Imām Rāzī comments on this verse “*Let us surely build a place of worship over them*”: “A place wherein we shall worship Allah and at the same time, due to the existence of the place of prayer, preserve the traces of the companions of the cave.” The great scholar al-Shihāb al-Khafājī says in commentary on *Tafsīr al-Baydāwī*: “In this there is proof to build mosques over the graves of the pious”.

The proof from the prophetic tradition: The narration of Abu Baṣīr (may Allah be pleased with him) that is narrated by ‘Abd al-Razzāq from Ma’mar and also by ibn Ishāq in *al-Sīrah* and Mūsā bin ‘Uqbah in his *Maghāzī* – and this is the most authentic account of the battles according to Imām Mālik, Shāfi‘i and Aḥmad (may Allah be pleased with them). All three of them narrate it from al-Zuhrī who narrates it from ‘Urwah bin Zubayr from Miswar bin Makhramah and Marwan bin al-Ḥakam (may Allah be pleased with them all) that: “Abu Jandal bin Suhayl bin ‘Amr buried Abū Baṣīr (may Allah be pleased with him) when he died and he built a mosque over his grave in a place called Sayf al-Baḥr, and this happened in the presence of three hundred companions”. The chain of narration is authentic containing reliable scholars. This kind of act could not have been unknown to the messenger of Allah (may Allah’s peace and blessings be with him) and there is no proof to suggest that he ordered the grave to be removed from the mosque or for it to be exhumed. It is also established that the prophet (may Allah’s peace and blessings be with him) said: “In the *masjid* of al-Khayf rest the bodies of seventy prophets”. This is narrated by al-Bazzār, Ṭabarānī in his *al-Mu’jam al-Kabīr* and ibn Ḥajar al-‘Asqallānī commented on it in *Mukhtaṣar Zawā’id al-Bazzār* saying that its chain is authentic.

It is also historically established that our master Ismā‘īl (may Allah’s peace be with him) and his mother Hājar (may Allah be pleased with her) are buried in the Ḥijr of the sacred mosque. This is what the reliable historians narrated and the scholars relied upon such as ibn Ishāq in *al-Sīrah*, ibn Jarīr in his *Tārīkh*, al-Suhayli in *al-Rawḍ al-Unf*, ibn al-Jawzī in *al-Muntaẓam*, ibn al-Athīr in *al-Kāmil*, al-Dhahabī in *Tārīkh al-Islām*, ibn Kathīr in his *al-Bidāyah wa al-Nihāyah* and other historians of Islam. The prophet (may Allah’s peace and blessings be with him) accepted this and he did not order for these graves to be exhumed or removed from Masjid Khayf or the sacred mosque.

Regarding the action of the companions, Imām Mālik narrates in his *Muwatta’a* with an authentic transmission that: “When there was a dispute amongst the companions as to where the prophet (may Allah’s peace and blessings be with him) should be buried, some said: He should

be buried at the pulpit, others said at al-Baqī' and then Abūbakr al-Ṣiddīq came and he said: I heard the messenger of Allah (may Allah's peace and blessings be with him) saying: Never was a prophet buried except in the place where he died. So they buried him there". The pulpit is most certainly part of the mosque, and none of the companions rejected this suggestion per se. Abūbakr merely turned away from this view because of wanting to implement the command of the prophet (may Allah's peace and blessings be with him) i.e. that he be buried in the place where his blessed soul was taken. That is why he was buried in the house of Lady Ā'ishah (may Allāh be pleased with her) which was attached to the mosque where the Muslims prayed. This is similar to the situation in our times where some mosques are attached to the chambers of the saints and the pious.

Regarding the claim that this was specifically for the prophet (may Allah's peace and blessings be with him); this claim is incorrect, because it is void of any proof. In fact the claim is undoubtedly invalid on the basis that our masters Abūbakr and 'Umar (may Allāh be pleased with them) are buried in the same chambers where Ā'ishah lived and prayed all her obligatory and voluntary prayers. So there is consensus amongst the companions regarding the permissibility of this.

