

MOON-SIGHTING

THE BAATIL FATWA OF THE NEW YORK DARUL IFTA



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QUESTION

Please study the fatwa captioned:

A VIABLE SHARIA BASED SOLUTION ON THE ISSUE OF RAMADHAAN AND EID MOON SIGHTING.

This fatwa was issued by Al Muneer Foundation Inc. Darul Ifta Khatm-e-Nubuwwat of New York, U.S.A. in the year 2011. The fatwa, not only promotes global moon-sighting, but actually decrees that it is incumbent (Waajib). It in particular states that it is compulsory for all Muslims of the world to follow the declaration of Saudi Arabia on the beginning and celebration of Ramadhaan and Eid respectively. Kindly comment on the veracity of this Fatwa. Is it correct?

ANSWER by the Taufeeq of Allah Azza Wa Jal

The fatwa is egregiously erroneous.

(1) Islam is more than fourteen centuries in existence, and so is it with Ramadhaan and Eid. Moon-sighting and determining the Islamic months are not new issues which have developed in this belated age in close proximity to Qiyaamah. The ludicrous scenarios stemming from disputes regarding the commencement of Ramadhaan and the celebration of Eid are the effects of the *jahl* of the *awaam* (masses). Adding to the confusion is the flabby

attitude of the Ulama who are bending too far backwards to accommodate the ignorant demands of the ignorant masses for a false 'unity' based on their vain desires. Far from solving the issue in terms of the Shariah, the *taqleed* of the Ulama to the desires of the ignorant masses, only exacerbates the confusion and problem.

The squabbling over the moon even after fourteen centuries is the height of absurdity, especially when Rasulullah (Sallallahu alayhi wasallam) has clearly laid down the principles and the laws in this matter.

(2) The concept of global moon-sighting never existed in Islam nor is there any indication in the Shariah for the adoption of this concept spawned just a couple of years ago by juhala and fussaag.

(3) The emphasis of kow-towing to the Saudi regime is the effect of bootlicking by the Ulama, which in turn is the effect of Saudi monetary and other perks doled out to the Ulama, including to the current breed of Deobandi Ulama who have increasingly become liberals and bedfellows with the corrupt, fussaag, Saudi Salafis of the Saudi regime, hence they participate in the Saudi-initiated conferences, and in the process bootlick and submit to whatever anti-Shariah 'fatwas' are disgorged by the Saudi Salafi Ulama who are all on the payroll of the regime.

The Saudi regime is never in the category of an Ameerul Mu'mineen who has sway and rights over the Muslim Ummah of the world. The *Wilaayat* of the faasiq Saudi

regime does not extend beyond the borders of Saudi Arabia. The decrees and proclamations of the Saudi regime are not *hujjat* for the Muslims of the world. There is absolutely no Shar'i grounds for the baseless attempt to hoist Saudi hegemony on the entire Ummah of the world. The Saudi regime is currently in the process of destroying the Shariah, even the extreme brand initially introduced by the first kings of the Saudi family. The current Saudi regime is bereft of any Islamic or Shar'i credentials.

(4) The Darul Ifta of New York has simply lumped together numerous names of senior Ulama in a bid to steamroll its view of global moon-sighting and submission to Saudi Arabia. It has quoted the names of many kutub to browbeat those who lack in sound Shar'i knowledge. The Darul Ifta has failed to apply its mind constructively. A close examination of the masaa-il from the kutub will establish the error of the Darul Ifta.

The Darul Ifta simply lumps together names of kutub and names of Ulama without presenting the actual statements of the Ulama and the kutub nor discussing the contexts to which the masaa-il are applicable. They have merely written an article which lacks *Ilmi* expertise.

(5) The bootlicking of the authors of the fatwa is quite conspicuous from the following facts:

(a) The emphasis on submitting to the fussiaaq Saudi regime which has abandoned even the original Salafi'ism of its founders.

(b) Currying favour with the Barelwi Qabar Pujaaris, hence the liberalized Deobandi Molvis of the New York Darul Ifta say: *“The respectable Ala-Hazrat Maulana Ahmad Raza Khan...”* Drawing support from the Barelwi Molvi who had branded all our Akaabir Ulama of Deoband as ‘kaafir’, speaks much for the bootlicking tactics of the Darul Ifta.

(c) Their failure to understand that global-moonsighting is a recent development spawned by *juhala*, and that nowhere in the Shariah is there the slightest evidence for this new phenomenon.

Let us now examine their claims and arguments.

The Darul Ifta alleges: *“In terms of Fiqah considering difference of horizons is absolutely non-credible. In layman’s terms it means that, global moon sighting is the exact requisite of Shariah and Sunnah.”*

In substantiation of this fallacy, the Darul Ifta cites Sahih Bukhari, Sahih Muslim, Sunan Abu Dawood, Sunan Kubra Baihqi and Fatawa Shami. Nowhere in any of these kutub is there even the remotest reference to ‘global moon-sighting’. The Darul Ifta has conveniently abstained from citing the actual narrations from these kutub. We therefore understand that their claim in this regard is designed to hoodwink the unwary and ignorant.

