

Unlawfully Occupying a Waqf Cemetery & Using It as a Dumping Ground

Darulifta Ahlesunnat (Dawateislami)

Question

What do the noble scholars and jurists of Islamic law say about the following:
There is a large waqf cemetery in our village. Only part of the cemetery contains graves, while a large portion of it still remains vacant. Some people have unlawfully occupied parts of the vacant waqf land, some have stored their firewood there, and many also dump their trash there. What is the ruling regarding these actions?

Answer

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ
الْجَوَابُ بِعَوْنِ الْمَلِكِ الْوَهَّابِ اللَّهُمَّ هِدَايَةَ الْحَقِّ وَالصَّوَابِ

Once land has been established as waqf for a cemetery, it leaves human ownership and becomes the exclusive property of Allāh Almighty. Thereafter, it is not permissible to alter or replace the waqf land. The waqf land may only be used for the purpose for which it was endowed; using it for any other purpose, even if it is for public welfare, is ḥarām and impermissible. Even the wāqif (donor) himself has no right to alter the waqf after establishing it. Therefore, unlawfully occupying the cemetery's waqf land and making personal use of it is impermissible and ḥarām. Likewise, dumping trash in the cemetery is impermissible as it causes foul odors and dirtiness. Therefore, those who have unlawfully occupied the cemetery's land must immediately vacate it, and all trash must be removed from the land. Also, they must sincerely repent in the court of Allāh for these sins. It is likewise fard upon the rest of the Muslims, according to their ability, to strive to have the cemetery's land cleared of all unlawful occupation and unlawful use. Anyone who has the ability to prevent this but fails to do so is also sinful.

In a waqf, abiding by the conditions of the wāqif (donor) is necessary. A'la Hazrat Imām Aḥmad Razā Khān عليه رحمة الرحمن states:

وقف میں شرائط واقف کا اتباع واجب ہے، اشباہ والنظائر میں ہے: ”شرط الواقف كنص الشارع في وجوب العمل به“۔

Translation: In waqf, abiding by the conditions stipulated by the wāqif is wājib. It is stated in *al-Ashbāh Wal-Nazā'ir*: The conditions stipulated by the wāqif are equivalent to the text of the sharī'ah in that it is wājib to act upon them. (Fatāwā Razawiyah, Vol. 16, p. 225, Publ. Razā Foundation, Lahore)

No one has the authority to alter a waqf after it has been established. A'la Hazrat Imām Aḥmad Razā Khān عليه رحمة الرحمن states:

مسلمانوں کو تغیر وقف کا کوئی اختیار نہیں، تصرف آدمی اپنی ملک میں کر سکتا ہے، وقف مالک حقیقی، حل وعلاکہ ملک خاص ہے، اس کے بے اذن دوسرے کو اس میں کسی تصرف کا اختیار نہیں۔

Translation: No Muslim has the right to alter the waqf. A person can make changes to his personal property. The waqf is owned exclusively by the Ultimate Owner, Allāh Almighty. Without his permission, no one else has the authority to alter it.

(Fatāwā Razawiyah, Vol. 16, p. 232, Publ. Razā Foundation, Lahore)

Using waqf land for personal use or unlawfully occupying it is impermissible and ḥarām. Likewise, dumping filth and waste on graves is impermissible and ḥarām.

‘Alā Hazrat رحمۃ اللہ تعالیٰ علیہ also states:

قبرستان وقت ہے اور وقت میں اپنی سکونت کا مکان بنانا وقت بیجا ہے اور اس میں تصرف بیجا حرام ہے، پھر اگر اس قطعہ میں قبور بھی ہوں، اگرچہ نشان مٹ کر ناپید ہو گئی ہوں، جب تو متعدد حراموں کا مجموعہ ہے، قبروں پر پاؤں رکھنا ہوگا، چلنا ہوگا، بیٹھنا ہوگا، پیشاب پاخانہ ہوگا، اور یہ سب حرام ہے۔ اس میں مسلمانوں کو طرح طرح ایذا ہے اور مسلمان بھی کون، اموات کہ شکایت نہیں کر سکتے، دنیا میں عوض نہیں لے سکتے، بے وجہ شرعی مسلمانوں کی ایذا اللہ و رسول کی ایذا ہے۔ اللہ و رسول کو ایذا دینے والا مستحق جہنم۔ اسی طرح اگر قبرستان کے قریب مکان بنایا، پاخانے یا دھویوں کے غلیظ پانی کا بہاؤ قبور پر رکھا تو یہ بھی سخت حرام ہے اور جو باوصف قدرت اسے منع نہ کرے، وہ بھی مرتکب حرام ہے۔۔۔ امام ابن امیر الحاج حلیہ میں نوادر و تحفۃ الفقہاء و بدائع و محیط وغیرہ سے نقل فرماتے ہیں: ”أباحنیفة رضی اللہ تعالیٰ عنہ کرہ و طء القبر و القعود أو النوم أو قضاء الحاجة إلیہ“۔۔۔ تنویر الابصار میں ہے: ”یکرہ بول و غائط فی مقابر“۔

