

## **Accepting the Sighting of the Crescent Elsewhere**

If the hilaal (crescent) of Ramadaan or 'Eid is sighted in a particular place, would such sighting be binding on people living elsewhere? In hadith commentaries and fiqh literature this discussion is known as that of اختلاف المطالع

مطلع is the plural of مطلع and in this context it refers to the time of moon rise. اختلاف المطالع refers to the differences in the time of moon rise. We all acknowledge that the moon does not rise at the same time all over the world. The issue, however, is whether time differences have any bearing on the opening question. Hence, when asking whether the sighting of the crescent in one place is sufficient or binding on the residents of other places, the fuqaha commonly ask whether any consideration should be given to اختلاف المطالع or not. Those who opine that the sighting of one place may or should be accepted by the people of other places say that no consideration should be given to اختلاف المطالع and those who claim that the people of every place need to sight the moon themselves say that اختلاف المطالع has to be considered.

It is evident from the above that there are differing views in this discussion. In short, there are three opinions:

1. اختلاف المطالع must always be considered.
2. اختلاف المطالع must never be considered.
3. اختلاف المطالع must only be considered in distant places.

## The Hanafi View

Surprisingly, all of the above opinions are found within the Hanafi madhab. The author of At-Tajreed and others preferred the first opinion.<sup>1</sup>

However, based on strength of attribution to Imam Abu Hanifa (ra), the rulings and deductions of his madhab are classified into different types. The strongest of them are called the ظاهر المذهب. According to Sarakhsi (ra), the second opinion is the ظاهر المذهب in this issue.<sup>2</sup> Furthermore:

- Indicating his preference of this opinion, Ibn-ul-Humaam (ra) wrote that ‘adoption of the ظاهر المذهب is more cautious’.<sup>3</sup>
- The author of Ad-Durr Al-Mukhtaar wrote that:
  - و عليه أكثر المشايخ (most of the fuqaha prefer this opinion).
  - و عليه الفتوى (fatwa is given in accordance with this opinion).<sup>4</sup>
- Ibn ‘Aabideen (ra) described this opinion as the معتمد (relied upon) opinion among the Hanafis, Maalikis and Hambalis.<sup>5</sup>

## A Third Opinion

According to a third opinion among Hanafi fuqaha اختلاف المطالع must be considered if the two places are far from each other. Moulana Banuri (ra) noted in Ma’aarif-us-Sunan that:

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<sup>1</sup> Fath-ul-Qadeer (V.2 Pg.314)

<sup>2</sup> Al-Ikhtiyaar (V.1 Pg.129)

<sup>3</sup> Fath-ul-Qadeer (V.2 Pg.314)

<sup>4</sup> Ad-Durr Al-Mukhtaar (V. Pg.)

<sup>5</sup> Radd-ul-Muhtaar (V. Pg.)

- Imam Qudoori (ra) chose this opinion in his At-Tajreed.
- Jurjaani and Zaila'i (ra)<sup>6</sup> also preferred this opinion. The latter described this opinion as الأشبه (more correct).<sup>7</sup>
- 'Allamah Kashmiri (ra) said that it is imperative to accept this opinion because the result of not doing so despite the two places being far from each other is that sometimes 'eid would fall on the twenty seventh, twenty eighth, thirty first or thirty second day. In simpler words, sometimes there would be only twenty seven or twenty eight days and sometimes there would be thirty one or thirty two days before 'eid.<sup>8</sup>

In his Fath-ul-Mulhim, 'Allamah Shabbier Ahmad 'Uthmani (ra) mentioned the same thing as 'Allamah Kashmiri (ra). He wrote that the texts are explicit that one month comprises of twenty nine or thirty days. Therefore, testimony will not be accepted if it will result in less than twenty nine or more than thirty days.<sup>9</sup> In his Dars-e-Tirmidhi, Mufti Taqi 'Uthmani explains this as the difference between distant and close. So long as acceptance of the sighting of another place does not affect the length of the month in the above manner, the other place will be regarded as close and their sighting will be acceptable. If acceptance of the sighting of the other place will affect the length of the month in the above manner, the other place will be regarded as distant and their sighting will not be acceptable.<sup>10</sup>

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<sup>6</sup> This refers to Fakhr-ud-Deen Zaila'i (ra), the commentator of Kanz-ud-Daqaaiq. He was the mentor of Jamaal-ud-Deen Zaila'i (ra), the author of Nasbur-Raayah.