The claim that *Ikhtilaaf-e-Mataali'* -- "difference of horizons" is absolutely non-credible" is erroneous. They have attributed *Qat'iyat (Absolute Certitude)* to their view which is a figment of their opinion. *Qat'iyat* is the effect of Qur'aan and Ahaadith Mutawaatirah. It is highly improper and arrogance for any Mufti to claim that his opinion or the Fatwa of even a Mujtahid Imaam or the majority view is in the category of *Qat'iyat* when there exists *Ikhtilaaf, and even major difference of opinion*, on the issue among the Fuqaha of the same Math-hab as well as the Fuqaha of the other Math-habs. Furthermore, on this confounded issue of global moon-sighting there is not even a remote reference in the Shariah in terms of all Math-habs.

The Darul Ifta has further compounded its error by equating the issue of *Ikhtilaaf-e-Mataali'* to global moon-sighting whilst there is no relationship between these two issues. The meaning of difference in horizons being invalid, simply is the validity of the sighting of one place for another place if the information reaches in a manner acceptable to the Shariah. It does not mean the compulsory imposition of the sighting of one place (city, town, country) on another region. Those who make this preposterous claim have failed to present their Shar'i evidence. They merely interpret Ahaadith and statements of the Fuqaha in terms of their own opinions.

Hadhrat Mufti Muhammad Shafi' (Rahmatullah alayh), in his *Jawaahirul Fiqh, Vol.1*, whilst discussing the

feasibility of having Eid on one day in the entire Pakistan to placate the whims of the public, says:

“.....Though in terms of the Shariah, there is no significance in having Eid on the same day in the entire land. During the initial eras of Islam, the then current means of communication were not utilized for this purpose to arrange Eid on the same day. Furthermore, due to vast difference in Mataali (horizons) of a country, severe difficulties can develop (in the pursuit to have Eid on the same day in the whole country).”

On the issue of *Ikhtilaaf-e-Mataali*’ Hadhrat Maulana Yusuf Binnori (Rahmatullah alayh) whom the Darul Ifta has awarded the lofty title of *“Ustaazul Muhadditheen”* said:

“Sometimes the distance is so great that in reality, difference in horizons is possible, e.g. Peshawar and Dhaka. Therefore the (following) condition should be added: ‘On condition that the distance between the two lands is not so great as to result in the reality of difference of horizon.’”

*The validity of Ikhtilaaf-e-Mataali’ relative to distant lands is an **Ijmaee** mas’alah (on which there is Consensus) as Ibn Abdul Barr and others have explicitly stated.(Badayatul Mujtahid of Ibn Rushd, Fathul Baari of Ibn Hajar). Even according to the Hanafiyyah, in distant lands Ikhtilaaf-e-Mataali’ is valid, Refer to Badaai’, Al-Ikhtiyaar Sharh Al-Mukhtaar and Tabyeenul Haqaaq of*

Az-Zailaee. When Ijmaa' is established then the other marjooh view is automatically negated.

The statement of the Aimmah, namely: 'Ikhtilaaf-e-Mataali' is not valid', is exclusive with such cities where such distance cannot be covered from the centre or end of the city (for difference of horizons to develop in reality). The latitude adopted by the Muta-akh-khireen Hanafiyyah does not accord with the intention of the Aimmah nor is it factually correct."

Why is the Darul Ifta ignoring this explicit view of 'Ustaazul Muhadditheen'?

Since *Ikhtilaaf-e-Mataali'* is a contentious issue among the Fuqaha, and since this was not an issue among the Sahaabah, it is palpably ludicrous to predicate *Qat'iiyyat* to it. The Fuqaha have not attributed *Qat'iiyyat* to this issue which the New York Darul Ifta has attempted to elevate to the status of *Wahi*.

Besides the Shaafi' Fuqaha rejecting the validity of the claim of *Iktilaaf-e-Mataali* being *ghair mu'tabar* (not valid), even Hanafi Fuqaha accept it as valid. Imaam Al-Kaasaani states in his *Badaaius Sanaai'*:

".....This ruling is when both cities are near to each other at such a distance that there is no Ikhtilaaf-e-Mataali' between them. However, if the distance is great, then the hukm of the one city will not be incumbent on the other city because the horizons of cities when the distance between them is great differ. Then the horizon for people

of every city will be valid for them, not for those of another city.

Although according to *Zaahirur Riwaayat*, the Fatwa is on the view of Invalidity of *Ikhtilaaf-e-Mataali*, and this is the majority view of the Ahnaaf which we accept, it is utterly fallacious to attribute *Qat'iyat* to it, and to pretend that this is the only view of the Hanafi Fuqaha. What aggravates the pretence is that the Deen is being manipulated to serve the political and nafsaani objectives of the corrupt, Faasiq Saudi regime so desirous of imposing its hegemony on the Ummah. It is a fallacy and falsehood to deny the existence of the valid difference of opinion among the Ahnaaf on this issue. The following appears in *Al Ikhtiyaar Li Ta'leel Mukhtaar*:

“When the sighting of the hilaal is established in a city, then it becomes binding on all the inhabitants, and there is no consideration for difference of horizons. So has Qaadhi Khaan narrated. This is *Zaahirur Riwaayat*, and it has been narrated from Shamsul Aimmah As-Sarakhsi. It has been said: (The hukm) differs with *Ikhtilaaf-e-Mataali*’.

