



مفتى محمد يوسف دُنكا
Mufti Muhammed Yusuf Danka

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

الحمد لله حمد الشاكرين، والصلاة والسلام على المبعوث رحمة للعالمين، وهادياً للناس أجمعين.
صلاةً وسلاماً دائماً إلى يوم الدين، وآله وصحبه ومن تبعهم بإحسان، وسلم تسليماً كثيراً، أما بعد:

The Importance of Jame Ghafeer (a large group) according to Sahih Ahadith and views of the great Scholars of Islam:

Allah Ta'ala has stated in the Holy Qur'an: 'They ask you (Muhammad ﷺ) about the crescent moons. Say: They are signs to mark fixed periods of time for mankind and for the pilgrimage.' (s2, v189)

It is necessary to view the crescent moon with the naked eye as proof of the Hilal. If the sky is clear, the Hanafi scholars state that Jame Ghafeer (a large group) is required to have witnessed the crescent moon. In the matter of Jame Ghafeer, there is no difference of opinion from the time of the Salaf to the present day. In Saudi Arabia, even though the skies are clear, there is never a report of Jame Ghafeer. It is unfortunate that the Jamiat and Hizbul Ulama of the UK are blindly following the Saudi announcements, after claiming to be followers of the Hanafi school of thought. They give no regard to the Shari'ah or the rulings of their predecessors behind a guise of a hallucinated unity.

عن ابن عمر رضي الله عنهما أن رسول الله ﷺ قال: الشهر تسع وعشرون ليلة فلا تصوموا حتى تروه، فإن غم عليكم فأكملوا العدة ثلاثين. (صحيح بخارى ص306 صحيح مسلم ص347) اس حديث مین " فلا تصوموا حتى تروه جمع کا صیغہ ہے۔"

Sayyidina Ibn Umar رضي الله عنهما relates from Nabi ﷺ that there are twenty nine nights in a month, do not fast until all you see it (the Hilal), if it is hidden from you then complete thirty days. (Sahih Bukhari p,306/ Sahih Muslim p,347)

The word in the Hadith, فلا تصوموا حتى تروه, which can mean that when a lot of people sight it (the Hilal) then fasting should begin. Throughout the lifetime of Prophet ﷺ 'Ruyat e A'amah' i.e. a large group as could be understood by this Athar (speech of Sahabah or Tabi'een رضي الله عنهم) was practised. Only on one occasion in Madina moon was not sighted and RasulAllah ﷺ accepted the witnessed statement of a Nomad Arab. But consideration needs to be taken that the person who accepted the testimony was the Messenger of Allah and the witness himself was a just Sahabi (In essence, both parties have no element of doubt). The practice of our Pious Salaf us Saliheen clearly indicates that they insisted upon the 'Ruyat e A'amah'.

The statements of the Companions رضي الله عنهم:

Kurayb رضي الله عنه related: Sayiddina Abdullah ibn Abbas رضي الله عنهما sent me to Sayiddina Muawiya رضي الله عنه in Syria. I completed my errand there, the moon of Ramadhan was viewed on Friday night in Syria. I returned to Madinah Munawarrarah, Ibn Abbas رضي الله عنهما asked me about my journey and the sighting of the moon. I said: 'The moon was sighted on Friday night in Syria.' Ibn Abbas رضي الله عنهما asked me: 'Did YOU yourself see the moon?' I replied: نعم وراه. (الناس) 'Yes, I and other people also. The next day Muawiya رضي الله عنه and the others kept a fast.' Ibn Abbas رضي الله عنهما stated: 'We saw the moon on Saturday night, either we will see the moon for Eid or we will complete 30 days.' I asked: 'Is the sighting of Muawiya رضي الله عنه not enough for you?' Sayiddina Ibn Abbas رضي الله عنهما said: 'No, The Prophet ﷺ has ordered us to do this' (to act upon their own moon sighting). (Sunan Abu Dawood #562, Sunan Nasai #2115)

It is proven from the above hadith, due to the question and answer of the Companion Ibn Abbas رضي الله عنهما, it was the requirement of the Sahaba رضي الله عنهم that Jame Ghafeer be performed on the occasion of sighting the crescent moon. Certain people have the belief that due to the blessing of the Haramain Sharifain, Allah ﷻ allows the moon to be seen there before anywhere else in the World. It is proven from the above hadith that the Muslims of Syria in the time of the Sahaba sighted the moon before the Arab peninsula.