There is practical consensus of the entire *ummah* and confirmation by its scholars that: Muslims in earlier and later times prayed in the mosque of our master the prophet (may Allah's peace and blessings be with him) and other mosques in which there were graves without anyone objecting to this. The scholars condoned this from the time of the 'Seven Jurists' in Madīnah Munawwarah, agreeing to include the sacred prophetic chambers as part of the prophetic mosque in the year 88 A.H. This occurred under the command of al-Walīd bin 'abd al-Malik and his instruction given to his governor over Madīnah 'Umar bin 'abd al-'Azīz (may Allah be merciful to him). No one objected except Sa'īd bin al-Masayyib, not because he thought it was objectionable to pray in mosques that had graves in them, but because he wanted the chambers of the prophet (may Allah's peace and blessings be with him) to remain visible as it had been in order for people to look at it and to detach themselves from this world. Also in order that they could see how their prophet (may Allah's peace and blessings be with him) lived.

As for the tradition of Ā'isha (may All be pleased with her) in the two authentic compilations [Bukhārī and Muslim] that the prophet (may Allah's peace and blessings be with him) said:

"Cursed are the Jews and Christians who took the graves of their prophets as places of worship". The word *masājīd* is the plural of *masjid* and linguistically, this word is a verbal noun beginning with the letter *mīm* which may denote time, place or event. The meaning of "taking graves as places of worship" refers to prostrating to it by way of revering and worshipping it, just like the polytheists prostrate in front of their idols. This was clarified in another authentic version of the tradition narrated by ibn Sa'd in *al-Ṭabaqāt al-Kubrā* on the authority of Abū Hurayrah (may Allāh be pleased with him) that the prophet (may Allah's peace and blessings be with him) said: (The wording of the tradition is) O Allah, do not make my grave an idol. "Cursed are those people who took the graves of their prophets as places of worship". The sentence "Cursed are those people..." clarifies the meaning of "making a grave an idol". So the meaning is: "O Allah, do not make my grave an idol that will be prostrated for and that will be worshipped like some people prostrated to the graves of their prophets.

Imām Bayḍāwī says: "When the Jews and Christians use to prostrate to the graves of their prophets, revering them and making it a direction of prayer, facing it when praying, etc. and taking it as idols, Allah cursed them preventing and prohibiting Muslims from committing the same act. As for the one who takes a place next to [the grave of] a pious person to pray there or he prays near to his grave with the intention of reaching the same effect of worship that the pious person reached, not [praying there] to revere him or to face his direction, in this there is no issue at all! Don't you see that the grave of Isma'il is in the sacred mosque in the Ḥaṭīm [the area within the semi-circular wall next to the ka'bah] and *that* mosque is the best place where the worshipper can pray? The prohibition relating to praying at the graveyard is specifically referring to graves that have been exhumed, since impurities may be found there".

Based on all of the above, the removal of any corpse from its place or from the mosque in which it is buried, especially the graves of the saints, the pious, martyrs and scholars, destroying its distinguishing marks by flattening it to the ground or destroying whatever is above it is prohibited according to the sacred law – no matter under which pretense it is done – and it is considered from amongst the major sins. This is so because of the obvious violation against the sanctity of the dead and the ill-conduct displayed toward the pious friends of Allāh. They are the ones who Allāh has declared war against those who want to harm them. And we were instructed to respect them and honour them whether they are dead or alive. In this respect, we call upon all the Muslims in the East and West, and the noble leaders and honorable