It is narrated in *Fataawal Husaamiyah*: ‘If the people of a city after sighting the hilaal fast for thirty days while the people of another city fast 29 days having sighted the hilaal, then upon them is the Qadha of one day. (This ruling applies) if the two cities are so near (to each other) that their horizons are the same. If they are so far (from each other) that their respective horizons differ then the hukm of the one city does not apply to the other city.’”

In *Tabyeenul Haqaa-iq* of Az-Zailaee, the following appears:

“Ikhtilaaf-e-Mataali’ is not valid. And, it has been said that it is valid.” (*More or less the same is narrated in Tabyeenul Haqaa-iq as mentioned above*). It is more appropriate that it (i.e. Ikhtilaaf-e-Mataali) be valid.The daleel for the validity of Mataali’ is the narration of Kuraib.....”

The foregoing have been mentioned not in refutation of *Zaahirur Riwaayat*, but in refutation of the utterly baseless contention of the attribution of *Absolute Certitude* (*Qat’iyyat’ – the status of Wahi –*) to the *Zaahirur Riwaayat* view.

On the issue of the different horizons, there are two conflicting views with conflicting effects. The one view is that of the invalidity of *Ikhtilaaf-e-Mataali’* and the other view is the validity of *Ikhtilaaf-e-Mataali’*. The former is the *Zaahirur Riwaayat* version to which the majority of the Hanafi Fuqaha subscribe while the latter is the view of the vast majority of the Shaafi’ Fuqaha and of some Hanafi Fuqaha. Ibn Abdul Barr reports *Ijmaa’* of the Maaliki Fuqaha on the validity view. “*Ustaazul Muhadditheen*”, Allaamah Binnuri upholds this *Ijmaa’*.

Those who subscribe to the *invalidity* view are of the opinion that irrespective of distance and differences in horizons, the sighting of one place is valid for another

place. However, they do not claim that acceptance of the sighting of distant places is incumbent. Hadhrat Mufti Rashid Ahmad (Rahmatullah alayh), author of *Ahsanul Fataawa*, who subscribed to the view of *invalidity of difference in horizons*, interpreting the fatwa of Imaam Al-Kaasaani (Rahmatullah alayh), the illustrious author of *Badaaius Sanaai*, one of the most authoritative Hanafi works, says:

“Reflecting on the full text of Badaai’ it becomes clear that at this juncture (of the specific mas’alah under discussion), the objective is not to discuss the issue of validity or invalidity of *Ikhtilaaf-e-Mataali*’. On the contrary, the objective is to explain that if two cities are so near to each other to preclude the possibility of difference in horizons, then both these cities will be in the same category, i.e. the confirmation of the sighting of the one city will be *Hujjat-e-Mulzimah* (a decree which is binding) on the inhabitants of the other city. There is no need for an independent *hujjat* for the other city. It is just as the sighting is confirmed for the entire city and for even its suburbs.

On the contrary, if the *Matla*’ (horizons) of both cities are different, then despite this *Ikhtilaaf-e-Mataali*’ *not being valid in terms of Zaahirur Riwaayat*, the sighting of the one city will not be *Hujjat-e-Mulzimah* for the other city. The other city will require independent evidence (*Hujjat*) such as *Shahaadat* or *Shahaadat alal Qadha* or *Istifaadhah*.” (*Ahsanul Fataawa*, Vol.4, page 469)

It is abundantly clear from *Badaai'* and also from the above explanation of Mufti Rashid Ahmad, that regarding places of differing horizons, the sighting of one city is not *Hujjat-e-Mulzimah* for other cities despite the invalidity of *Ikhtilaaf-e-Mataali'* in terms of *Zahirur Riwaayat* which is the majority view. Thus, the announcement made by the corrupt Saudi regime is not *Hujjat-e-Mulzimah* for the Muslims of the world. But the objective of the Darul Ifta of New York is to supersede the Shariah and to hoist Saudi hegemony on the Ummah by fallaciously claiming the incumbency of following the Saudi announcements, and by attributing *Qat'iyat* to the validity view.

Mufti Rashid Ahmad has attempted to show that Imaam Al-Kaasaani in *Badaai'* is not discussing the issue of *Ikhtilaaf-e-Mataali'* and its consequence. We do not agree with his opinion. Imaam Al-Kaasaani explicitly mentions the consequence of *Iktilaaf-e-Mataali'*. He says with clarity:

“This (i.e. the applicability of the hukm of one city for the other city) is when the distance between the two cities is such that the horizons do not differ. However, if the cities are far apart, then the hukm of the one city will not be binding on the other city because the Mataali' of cities in the case of great distance differ. Thus, for every city, its horizon will be valid, not the horizon of the other city.”