The Statements of the Tabi'ee رضي الله عنهم :

قلت لعطاء: أ رأيت لو أن رجلاً رأى هلال رمضان قيل الناس بليلة أ يصوم قبلهم أو يفطر قبلهم؟ قال لا، إلا ان يراه الناس، أخشى أن يكون شبه عليه.
(مصنف عبدالرزاق، باب كم يجوز من الشهود على رؤية الهلال ج4 ص130)

Tabi'i Ataa رحمه الله (who was from amongst the teachers of Imam Abu Hanifah رحمه الله), was asked that if a person was to see the Hilal of Ramadhan a night before the others could see it, should he fast before them, or should he celebrate Eid before them? He replied (يراه الناس) 'No, not until the people see it. I fear that he is mistaken'. (Musannaf Abdur Razzaq vol 4, p130)

Hadhrat Shaykh Moulana Zakariya رحمه الله relates the statement of Imam Abu Hanifa رحمه الله from the well known book of the Hanbali Fiqh, Al Mughni: 'If the sky is clear, then a witnessing cannot be accepted without the testimony of a large group of the Muslims. (Aujazul Masalik vol 5, p21)

شيخ الحديث شيخ محمد زكريا قدس سره حنبلي فقه كي معروف كتاب المغني (جلد 3 ص 157) سے نقل کرتے ہیں۔ وقال أبوحنيفة رحمه الله في الغيم كقولنا وفي الصحو لا يقبل الا الاستفاضة لأنه لا يجوز أن تنظر الجماعة إلى المطمع وأبصارهم صحيحة والموانع مرتفعة فيراه واحد دون الباقيين۔ (اوجز المسالك جلد 5 ص 21)

The Statements of the Taba Tabi'een رحمه الله – Zahirul Riwayat:

When the sky is clear and Jamme Ghafeer witnessing of the crescent moon takes place, only then will the Hilal be established. For this, Imam Azam Abu Hanifa رحمه الله's student Imam Muhammad Shaybani رحمه الله writes in his 1st book, Kitabul Asal Mabsoot:

وإن لم يكم بالسماء علة فلم أقبل شهادة رجل حتى يكون أمرا ظاهرا – (كتاب اصل، مبسوط. لإمام محمد رحمه الله، باب تتمته نوادر الصوم، جلد ثانی ص 280)

Imam Muhammad bin Shaybani رحمه الله writes: : 'If the sky is cloudy, the witness of just one Muslim person for sighting the crescent moon will be accepted for Ramadhan. If it is for Eid ul Fitr, the Hilal cannot be established without the presence of two male witnesses. If the sky is clear, even the witness of one male cannot be accepted until the situation is made clear, with (a large group of the Muslims sighting the crescent).' (Kitabul Asal Mabsoot, vol 2, p280)

In the commentary on this saying by Allamah Abu Wafa Afghani رحمه الله states: 'This means that the sighting of the crescent moon is not well known and common knowledge (absence of Jamme Ghafeer).'

All the books that have been written in light of the Hanafi Fiqh have taken the ruling of Imam Muhammad Shaybani رحمه الله above as a fundamental basis for establishing the new crescent moon through Jamme Ghafeer.

وإذا لم تكن بالسماء علة لم تقبل الشهادة حتى يراه جمع كثير يقع العلم بخبرهم.. لأن التفرد بالرؤية في مثل هذه الحالة يوم الغلط فيجب التوقف فيه حتى يكون جمعا كثيرا. (هدايه- جلد 1 ص 125، لعلامه على بن أبي بكر المرغيناني هجري 592/ مختصر القدوري مع الشرح ص 224، لعلامه احمد القدوري هجري 428 / نور الإيضاح ص 167/ مراقى الفلاح ص 236)

'If the sky is cloudy, the witness of one just Muslim person for sighting the crescent moon will be accepted. If the sky is clear then the witnessing will not be accepted until a large group from the Muslims testify to viewing the crescent, not until there is no doubt of the witnessing.' (Quduri, p46, Hidayah, vol1, p125)

If the Qazi gives a ruling against the Qur'an or Sunnah of Ijma, it should not be accepted:

اخبرنا عبدالرزاق عن الثوري قال إذا قضى القاضى بخلاف كتاب الله او سنة نبي الله او شئ مجتمع عليه فإن القاضى بعده يردده (مصنف عبدالرزاق، باب هل يرد قضاء القاضى او يرجع عن قضاة؟ ج 8 ص 234، #15377،

