

# Permission for Grave Relocation Applications in Terengganu Up to the Year 2011

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## ABSTRACT

Numerous applications for grave relocation have been submitted to the Terengganu State Mufti's Office. At the seventh Fatwa Committee Meeting in 2023, it was found that 3 out of 4 papers discussed applications for grave relocation with various reasons, some of which were second review applications. This indicates that some members of the community in Terengganu take the ruling on excavating and relocating graves lightly, even with minor reasons. Therefore, the purpose of this study is to examine the original ruling on excavating and relocating graves. Subsequently, it examines the reasons for permissibility. The basis of this study is the authoritative view (mu'tamad) of the Shafi'i school of thought (mazhab fiqh), which serves as a reference for issuing fatwas in Terengganu. Furthermore, an analysis is conducted on 3 exemplary cases of grave relocation applications submitted to the Terengganu Mufti's Office. In conclusion, it is forbidden (haram) to excavate and relocate graves unless there is a Sharia-recognized benefit (maslahah syarak) such as road construction or burial without the landowner's permission.

**Keywords:** Grave Relocation, application, terengganu

## INTRODUCTION

### Definition of Grave Relocation (al-Nabsy wa al-Naql)

Relocation is a noun derived from the verb 'alih', meaning to move. A grave is the ground where a corpse is buried. Grave relocation means excavating and moving a corpse from its original burial ground to another plot of land. According to fiqh, the terms used for this situation are al-nabsy (النَبْش) and al-naql (النَقْل), as titled by Sheikh Muhammad al-Zuhailiy “نقل الميت ونَبْشه” (al-Mu'tamad, 2010: vol 1 p.644).

Al-Nabsy (النَبْش) in Arabic, from the word ‘نَبَشَت الْقَبْرَ نَبْشًا’, means أَخْرَجَتِ الْمَدْفُون عَنْهُ to excavate a grave and remove the corpse from it (al-Mawsu'ah al-Kuwaitiyyah, 2003, vol.20, p. 24).

### Ruling on Grave Relocation (al-Nabsy wa al-Naql)

What is meant by grave relocation here is the excavation of grave soil after a corpse has been buried within it. The ruling on excavating a grave after the deceased has been buried is forbidden (haram). This ruling has been agreed upon (ittifaqkan) by the fiqh scholars of the Shafi'i school and other schools of thought (Muqnhni al-muhtaj, vol 1 p 366).

The reason for this prohibition is that it is obligatory to honor the deceased by burying them in a grave plot that prevents their foul odor from harming the living and protects them from being consumed by wild animals. Therefore, nullifying this honor by excavating the grave without a Sharia-approved reason is forbidden.

The obligation to honor the children of Adam (a.s.) in life and death is based on the hadith narrated by Aisha (r.a.) where the Prophet (s.a.w.) said: *إن دماءكم وأموالكم وأعراضكم عليكم حرام كحرمة يومكم هذا في شهركم هذا في بلدكم هذا*. Aisha (r.a.) said: *كسر عظم المسلم ميتا ككسره وهو حي* (al-Muwatta', al-Bukhari:4406, Muslim:1679).

## Reasons for Permissibility of Relocation

The original ruling for relocating a corpse before its body decomposes in the grave is forbidden (haram). It is permissible when there is a necessity (dharuriyyat) or need (hajiyyat) recognized by Sharia.

The evidence for the permissibility of grave relocation due to Sharia-approved reasons is a hadith about Jabir bin Abdullah (r.a.): (al-Bukhariyy: no. 1286)

انه دفن أباه يوم أحد مع رجل آخر في قبر. قال: ثم لم تطب نفسي أن أتركه مع آخر فاستخرجته بعد ستة أشهر فإذا هو كيوم وضعته هيئة غير أذنه . وفي رواية: أخرجته فجعلته في قبر على حدة

The fuqaha' (Islamic jurists) mention several matters that permit grave relocation. These matters are sometimes related to the welfare (maslahat) of the deceased and sometimes to the living and are permitted under certain conditions.

Sheikh Ibrahim al-Bajuriyy (r.a.) said in his Hasyiah to Fath al-Qarib (vol.1, p.269):

وأما دفن ميت على ميت آخر كما يقع الآن في الفسافي المعروفة فحرام

لأن نبشه بعد دفنه وقبل البلى عند أهل الخبرة بتلك الأرض ولو لغير الدفن عليه كأن يكون لنقله حرام لأن فيه هتكاً لحرمة إلا لضرورة

Corpse buried without purification (al-taharah)

كأن دفن بلا غسل ولا تيمم وهو ممن يجب طهره فيجب نبشه إن لم يتغير

Corpse buried on someone else's land without permission or shrouded in stolen shroud

أو دفن في ثوب أو أرض مغصوبين وطالب بهما مالكهما فيجب نبشه ولو تغير. ويسن لصاحبهما الترك وينبغي أن يقطع في الكفن الحرير بعدم النيش خلافاً لمن جعله كالمغصوب لأن حق الله مبني على المسامحة

Property falls and is buried with the corpse

ويجب النيش أيضاً وإن تغير الميت إذا وقع في القبر مال وإن قل كخاتم لأن تركه فيه إضاعة مال وقيده في المذهب بطلب مالكة وهو المعتمد قياساً على الكفن

Another person's property swallowed and buried with the corpse

وكذلك يجب النيش فيما إذا بلع مالا لغيره وطلبه صاحبه بعد دفنه فإنه ينبش ويشق جوفه ويخرج منه، ويرد لصاحبه. أما إذا ابتلع مال نفسه فإنه لا ينبش ولا يشق لاستهلاكه ماله في حال حياته