scholars and ministries responsible for religious affairs in all Muslim countries to take note and be mindful of these Satanic practices and to counter it with all the strength necessary and also to counter these destructive claims. These claims which suggest that all the graves of the pious which the Muslims erected mosques around them in the East and West, in earlier and later times from the time of the prophet (may Allah's peace and blessings be with him) in his blessed quarters in Madīnah Munawwarah, through to the companions and the honorable prophetic household like our master Abu Baṣīr in Jiddah al-Baḥr, Imām Ḥusayn, Sayyidah Zaynab and Sayyidah Nafisah in Egypt, the scholars who had a large following such as al-Shāfi'ī and Layth bin Sa'd in Egypt, Abū Ḥanīfah and Aḥmad in Baghdad, the pious friends of Allah like Shaykh 'abd al-Qādir al-Jīlānī al-Ḥanbalī in Baghdad, Abul Ḥasan al-Shādhilī in Egypt and 'abd al-Salām al-Asmar in Libya and the scholars and *ḥadīth* masters of the *ummah*, such as Imām Bukhārī in Bukhārā, ibn Hishām al-Anṣārī, al-'Aynī, al-Qaṣṭallānī and Sīdī Ahmad al-Dirdīr in Egypt and many others which are impossible to all be mentioned here, claiming that these are all symbols of polytheism and the acts of polytheists, and if Muslims do this they are considered to have associated partners with their Lord. They also render the seeking of intercession through the prophets and the pious, as well as respecting their abodes or visiting their graves – something which the entire *ummah* has performed generation after generation – as a form of idol worshipping and polytheism, thereby following the way of the Khawārij in rendering Muslims as polytheists, sinners or innovators. They do not care much about the heritage of the *ummah*, its glory and civilization. So a Muslim should no longer be attached to any historical, scholarly or cultural glory and he should view his predecessors as misguided, worshipping other than Allah without even knowing it. This leaves the Muslim with a very low morale and self esteem. All of this comes about in them misinterpreting some verses of the Quran and some prophetic traditions which specifically refer to polytheists who worship other than Allah, and not to Muslims who believe in the Oneness of Allah and who love Allah and His messenger (may Allah's peace and blessings be with him) and his pious friends of Allah by honouring them in their lifetime and after their death. These were the claims of the Khawārij who took the verses revealed to the polytheists and applied it to the believers as Imām Bukhārī narrated with an abbreviated chain in his authentic compilation on the authority of 'Abdullāh bin 'Umar (may Allah be pleased with them) regarding the description of the Khawārij. Ṭabarī provided the full chain of narrators in *Tahdhīb al-Āthar*, a chain considered to be authentic.

It is upon Muslims everywhere to oppose these destructive views and to stand united in warding off the transgression of these transgressors, so that the graves of the saints and the pious and the prophetic household, as well as the resting places of the scholars and martyrs do not become a game in the hands of every Tom, Dick and Harry and hypocrites or false claimants who are misled by their own Satans towards these violations on the basis of invalid arguments and errors.

After the transgression perpetrated by a few fanatics in Egypt on the graves of some of the pious friends of Allah, a statement was made by the Center for Islamic Research [the research wing of Al-Azhar University] strongly condemning these acts and calling upon the authorities to stop them, emphasizing that these acts are prohibited by the sacred law and to be considered a criminal act according to custom and the law itself.

A statement was also made by the Egyptian Ministry of Religious Affairs saying that: "A group of people who have wrong perceptions have emerged, misleading people and transgressing against the saints and their graves by way of burning and destruction. They are opposing Allah and his messenger (may Allah's peace and blessings be with him) and have injured the emotions of all Muslims, and specifically the Egyptians. There is consensus amongst the scholars of the religion of Islam in every era on the prohibition of these violations against the graves of the pious, and those who commit these acts are causing mischief on earth and are attempting to spread chaos in the communities, threatening to jeopardize the security of the country".

Thus it is incumbent upon all the leaders of the Muslims in Libya and other Muslim countries and all those whom Allah has placed in charge of mosques and its affairs as well as all authorities to prevent this evil and to stop the widespread mischief and to take to task those who do not afford the sanctity to the graves of the pious and who do not show any care or liability towards the saints of this *ummah*. Allah is sufficient for us and He is the best protector.

And Allah knows best

Signed and stamped

Fatwa Department

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