It is related from the Tabi'een Sufyam Thawri رحمه الله: 'If the Qazi gives a ruling against the Qur'an, the Sunnah of the Prophet ﷺ or a matter upon which there is Ijma, then his ruling will be rejected.' (Masnad Abdur Razak, vol 8, p234)

It can be said that the ruling of the judge of Saudi Arabia is binding upon the inhabitants of Saudi Arabia. However, it cannot be incumbent upon all Muslims to follow this ruling. Therefore it is necessary for those scholars who blindly follow the Saudi rulings in respect of the new crescent moon, to take note of the advices and rulings of their predecessors. When in Saudi the announcements for the

commencement of the new moon is not done in accordance to the required principle and is against the Ijma of the predecessors, it cannot be accepted. The scholars of the UK in particular: the Darul Uloom, Markaz and scholarly organisations should make an informed decision for their country of residence in accordance with the rulings of their school of thought.

Mufti Rashid Ahmed Luhdyanvi رحمہ اللہ write: The news of the sighting in Saudi Arabia reaching the status of 'Istifaadha' is questionable and further, due to the sighting in Saudi being against the principles of the Hanafi Maslak (Fiqh) and logic; it is unacceptable. According to Hanafi Fiqh when the skies are clear, a large group (Jamme Ghafeer) is a condition. (Ahsan ul Fataawaa Vol 4 P 426)

Hadhrat Mufti Sayed Abdur Raheem Lajpuri رحمہ اللہ writes: If the skies are clear the testimony of the two or four people will not be enough. A testimony of such a large group is essential to the extent that the Qadhi, Aalim or Mufti is fully confident and satisfied that the Hilal has been sighted, and no doubts remain. (Fataawa Rahimiyah vol 10, p 169/129 ص 3 جلد 3 فتاویٰ محمودیہ جلد 3 ص 169/129)

Imam Abu Yusuf رحمہ اللہ requires 40 witnesses to establish Jame Ghafeer as taking place.

وإذا لم تكن بالسماء علة لم تقبل الشهادة حتى يراه جمع كثير يقع العلم بخبرهم لأن التفرد بالرؤية في مثل هذه الحالة يوهم الغلط فيجب التوقف فيه حتى يكون جمعا كثيرا.... ثم قيل في حد الكثير أهل الملة وعن أبي يوسف رحمه الله خمسون رجلا اعتبارا بالقسامة... (فتح القدير جلد 2 ص 328، لعلامه ابن همام حنفی 861ھجری) وقيل بلا علة جمع عظيم يقع العلم الشرعي وهو غلبة الظن (بخبرهم وهو مفوض إلى رأى الإمام من غير تقدير بعدد) على المذهب. (درمختار كتاب الصوم- جلد 3 ص 410)

In the Shari'ah of Islam the sighting of the crescent moon is stipulated with the following conditions: If the sky is clear on the 29th night of the month, then for Ramadhan and Eid to be established, Jame Ghafeer has to be witnessed. In the books of Fiqh the number of witnesses required for Jame Ghafeer to be established range from 50 to 500. Allamah Shami رحمہ اللہ states in respect of the number of witnesses: 'If by receiving the testimony of the witnesses the Qazi is satisfied, together with 2 conditions: (1) it is possible to sight the moon on that day (2) a large group of the Muslims witness the sighting of the crescent moon.' For this reason when the sky is clear, the testimony of 3 or 4 people cannot be accepted. (Fatawa Haqqania, vol 4, p137)

شریعت مقدسہ میں چاند کی رؤیت کیلئے قانون یہ ہے کہ اگر (29) انتیس کی رات کو مطلع بالکل صاف ہو تو پھر جم غفیر کی رؤیت روزہ اور عید کیلئے ضروری ہے۔ جم غفیر کی تعداد کے بارے میں مختلف اقوال ذخیرہ فقہ میں درج ہیں بعض سے پچاس اور بعض سے پانچ سو وغیرہ مروی ہیں البتہ امام علامہ ابن عابدین شامی رحمہ اللہ نے تعداد سے قطع نظر کر کے قاضی کے مطمئن ہونے کو ترجیح دی ہے لیکن قاضی کا اطمینان بھی دو شرائط کے ساتھ مشروط ہے (1) امکان رؤیت (2) کثرت شہود۔ اسلئے صاف مطلع کے دوران تین یا چار آدمیوں کی گواہی نا قابل قبول ہے۔ کذا فی ردالمختار جلد 2 ص 101 (فتاویٰ حقانیہ جلد 4 ص 137)