Then, Imaam Al-Kaasaani fortifies this view with the Fatwa of Shaikh Abu Abdullah Bin Abi Musa Ad-Dhareer. Stating the Fatwa, Imaam Al-Kaasaani says:

“Abu Abdullah Bin Abi Musa Ad-Dhareer was asked about the people of Iskandariyya (Alexandria in Egypt). When the sun sets for the people on the ground, it remains visible for those on high towers for a considerable time. He said that for the people on the ground breaking fast is permissible, not for those on the towers because the setting of the sun differs in accordance with its different horizons, hence for the people of every place will be its horizon.”

Imaam Al-Kaasaani has cited this fatwa as an analogy to fortify the view of the validity of differing horizons for the purpose of moon-sighting. On the basis of this analogy, it is quite clear that according to Imaam Al-Kaasaani, the sighting of one city is not valid for another distant city where the horizon differs just as it is not permissible for those on the towers to break fast despite the people in the very same place on the ground breaking their fast. Thus, Mufti Rashid Ahmad’s conclusion is in conflict with the logical conclusion stemming from the analogy proffered by Imaam Al-Kaasaani. From his analogy it is obvious, that the confirmation of a sighting of a city will not be *Hujjat-e-Mulzimah* for another distant city regardless of the sighting being confirmed by *Shahaadat*, etc. as Mufti Rashid Ahmad has claimed on the basis of his interpretation of the text in *Badaai*’.

The Darul Ifta has quoted also Hadhrat Maulana Ashraf Ali Thanvi (Rahmatullah alayh) in an abortive bid to bolster its fallacy of global moon-sighting and the hallucinated incumbency stemming therefrom. In this regard, Hadhrat Thanvi (Rahmatullah alayh) states in his *Imdaadul Fataawa*, vol.2, page 99:

Question: “In a city because of cloudy conditions the moon is not sighted on the night at the end of 29th Sha’baan or Ramadhaan. Are the people obligated to make effort to obtain news from other places?”

Answer: “No (Shar’i) *Hukm* is established without *daleel*. For this act (of acquiring news from other places) there is no *daleel*, hence this act is not incumbent.”

Note that Hadhrat Thanvi (Rahmatullah alayh) subscribes to the *Zaahirur Riwaayat version*, nevertheless, he is averse to the act of embarking on unnecessary effort – an effort which the Shariah does not require.

Further advising a gentleman who was of the view of striving to have Ramadhaan and Eid on the same day throughout the Indian subcontinent which at that time comprised of only India, Hadhrat Thanvi said:

“Now I shall present my opinion by way of advice.....Even if the fatwa of other Ulama confirms the validity of implementing this (arrangement), and if the Ulama of your Anjuman give it preference, then too, this arrangement (for one Eid in the whole country) is not

appropriate.....” See the full Fatwa in Imdadul Fataawa, Vol.2, page 98.

Not a single one of the Akaabir Ulama whom the Darul Ifta has mentioned and attempted to eke out support for its corrupt view, is of the opinion that it is incumbent on all Muslims of the world to have Ramadhaan and Eid on the same day. Not a single one of them has claimed the incumbency of global moon-sighting. Not a single one of them is of the opinion that it is incumbent on the people of one city to institute measures to acquire news of the sightings of other cities and countries.

In *Fataawa Taataarkhaaniyah, Vol. 2, page 355*, the difference in horizon with its effect is stated as follows:

“The people of a city saw the hilaal. Is this binding on the people of another city? The Mashaaikh differ in this regard. Some said: ‘It is not binding. The sighting of every city is binding on its people.’ In Al-Muntaqi.....

In Az-Zaheeriyah is mentioned that it is narrated from Ibn Abbaas (Radhiyallahu anhu) that for every city is its sighting. In Qudoori it appears: If the difference (in the distance) between two cities is such that there is no difference in horizons, then the sighting of the one city will be incumbent on the other city... However, if the distance is such that there is difference in the horizons, then the hukm of the one is not incumbent on the other city.”

The other view of invalidity of *Ikhtilaaf-e-Mataali*’ which is the *Zaahirur Riwaayat* view is also stated in

Taataarkhaaniyyah. The objective for mentioning the other view is to show that many Hanafi Fuqaha subscribe to it, and this is adequate for debunking the *Qat'iyyat* which the Darul Ifta has predicated to the invalidity view.

The illustrious author of Hidaayah states in *Mukhtaarun Nawaazil*:

“The people in one city fasted 29 days after having (their) sighting. The people of another city fasted 30 days after (their) sighting. If the *mataali'* of the two cities do not differ, then the people of the one city have to make Qadha of one day. However, if there is a difference in the *Mataali'* then there is no Qadha on them.”

Hadhrat Muhaddith Dahlawi Shah Waliyullah (Rahmatullah alayh) states the very same ruling in *Musaffa Sharh Muatta*. He too subscribes to the validity of *Ikhtilaaf-e-Mataali'*.

Hadhrat Maulana Rashid Ahmad Gangohi (Rahmatullah alayh), partially accepts the validity of *Ikhtilaaf-e-Mataali'*. Thus, he states in his *Fataawa Rashidiyyah*:

“According to Zaahirur Riwaayat, *Ikhtilaaf-e-Mataali'* is not valid for Saum and Iftaar. The sighting of the east will be established for the west if it is confirmed by *Shar'i Hujjat*. However, for Qur'baani, Eid of Zil Hajj and Hajj, it is valid (i.e. *Ikhtilaaf-e-Mataali'* is valid).”