<sup>7</sup> Ma'aarif-us-Sunan (V.5 Pg.337)

<sup>8</sup> Ma'aarif-us-Sunan (V.5 Pg.337)

<sup>9</sup> Fath-ul-Mulhim (V.5 Pg.198)

<sup>10</sup> Dars-e-Tirmidhi (V.2 Pg.)

## The Maaliki Madhab

We have already alluded to Ibn 'Aabideen (ra)'s statement that non-consideration of اختلاف المطالع is the معتمد (relied upon opinion) of the Hanafis, Maalikis and Hambalis.

Ibn Abdil-Bar (ra) stated that this does not apply to far-apart places. He claimed that there is ijmaa' (consensus) that اختلاف المطالع between distant places should be considered. Shawkaani disputed this claim saying that it does not deserve any attention.<sup>11</sup> However, the ijmaa' (consensus) in this regard is also quoted in the Muqaddimaat and Bidaayat-ul-Mujtahid of Ibn Rushd (d.520AH) and Ibn Rushd Al-Hafeed<sup>12</sup> (d.595AH) respectively. 'Allamah Kashmiri (ra) referred to the former<sup>13</sup> and 'Allamah 'Uthmani referred to the latter.<sup>14</sup> 'Allamah 'Uthmani notes further that:

- Ibn Rushd merely follows Ibn Abdil-Bar with regards transmission of the madhaahib. (Hence, Ibn Rushd's citation of ijmaa' does not strengthen Ibn Abdil-Bar's claim.)
- However, the sequence of the discussion in Fath-ul-Baari and Bidaayat-ul-Mujtahid indicate that Ibn Abdil-Bar and Ibn Rushd only meant ijmaa' among the Maaliki fuqaha. They did not mean ijmaa' among all the madhaahib.<sup>15</sup>

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<sup>11</sup> Nayl-ul-Awtaar (V.4 Pg.219)

<sup>12</sup> Al-Hafeed means grandson. It is added because this Ibn Rushd is the grandson of the former Ibn Rushd. Interestingly, the agnomen of both is Abul-Waleed.

<sup>13</sup> Ma'aarif-us-Sunan (V.5 Pg.337)

<sup>14</sup> Fath-ul-Mulhim (V.5 Pg.198)

<sup>15</sup> Fath-ul-Mulhim (V.5 Pg.198)

From the Ma'aarif-us-Sunan it seems that 'Alamah Kashmiri understood that Ibn Rushd meant ijmaa' of all the madhaahib.

### **The Shaafi'i Madhab**

The previously referenced statement of Ibn 'Aabideen (ra) indicates that the only people who pay unconditional attention to اختلاف المطالع are the Shaafi'is. Likewise, after quoting various hadith commentaries and fiqh texts, Shaikh Muhammad Zakariyya (ra) noted that:

فَعُلِمَ مِمَّا سَبَقَ أَنَّ اخْتِلَافَ الْمَطَالَعِ لَمْ يَعتَبَرَهُ مِنَ الْأَئِمَّةِ إِلَّا الْإِمَامُ الشَّافِعِيُّ

It is understood from the preceding quotations that اختلاف المطالع was not considered by any of the Imams besides Imam Shaafi'i (ra).<sup>16</sup>

However, with regards to when the sighting of one place is binding other places, Imam Nawawi (ra) mentioned four opinions among the Shaafi'i fuqaha:

1. It only applies to people who are not further from the town of sighting than the distance of qasr (shortening of salaah).
2. It only applies to people living in the same مطلع (time zone).
3. It only applies to people living in the same إقليم ( ).
4. It applies to everybody. Using Imam Nawawi (ra)'s words, it applies to جميع أهل الأرض (everybody on the earth).<sup>17</sup>

However, Imam Nawawi (ra) describes the first opinion as صحيح (correct). On the contrary, he uses the word قيل (it is said) before

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<sup>17</sup> Sharh Saheeh Muslim V.2 Pg.707 (Al-Bushra 2016)

second and third opinions and قال بعض أصحابنا (some of our companions say) before the fourth opinion.