The Statement of the Founders and Senior Scholars of Deoband:

Hadhrat Aqdas Sheykh Moulana Ashraf Ali Thanwi نور اللہ مرقدہ writes "If the skies are clear then the testimony of two or four people will not be sufficient, whether it is for Ramadhan or whether it is for Eid. On the other hand, if so many people came forward with testimonies, that it becomes clear that they are not lying, nor can such a large group lie, then the testimonies will be accepted and the new month will commence. (Bahishti Zewar part 3 p6/ Ilm ul Fiqh vol 3 p425 By Moulana Abdul Shakur Farooqi رحمہ اللہ / Ta'limul Islam vol 4, p69 By Mufti KifayatulAllah رحمہ اللہ)

The ruling of Mufti Shafi Uthmani رحمہ اللہ which was authorised by signatures of the senior Scholars and Jurists, Hadhrat Molana Zafar Ahmed Uthmani, Hadhrat Molana Muhammad Yusuf Binori and Hadhrat Mufti Rashid Ahmed Ludyanwi رحمہم اللہ, in respect of witnessing 2 Eids: 'When the horizon is clear and 2 or 4 people have witnessed to sighting the crescent, it is not correct to accept their sighting according to the Shariah. Not until a large group of the Muslims do not verify this sighting also, only then will it be acceptable. The sighting of the 2 or 4 people will be ruled as being incorrect or a false statement.' (Jawahirul Fiqah vol 1, p399-400)

بہر کیف ہلال عیدین کیلئے شرعی ضابطہ شہادت کے بارے میں، حضرت مفتی اعظم پاکستان مفتی محمد شفیع عثمانی نور اللہ مرقدہ اور اس وقت کے فقہاء کامتفقہ فیصلہ تھا کہ "جب چاند کی رؤیت عام نہ ہو سکے صرف دوچار آدمی نے دیکھا ہو، تو یہ صورت حال اگر ایسی فضامیں ہو کہ مطلع بالکل صاف ہو، چاند دیکھنے میں کوئی بادل یا دھواں غبار وغیرہ مانع نہ ہو تو ایسی صورت میں صرف دو تین آدمیوں کی رؤیت اور شہادت شرعاً قابل اعتماد نہیں ہوگی، جب تک مسلمانوں کی بڑی جماعت اپنے دیکھنے کی شہادت نہ دے چاند کی رؤیت تسلیم نہ کی جائے گی۔ جو دیکھنے کی شہادت دے رہے ہیں اسکو انکامغالطہ یا جھوٹ قرار دیا جائیگا"۔ (جواہر الفقہ جلد 1 ص 399-400) (دستخط کندہ شہداء 10 1386 ہجری، حضرت مفتی محمد شفیع عثمانی، حضرت مولانا ظفر احمد عثمانی، حضرت مولانا محمد یوسف بنوری، حضرت مفتی رشید احمد لدھیانوی رحمہم اللہ)

In Saudi Arabia, there is never a report of a large group that witness the sighting of the crescent moon (Muhaqqa Ru'yat Basari). The reality of the condition is that Saudi Arabia claims to have sighted the crescent moon, yet the continents nearby: Africa, Asia etc do not report a sighting. This makes the Saudi statement very doubtful. It is a unanimous decision of the jurists of Islam, when the sky is clear, it is a necessary condition that the sighting of the crescent moon be witnessed by a large group (Jame Ghafeer). (Fatawa Mazahirul Uloom Saharanpur, Mufti Maqsood & Mufti Muhammad Tahir)

It is wajib alal khifayah to sight the crescent moon, it is for this reason in the UK, when the skies are clear and it is possible to sight the crescent moon (the correct nights of the month), we should not sit at home accepting the announcement of the Saudi government as gospel. (Fatawa Darul Uloom Kandariya, Mufti Abdullah Kawi)

In Saudi Arabia, there is no principle of following the Hanafi Fiqh and the system for observing the crescent moon and commencing the months is also other than the guidance of the Shariah and Sunnah. It is for reason that it is not necessary to accept or recommended for the Muslims in the UK to follow the Saudi announcement, especially for Eid ul Fitr and Eid ul Adha. (Fatawa Jamia Hussainiya Gujrat, Mufti Ismail Wari & Molana Zaheerudeen Faiz Abadi, 7/7/2007)