The maximum capital which could be extravasated from the invalidity of difference of horizons view (*La ibrata li ikhtikaaf mataali'*) is that if news of the moon-sighting from another place reaches by *Tareeq-e-Moojib*, then the *Hukm* will apply to that place as well where the moon was not sighted. This does not necessitate the institution of elaborate methods to acquire the sightings of other places, nor does it require global moon-sighting, nor is it incumbent on all places on earth to institute measures for Ramadhaan and Eid on the same day, nor does the Shariah require the institution of such unnecessary measures, nor was there any such system in the annals of Islam's 14 century history.

In terms of the validity of *Ikhtilaaf-e-Mataali'* view, it is not even permissible to accept the news from places of different horizons. As mentioned earlier, this is the view of the Jamhur Shaafi' Fuqaha, and of some Ahnaaf among whom is Imaam Al-Kaasaani (Rahmatullah alayh), and not forgetting "*Ustaazul Muhadditheen*" Allaamah Binnuri, albeit as far as the latter is concerned, if the news reaches by *Tareeq-e-Moojib*, acceptance will be permissible. The Darul Ifta of New York due to the paucity of its research, appears to be unaware of the view of Allaamah Binnuri whom they themselves have appointed as "*Ustaazul Muhadditheen*".

Furthermore, for the edification of the New York Darul Ifta, news of moon-sighting from Saudi Arabia is not by *Tareeq-e-Moojib*. Besides the inhabitants of Saudi Arabia, no one is under Shar'i obligation to accept the

announcements of the Saudi regime. The Saudi regime is never in the category of an Ameerul Mu'mineen who has to be incumbently obeyed and whose *Wilaayat* extends over the Ummah.

It should be abundantly clear that it is not a Shar'i requisite to have Ramadhaan and Eid all over the world on the same days. There is no substantiation for this modernist juhala craze in the Shariah – a craze of the juhala which even the liberal molvis are making taqleed of.

For the further edification of the Darul Ifta's Muftis, it will be appropriate to remind them that when approaching practical situations, the mind should not operate from within the confines of a straitjacket. This generally is the case when the Mufti seeks to peddle only his view, being motivated by unholy objectives such as bootlicking the Saudi regime and submission to the juhala. It is salubrious that they understand that *Zaahirur Riwaayat* is not in the category of *Wahi*. The lack of *Qat'iyat* permits latitude for adoption of *Ghair Zaahirur Riwaayat*. There are innumerable examples of this adoption by the Fuqaha. Some examples shall be briefly mentioned for better understanding.

* “When a woman contracts her own nikah in *ghair kuf*, the nikah is valid in terms of *Zaahirur Riwaayat* according to Imaam Abu Hanifah (Rahmatullah alayh). This is also the final view of Imaam Abu Yusuf (Rahmatullah alayh) and Imaam Muhammad (Rahmatullah alayh). However Imaam Al-Hasan (Rahmatullah alayh) narrated from Imaam Abu Hanifah (Rahmatullah alayh) that the Nikah is

not valid. Numerous of our Mashaaiikh have adopted this view (which is in conflict with Zaahirur Riwaayat). – (*Al-Muheet*). The view for Fatwa in our age is the narration of Al-Hasan.

Ash-Shaikh Al-Imaam Shamsul Aimmah As-Sarakhsi (Rahmatullah Alayh) said that the narration of Al-Hasan is closer to *Ihtiyaat* (*caution*). So does it appear in Qaadhi Khaan.”

* “A woman contracts her nikah in *ghair kuf*. Does she have the right to abstain (from consummation) until her aulya (guardians) are satisfied (with her choice)? Faqeeh Abul Laith (Rahmatullah alayh) issued the fatwa that she has this right despite it being in conflict with Zaahirur Riwaayat, and numerous of our Mashaaiikh issued fatwa in accordance with Zaahirur Riwaayat. (*Al-Khulaasah*)

* Masah of a quarter of the head being fardh is in terms of *Ghair Zaahirur Riwaayat*, and the fatwa is on this view whereas according to Zaahirur Riwaayat the Fardh is the extent of three fingers.

* Bismillaah when beginning Wudhu is Mustahab in terms of Zaahirur Riwaayat. However, Imaam Tahaawi (Rahmatullah Alayh) and other Mutakkhireen Fuqaha hold the view that it is Sunnat.

* According to Qaadhi Khaan, the perspiration of a donkey in terms of Zaahirur Riwaayat is *taahir*. However, according to the Jamhur, its perspiration is *mashkook*.

* If someone forgets to sit in *Qa'dah Ula*, then if he is closer to the sitting position, he should sit in *Qa'dah*. In this case *Sajdah Sahw* is not *Waajib*. If he is closer to *Qiyaam*, then he should stand, not revert to sitting, and *Sajdah Sahw* is *Waajib*. This is in terms of *Ghayr Zaahirur Riwaayat*, and the fatwa is on this view. In terms of *Zaahirur Riwaayat*, he should sit as long as he is not completely in *Qiyaam*.