It is evident from the above that there are instances when even the Shaafi'is do not insist on every town or city having its own sighting of the crescent. Put differently, the first three of the above opinions indicate that the sighting of another place is only unacceptable in far-apart towns. There are, however, differences with regards differentiation between far and close.

### **The Hadith of Kuraib (ra)**

This hadith is cited as substantiation for those who insist that every place must have its own sighting or that اختلاف المطالع must always be considered. Therefore, we who disagree with this opinion have to explain that if اختلاف المطالع does not have to be considered, why did Ibn 'Abbas (ra) not accept the report of Kuraib (ra).

### **Answer One**

In this hadith, when Kuraib (ra) asked Ibn 'Abbas (ra) if he would not suffice with the sighting and fasting of Mu'aawiyah (ra), Ibn Abbas (ra) replied, 'No, this is what Rasulullah sallallahu alaihi wasallam commanded us (to do).'

Ibn 'Abbas (ra) did not cite any explicit statement or action of Rasulullah sallallahu alaihi wasallam. Having scrutinised the encyclopaedic works of hadith, the commentators concluded that in his closing statement, Ibn 'Abbas (ra) could have only been referring to the hadith:

لا تصوموا حتى تروا الهلال و لا تفطروا حتى تروه

Do not start fasting until you see the crescent and do not stop fasting until you see the crescent.

It seems that Ibn ‘Abbas (ra) understood from this and other similar ahaadith that it is imperative for the residents of each town or city to sight the crescent themselves and that the sighting of others does not suffice for them. However, these ahaadith could also be explained in a manner that favours the opposite opinion because when the Muslims of one place sight the crescent, it is as if all the Muslims had sighted it. After all, when the crescent is sighted by some of the residents of a city, their sighting is binding on the rest of the citizens of that city although they did not see the crescent. So, just as the sighting of some residents of the city applies to all of them, the sighting of some Muslims applies to all of them. In fact, Shawkaani comments that using this hadith to prove application of the sighting of one place to all other places is clearer than using it to prove non-application of the same.<sup>18</sup>

### **Answer Two**

It is possible that Ibn ‘Abbas (ra) was of the opinion that اختلاف المطالع must be considered between places that are far apart and he regarded Shaam as far from Madinah. Remember that the differentiation between far and near is based on ijtihaad. There are no explicit texts denoting the difference between the two.<sup>19</sup>

### **Answer Three**

It is also possible that Ibn ‘Abbas (ra) regarded consideration of اختلاف المطالع as unnecessary and the sighting of Shaam as sufficient for the people of Madinah but he did not accept the report of Kuraib (ra) due to incompleteness of the nisaab of testimony (i.e. insufficient witnesses, Kuraim (ra) was alone whereas in a situation like this two witnesses are required).

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<sup>18</sup> Nayl-ul-Awtaar (V.4 Pg.218) and Fath-ul-Mulhim (V.5 Pg.198)

<sup>19</sup> Dars-e-Tirmidhi (V.2 Pg.534)

The validity of this answer may be challenged because the topic under review was commencement of Ramadaan and شهادة (testimony) is not a requirement for commencement of Ramadaan. What this means is that Ramadaan may be announced due to the claim of a single person claim that he saw its crescent. Therefore, Ibn 'Abbas (ra) should have accepted the report of Kuraib (ra). The answer to this objection is that although they were reviewing the commencement of Ramadaan, their discussion was took place at the end of the month and was going to affect the timing of 'eid and 'eid may not be announced on the basis of the claim/report of a single person that he saw its crescent. Instead, the testimony of two people is required. Since Kuraib (ra) was alone, he was unable to give testimony and his report was not accepted.<sup>20</sup>

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<sup>20</sup> Ad-Durr Al-Mandood (V.4 Pg.187), Dars-e-Tirmidhi (V.2 Pg.535-536) and Fath-ul-Mulhim (V.5 Pg.199)