ردالمحتار میں ہے: ”لأن الميت يتأذى بما يتأذى به الحي والظاهر أنها تحريمه لأنهم نصوا على أن المروفي سكة حادثة فيها حرام فهذا أولى“۔

Translation: A cemetery is waqf and building a residence on the waqf land is unauthorized use of the waqf, and unauthorized use is ḥarām. Then, if there are also graves in that portion, even if there are no markings of graves anymore, this entails numerous prohibited acts: One will have to step on graves, walk on them, sit on them, and urinate and defecate on them; all of these are ḥarām. These are all forms of harming Muslims. And who are these Muslims? They are the deceased who cannot complain nor take compensation in this world. Harming Muslims without any valid sharī‘ah reason is equivalent to harming Allāh and His Messenger. The one who (tries to) harm Allāh and His Messenger is deserving of Hell. Similarly, making a home near a cemetery and directing the flow of the wastewater from toilets and the laundry to the graves is also severely ḥarām. The one who does not prevent this despite having the ability to do so also commits ḥarām... Imām Ibn Amīr al-Ḥāj states in *Hilyah* with reference to *Nawādir*, *Tuḥfah al-Fuqahā*, *Badā’i*, *Muḥīt*, etc.: “Imām Abū Ḥanīfah رضی اللہ تعالیٰ عنہ declared it makrūh to walk, sit, sleep, and defecate on graves”... It is stated in *Tanwīr al-Absār*: “It is makrūh to urinate and defecate in a cemetery.”

It is stated in *Radd al-Muḥtār*: “The deceased is harmed by whatever harms the living. It is evident that this makrūh is taḥrīmī because the scholars have explicitly stated that walking on a newly constructed pathway in a cemetery is ḥarām. Thus, these (urinating and defecating) are ḥarām to a greater degree.” (Fatāwā Razawiyah, Vol. 09, p. 409-410, Publ. Razā Foundation, Lahore)

That which harms the living also harms the deceased. Furthermore, the sanctity of a deceased Muslim is like that of a living Muslim. A‘lā Hazrat Imām Aḥmad Razā Khān رحمۃ الرحمن writes:

علمائے کرام کا اتفاق ہے کہ مسلمان کی عزت مردہ و زندہ برابر ہے۔ محقق علی الاطلاق رحمۃ اللہ تعالیٰ علیہ فتح القدیر میں فرماتے ہیں: ”الاتفاق علی أن حرمة المسلم ميتا كحرمة حيا“۔۔۔

سید عالم صلی اللہ تعالیٰ علیہ وسلم فرماتے ہیں: ”الميت يؤذيه في قبره ما يؤذيه في بيته“۔ علامہ مناوی شرح میں فرماتے ہیں: ”أفاد أن حرمة المؤمن

بعد موته باقية“---

سیدنا حضرت ابن مسعود رضی اللہ تعالیٰ عنہ فرماتے ہیں: ”أذى المؤمن في موته كأذا في حياته، رواه أبي بكر بن أبي شيبة“۔
علماء فرماتے ہیں: ”الميت يتأذى بما يتأذى به الحي“۔

Translation: The scholars agree that the sanctity of a living and deceased Muslim is the same. Muḥaqqiq ‘Alā al-Itlāq رحمۃ اللہ تعالیٰ علیہ states in *Fatḥ al-Qadīr*: “There is agreement that the sanctity of a deceased Muslim is like the sanctity of a living Muslims”...

The Noble Rasūl ﷺ states: “The deceased is harmed in his grave by whatever harms him in his home.” ‘Allāmah Munāwī رحمۃ اللہ تعالیٰ علیہ states in his commentary: “This ḥadīth indicates that the sanctity of a Muslim remains even after his demise.” Ibn Mas‘ūd رضی اللہ تعالیٰ عنہ states: “Harming a Muslim after his death is like harming him during his lifetime.” Abū Bakr ibn Abī Shaybah has narrated this. The scholars state: “A deceased is harmed by whatever harms the living.” (Fatāwā Razawiyah, Vol. 09, p. 441-442, Publ. Razā Foundation, Lahore)

وَاللّٰهُ اَعْلَمُ عَزَّوَجَلَّ وَرَسُوْلُهُ اَعْلَمُ صَلَّى اللّٰهُ تَعَالٰى عَلَیْهِ وَاٰلِهٖ وَسَلَّم

(Allah Almighty knows best and His Messenger صَلَّى اللّٰهُ تَعَالٰى عَلَیْهِ وَاٰلِهٖ وَسَلَّم knows best.)

Answered By: Muḥammad Naveed Chishti

Verified by: Mufti Muhammad Qasim Attari

Ref No: PIN-7726

Date: 07th Ramadān al-Mubārak 1447 AH/ 25th February 2026



Dar-ul-IftaAhlesunnat (Dawat-e-Islami)



www.fatwaqa.com



[daruliftaahlesunnat](https://www.facebook.com/daruliftaahlesunnat)



[DaruliftaAhlesunnat](https://www.youtube.com/DaruliftaAhlesunnat)



[Dar-ul-ifta AhleSunnat](https://play.google.com/store/apps/details?id=com.daruliftaahlesunnat)



feedback@daruliftaahlesunnat.net