* If nomads make *niyyat of Iqaamat* (of 15 days or more) in the wilderness, the fatwa is that their *niyyat* is valid. This is in terms of *Ghayr Zaahirur Riwaayat*. According to *Zaahirur Riwaayat*, *niyyat of Iqaamat* in the wilderness is not valid.

* According to *Ghayr Zaahirur Riwaayat*, after the first *Takbeer* in *Janaazah Salaat*, only *Thana* is recited, and this is the adopted view on which is the *Fatwa*. However, in terms of *Zaahirur Riwaayat*, *Surah Faatihah* also has to be added.

* In terms of *Zaahirur Riwaayat* it is not permissible to nullify a *Nafil fast* without valid reason. However, according to *Ghayr Zaahirur Riwaayat* it is permissible, and the fatwa is on this view.

* For the fear of losing *Janaazah Salaat*, *Tayammum* is permissible whether the one who fears losing the *Salaat* is the *Wali* or someone else. This is the *Zaahirur Riwaayat* view. In terms of *Ghayr Zaahirur Riwaayat* *Tayammum* will be permissible for someone other than the *Wali*.

* The mas'alah of *Mafqoodus Zauj* adopted by the Akaabir Ulama of Deoband is not even from the Hanafi Math-hab. On the contrary, it is in conflict with the explicit Fatwa of the Ahnaaf. But, necessity dictated the adoption of the Maaliki view.

There are numerous instances of the Fatwa being issued on *Ghayr Zaahirur Riwaayat* and which have been upheld by the Fuqaha of all ages. Thus, the arbitrary claim that “*difference of horizons is absolutely non-credible*” is palpable bunkum. And how can it be “*absolutely non-credible*” when “*Ustaazul Muhadditheen*” propagates it? Just as the Hanafi Fuqaha have issued Fatwa on *Ghayr Zaahirur Riwaayat* on numerous masaa-il, so too have some Ahnaaf issued Fatwa on the *Ghayr Zaahirur Riwaayat* view pertaining to *Ikhtilaaf-e-Mataali*. Furthermore, the difference of opinion pertaining to *Ikhtilaaf-e-Mataali* exists in all Math-habs.

The Darul Ifta states:

“Therefore, it is a great disparity and unethical, especially for a Hanafi scholar to bring forth the Hadith of Quraib, and advocate for the Shafee opinion. Doing so is not only against the consensus of the majority, but against the edicts of the top scholars of Deoband and Baralwi. None the less a Hanafi scholar has no justification for presenting this argument.”

The muftis of the Darul Ifta are implying that “*Ustaazul Muhadditheen*” was ignorant of this ‘fact’ and that he had acted unethically, and that he was advocating the Shaafi’

Math-hab, and that he was in conflict with the edicts of the top scholars of Deoband, and that he had no justification for his *Ikhtilaaf-e-Mataali* view. We fail to comprehend the logic which condemns a scholar, yet awards him the awe-inspiring lofty title of “*Ustaazul Muhadditheen*”.

The argument of the Darul Ifta is baseless. Firstly, there is no need to present the Baralwi view. Qabar Pujaaris should not be cited as daleel. Secondly, we are not aware of any Hanafi Ulama currently or at any earlier time advocating the Shaafi’ view of the validity of *Ikhtilaaf-e-Mataali*. It is thus misleading to aver that “a Hanafi scholar is bringing forth the Hadith of Kuraib to advocate the Shaafi’ opinion”. This premise is baseless. Those who reject the so-called ‘global moon sighting’, the objective of which is pure submission to Saudi designs, do not tender the Hadith of Kuraib to justify their stance, nor do they proffer the viewpoint of the Shaafi’ Math-hab in refutation of the *Zaahirur Riwaayat* which is in conflict with the validity of horizons view. The sole claim of those who reject global moon sighting is their rejection of Saudi announcements. They claim that the announcement of the Saudi regime is not *Hujjat* for those beyond the territorial boundaries of Saudi Arabia.

The Darul Ifta is misleading Muslims by obfuscating the issue with unnecessary Fiqhi technicalities. Those who do not accept the modernist concept of global moon-sighting, do accept news of moon-sightings from all regions of the country of their residence. This is our practice in South Africa. We accept reliable news which

conforms to *Tareeq-e-Moojib* from any part of the country. In view of the absence of *Tareeq-e-Moojib*, we do not accept news from beyond the borders of South Africa. This rejection is not based on the Shaafi' view nor on *Ghayr Zaahirur Riwaayat*. We subscribe fully to *Zaahirur Riwaayat*, but without fossilized brains. Where there is a valid need, we shall depart from *Zaahirur Riwaayat* and adopt the *Ghayr Zaahirur Riwaayat* propounded by very senior and illustrious Hanafi Fuqaha. But on the issue of moon-sighting we are on the course of *Zaahirur Riwaayat*. Therefore, the talk of advocating the Shaafi' opinion is obfuscating drivel disgorged by the New York Darul Ifta in its abortive endeavour to impose Saudi bootlicking on the Ummah.