وَأَكْرَمُ مَطْلَعِ صَافٍ بَاشِدٍ دَرْمَضَانَ وَشَوَّالِ جَمَاعَتِ عَظِيمِ مَعِ بَآئِدِ - (مَالِإِدْمَنَه ص 93 - أَرِ قَاضِي ثَنَاءِ اللَّهِ بَآئِي بَتِي نَوَّرَ اللَّهُ مَرْقَدَه) وَقَالَ أَبُو حَنِيفَةَ رَحِمَهُ اللَّهُ فِي الصَّحُورِ لِأَبِدٍ مِّنْ جَمْعٍ كَثِيرٍ - (الرَّوْضَةُ النَّدِيَّةُ جلد 1 ص 292)

The news of the sighting in Saudi Arabia reaching the status of 'Istifaadha' is questionable and further, due to the sighting in Saudi Arabia being against the principles of the Hanafi Maslak (Fiqh) and logic; it is unacceptable. According to Hanafi Fiqh when the skies are clear, a large group (Jame Ghafeer) is a condition. (Ahsan ul Fataawaa Vol 4 P 426 by Hadhrrat Mufti Rasheed Ahmad Luhdyanavi رحمه الله)

In conclusion, it can be understood from the time of the Salaf to the present day the same conditions have been upheld for the sighting of the crescent moon. However, the Saudi announcements disregard all of these requirements and adopt a way other than the way of the Shari'ah and Sunnah. 'It is not acceptable for a Mufti Qadhi or Scholar to ignore the principles of the Shari'ah, in the guise of a hallucinated unity, to give rulings against their Fiqhi Maslak'. (Sharah Uqood Rasmul Mufti)

The laws and restrictions of obeying the order of a Judge (Qadhi) in an Islamic court:

It is proven from the Sahih Ahadith that the Prophet ﷺ sent Companions and representatives to different areas of the Islamic kingdom, to act as a judge and governor. For example: Muadh bin Jabal رضي الله عنه was sent to Yemen. The responsibility of these governors was to give rulings within their own stipulated districts. They only held the authority to give rulings within their own governorship. This was also the case in the time of the Khulafa Rashideen, independent governors were sent to each district of the Islamic Kingdom. They had a responsibility to enforce the rulings of the Shari'ah for their subjects, in Syria, Egypt, Yemem, Iraq etc... 'The Shari'ah has placed restrictions upon a judge appointed by the Ameer of an area or country. These restrictions apply both to regions (vicinity of a town or country) and in specific fields (Zakat, Talaq, Iddat etc). The Judge can only decide matters upon topics that he has been appointed to the position for. Further, his ruling will only be enforceable and binding in the area that he is appointed over. A Judge will not have the jurisdiction to enforce a ruling in an area that is not within their appointed dominion, nor will the ruling be established outside of the appointed region'. (Fathul Qadir, vol 7, p254 / Al Bahrur Raiq, vol 6, p259 / Fatawa Hindiya, vol 3, p315 / Adhahul Nawadir, vol 2, p124)

If there is no other way to encourage the masses to follow the Saudi moon sighting, the laymen are told that the order of the Chief Judge in Saudi Arabia has to be followed and it is Wajib to do so. This is incorrect, in accordance to the Islamic teachings and rulings. A layman should not be blackmailed emotionally in this manner by those who hold more knowledge and a better understanding of the Deen.

Z-Hijjah 1399 هجرى (1979) Sheykh Bin Baaz رحمه الله: The grand scholar Mufti of Saudi Arabia (After doing extensive research on this moon issue, he concludes with this statement). 'As for those who say that it is necessary to follow the sighting of Makkah (Saudi Arabia) then let it be known that there is no proof or basis for this in the Holy Qur'an and Sunnah'. (Al Ba'thul Islami p 63)

May Allah ﷻ unite us in this time of Fitnah and grant us the correct understanding of the Deen. آمين Ameen!

والله وحده هو المسؤول والمستعان وهو الهادي إلى سبيل الخير والسلام .
مفتى محمد يوسف دنكا (عفا الله عنه)

{Mufti Muhammad Yusuf Danka, Croydon Masjid}