Corpse buried not facing the correct Qibla direction

ولو دفن لغير القبلة وجب نبشه أيضاً، وتوجيهه القبلة ما لم يتغير بخلاف ما إذا دفن بلا تكفين لأن الغرض من التكفين الستر وقد حصل بالتراب

Corpse threatened by flood erosion or contamination by dirty or impure water

وكذا ينبش ويخرج إذا لحق الميت سيل أو ندوة

## Applications for Grave Relocation in Terengganu and Fatwa Decisions

The Terengganu Mufti's Office has received several applications for grave relocation since 1991. Among the approved applications are as follows:

### Title: Islamic Cemetery Area Involved in the Proposed Kuala Terengganu Urban Drainage System

If there is no other route for the proposed Kuala Terengganu urban drainage system project, then based on necessity (darurat), the proposed drainage system may proceed, provided that all remnants of the deceased's body

are preserved, and if found, they must be moved to another location and buried in an Islamic cemetery. Excavation work must be carried out carefully and under the supervision of an officer from the Terengganu Islamic Religious Affairs Department.

Reason for relocation: public interest (masalahah ‘ammah) for drainage and to avoid the threat of dampness.

### **Title: Burial Site on the Proposed Kampung Kolam Housing Project Site, Section 2**

It is understood that the original status of the burial ground, whether it was endowed (wakaf) or not for burial purposes, is unknown, and this area has not been used for burial for over 100 years and is now a residential area.

Therefore, the Committee is of the opinion that if the area is to be developed, any detectable graves must be respectfully relocated to another Islamic cemetery.

Reason for relocation: burial without permission on private land and owner's claim.

### **Title: Application to Relocate Islamic Graves on The Taman Seri Kolam Project Site, Kuala Terengganu**

In connection with this, based on the decision of the Terengganu State Fatwa Committee on 24/04/1994 regarding graves on the proposed Kampung Kolam housing project site, the meeting agreed to permit the relocation, subject to adherence to the guidelines for excavating graves to be relocated.

Reason for relocation: burial without permission on private land and owner's claim.

### **Title: Grave Issue in the Area of the New Road and Bridge Project, Kampung Gondang / Teratak Batu / Pengkalan Kubang, Marang**

The meeting noted that the Marang District Engineer requested a fatwa regarding the location of several gravestones (made of hill stone) on a hill near the proposed new road and bridge in Kampung Gondang / Teratak Batu / Pengkalan Kubang, Marang. If the proposed road were diverted to avoid the cemetery, it would create a sharp bend and involve the acquisition of new land, which would take up to one year. This process would also lead to an increase in project costs due to delays.

The meeting also noted that the area containing the graves (4 graves) is government land, is more than 70 years old, and the heirs can no longer be traced.

The meeting agreed to re-excavate the graves carefully and witnessed by officers from the Department of Religious Affairs. If any remains or remnants of bodies are found, they must be relocated and buried in a nearby official cemetery according to the prescribed method.

The Marang District Public Works Department has constructed the road and bridge and successfully resolved the issue, meaning the road construction did not involve the cemetery area.

Reason for relocation: public interest (masalahah ‘ammah) for road construction.

### **Title: Widening of the Main Road and Installation of Traffic Lights at Kemasik Four-Way Intersection**

The Mufti's Office received an application from the Kemaman District Officer to relocate an old grave located near the Kemasik four-way intersection because it falls within the area for the main road widening and traffic light installation at Kemasik four-way intersection.

After reviewing this application paper, the meeting agreed to relocate the grave to a nearby cemetery area. The method of grave relocation must follow the procedures for grave relocation provided by the Fatwa Committee.

Reason for relocation: public interest (masalahah ‘ammah) for road construction.

### **Title: Request for Fatwa on the Location of Old Graves on Lot 2294, Kuala Terengganu Town**

The meeting agreed that the old graves found on Lot 2294, Kuala Terengganu Town, should be relocated to the

Syeikh Ibrahim or Tok Pelam cemetery. The relocation methods must comply with the ethics and etiquette of grave excavation and corpse relocation as previously decided by the Fatwa Committee members.

Reason for relocation: burial without permission on private land and owner's claim.

#### **Title: Request for Permission to Relocate Islamic Graves on Lot 3244, Mukim Kuala Dungun**

The meeting decided that: Permission is granted to relocate Islamic graves on Lot 3244, Mukim Kuala Dungun, on the condition that the process of relocating the deceased to another Islamic cemetery is carried out by trustworthy individuals who respect the deceased and is monitored by the District Religious Officer. The method of excavating the deceased must not be performed by machinery but by humans, by excavating around the deceased, not directly on top of the deceased, so that the original physical structure of the deceased is preserved, and the soil where the deceased is located must be taken along.

Reason for relocation: burial without permission on private land and owner's claim.

#### **Title: Proposed Development of Imtiyaz Yayasan Terengganu Secondary School Complex, Kijal, Kemaman**

The meeting convened today agreed to permit the Kemaman District Office and the Kemaman District Religious Office to exhume and relocate two graves found on the development site of the Imtiyaz Yayasan Terengganu Secondary School Complex to a nearby cemetery.

Reason for relocation: burial without permission on private land and owner's claim.

## **CONCLUSION**

Grave relocation refers to two matters: al-Nabsyu and al-Naql. The original ruling for relocation is prohibited, i.e., forbidden (haram). Relocation is permissible when there is a necessity (dharurah) for relocation. The study found that most permissions for grave relocation issued by the Terengganu Mufti's Office are based on two reasons. Firstly, when it involves public interest, such as road construction. Secondly, when burial is found to have occurred on private land without the owner's permission.

This paper provides the general methodology of Shafi'i fiqh regarding the issue of grave relocation permission for Muslims. However, in Terengganu, decisions on grave relocation applications are subject to the discretion of His Eminence Dato' Mufti of Terengganu and the members of the State Fatwa Committee Meeting.

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