In places like South Africa, those who are propagating a false and *baatil* 'unity' are constrained to set aside the Jamhur Ahnaaf's view of *Zaahirur Riwaayat* to toe the Shaafi' line. In South Africa half the Muslim population is Shaafi', hence those who clamour for a stupid and false 'unity' have to wait for the declaration of the Shaafi' *maan-kykers* (*moon-sighters*) whose declaration arrives generally hours after the Hanafi pronouncement.

Furthermore, there is absolutely no need to negate the valid Shaafi' view based on the Hadith of Hadhrat Ibn Abbaas (Radhiyallahu anhu) as reported by Hadhrat Kuraib (Radhiyallahu anhu). Senior Hanafi Fuqaha have upheld the veracity of the view propounded on the basis of that Hadith, and Fuqaha of all Math-habs

acknowledge the correctness of the validity view although they are in a minority in the Hanafi Math-hab.

The Hanafi Fuqaha who sometimes subscribe to a view which coincides with the Shaafi' Math-hab or any other Math-hab, do not advocate the other Math-hab. They base their fataawa on solid dalaal of the Shariah. Consider the Hanafi view of masah of the head. Although the Fardh extent of masah of the head during Wudhu according to Zaahirur Riwaayat is just three fingers, only a *Haatibul Lail, jaahil mufti maajin* will contend that these Hanafi Fuqaha were advocating the view of some other Math-hab.

The same applies to the Asr Salaat time. Among our recent Akaabir, Hadhrat Maulana Rashid Ahmad Gangohi (Rahmatullah alayh) is of the view that the *Qawi (strong)* view is after the shadow has reached once its length (*Mithl*) despite the fact that the *Mash-hoor* Fatwa of the Hanafi Math-hab is *Mithlain (two lengths)*. It will be highly improper to say that Hadhrat Gangohi was advocating the Shaafi' view. Hadhrat Gangohi had his dalaal on the basis of which he stated his fatwa.

Another example of departure from *Zaahirur Riwaayat* is Hadhrat Maulana Ashraf Ali Thanvi's fatwa on the end of Maghrib and beginning of Isha'. Whilst the official Fatwa of the Ahnaaf is that Maghrib ends with the disappearance of *Shufuq Abyadh*, and this is the commencement of Isha' time, according to Hadhrat Thanvi it is with the disappearance of *Shufuq Ahmar (the red glow in the western horizon)*, and this is also the Shaafi' view. But, it

is stupid to contend that Hadhrat Thanvi was promoting the Shaafi' view. He had his *dalaa-il* on the basis of which he felt justified to depart from the Jamhoor's view.

Furthermore, despite *Mithlain* being the Mufta Bihi version of the Ahnaaf for Asr, Hadhrat Gangohi contends that this is the weaker view and the *Mithl* is the stronger view although this is the Shaafi' view, not that of the Ahnaaf. Commenting on the Asr time, Hadhrat Thanvi says in *Imdaadul Fataawa, Vol. 1, page 96*:

“The riwaayaat (narrations) of the *Mutoon* are of *Mithlain*, and the *Asl* (actual) Math-hab is the *Mutoon*. This has been explicitly stated, although some (Fuqaha of the Ahnaaf) such as Durr-e-Mukhtaar, etc. have given preference to the *Mithl* view. However, the *Muhaqqiqeen* have not preferred this view. Allaamah Shaami has elaborated on this issue in Raddul Muhtaar.

Furthermore, discharge of the obligation (of Asr Salaat) is with certainty in the (*Mithlain*) view. This is the most cautious view. The validity of Asr at one *mithl* is contentious.....When the views of the Ulama of the same Math-hab differ and when both views are held by Akaabireen, then to claim certitude is difficult....”

Yet, Hadhrat Gangohi as well as other seniors differ and have adopted the '*Ghayr Mufta Bihi*' view of Imaam Abu Yusuf and Imaam Muhammad, describing it as the stronger view. But this does not mean that these great Fuqaha and Ulama had advocated the Shaafi' viewpoint.

Allaamah Yusuf Binnuri after presenting an elaborate discussion on the issue of *Ikhtilaaf-e-Mataali*, states in *Ma-aarifus Sunan, Vol.5, page 340*:

“Ibn Abdul Barr said: ‘They (the Fuqaha) have adopted consensus that the sighting of distant cities such as Khuraasaan and Andalus will not be considered.’ Stemming from the narration of *Ijmaa’*, is the *Ijmaa’* of the Ulama of the Math-habs, not only of the Maalikiyyah as is imagined. Thus, the statement of the Aimmah, (namely, *Laa ibrata li-ikhtilaaf-e-mataali*) is *Mujmal* (concise). It is exclusive with nearby places where there is no great difference in horizons.”

This should be salubrious for those who have awarded the title of “*Ustaazul Muhadditheen*” to Allaamah Binnuri.

Therefore to claim that the Hanafi Ulama such as Allaamah Kashmiri, Allaamah Binnuri, and others are advocating the Shaafi’ Math-hab on this issue, is a fallacy of the New York Darul Ifta designed to promote submission to the announcements of the corrupt, anti-Shariah Saudi regime. The argument which the Hanafi Fuqaha base on the Hadith of Kuraib are valid and may not be discarded.

The Darul Ifta alleges:

“It is a fact that the Saudi scholars of Mecca and Medina adopt the exact method of the Sunnah for declaration moon sighting.”

This ‘fact’ is the hallucination of the Darul Ifta. The genuine Saudi scholars have no say in the matter. The decision is made by the Saudi regime and the scholars of the regime. In recent days we have received queries by non-Saudis residing in Saudi Arabia who state that the regime follows its own calendar, hence they are in a quandary regarding Ramadhaan, Eid and Hajj. In *Ahsanul Fataawa*, Hadhrat Maulana Rashid Ahmad states clearly: “*The declaration of Saudi Arabia is not a hujjat for Pakistan*”. He presents a number of reasons for the unreliability of Saudi declarations which are most certainly not in accordance with the Sunnah as alleged by the Darul Ifta of New York. In *Ahsanul Fataawa*, Vol.4, page 426, Mufti Rashid Ahmad states:

“The news of sighting of the moon in Saudi Arabia is not HUIJAT for Pakistan

(1) There is trepidation regarding the news of moon-sighting in Saudi Arabia having reached the degree of Istifaadhah.

(2) In addition to the decision of moon-sighting in Saudi Arabia being in conflict with the Hanafi Math-hab, it is also in conflict with simple logic, hence it is not a Hujjat for Pakistan.”

In a letter to the Minister of Justice, Muhammad Bin Ali Harkaan, the Mufti Sahib wrote:

“Your decision regarding sighting of the moon is in conflict with reality. The factors for this are:

(1) When the skies are clear, nothing preventing the sighting of the hilaal, then sighting by only one or two persons only in the entire land is normally impossible.

(2) Over there (i.e. in Saudi Arabia) even after acceptance of testimony, the moon is not visible the next day. The moon is not visible to the public at large even on the next night.

(3) It is incumbent for the moon to be full on the 14th/15th night. However, in terms of the *shahaadat* (i.e. the testimony on the basis of which the declaration is made), the full moon is only on the 16th or 17th night.

(4) The day when the moon is visible in the east during the morning, in fact even a day thereafter, sighting the moon is an impossibility because on these days the moon sets even before sunset. However, frequently, in Saudi Arabia the declaration of the sighting is made the very same day, i.e. the day the moon is visible in the east during the morning.

(5) Even after the shahaadat of a sighting in Saudi Arabia, nowhere else in the world is this corroborated by a sighting, not even in the furthest western lands.

(6) According to the testimony (on the basis of which the declaration is made), the 1st of the month is on the very day of the birth of the moon. This is manifestly baseless. This

leads to the conclusion that the moon can be visible even prior to its birth.

No response to this came from Saudi Arabia.”

Besides the above, over the years others too have raised valid doubts and made valid allegations of discrepancies perpetrated by the Saudi regime regarding moon-sighting. The very bottom line is that the news and declarations emanating from Saudi Arabia are *baatil*. Therefore, even if it is assumed that the news attains the degree of *Istifaadhah*, it is devoid of Shar’i substance. It remains *baatil*. The corruption and damage are at the very source.

The Darul Ifta in its attempt to ‘prove’ the validity of Saudi declarations, have lumped together the names of an array of Deobandi Ulama who allegedly uphold the news emanating from the Saudi regime. Without delving too much in the category of some of the names mentioned by the Darul Ifta, it will suffice to say that we are not their muqallideen. Furthermore, some of the seniors mentioned by the Darul Ifta are submissive to the Saudi regime which sponsors some of their projects. These seniors by the error of mingling and associating with the agents of the regime have become desensitized of the Haqq and are promoting submission to the misguided, fussiaaq, corrupt Saudi Salafi regime – a regime that has betrayed even its own religion of Salafi’ism. Thus, this claim of the Darul Ifta is devoid of Shar’i substance. It is never a Shar’i daleel for which we have to fall into prostration.

Referring to Allaamah Subki's view of permissibility of accepting astronomical calculations (he was a Shaafi'), the Darul Ifta says:

“More so, Ustad-UL-Muhaddiseen Hazrat Maulana Muhammad Yusuf Binori (RA) and Grand Mufti of Pakistan Mufti Wali Hassan (Hasan!) Tonki (RA), have described the Subki's judgement as wrong and figment of imagination in the face of existing Shariah based ways.”

It goes without saying that all Four Math-habs are agreed on the *butlaan* (baselessness and unacceptability) of astronomical calculations for the purpose of establishing the Islamic months. Allaamah Subki (Rahmatullah alayh) had undoubtedly erred in his opinion. Our purpose for mentioning the above statement of the New York Darul Ifta, is the credence and confidence they repose on Hadhrat Allaamah Muhammad Yusuf Binuri (Rahmatullah alayh). They have awarded him the lofty title of '*Ustaad-UL-Muhaddiseen*', i.e. he is the Chief of the Muhadditheen. Yet the Darul Ifta is either ignorant of the Allaamah Binuri's view pertaining to *Ikhtilaaf-e-Mataali*' or they have conveniently ignored it in their abortive endeavour to hoist Saudi hegemony on the Ummah. We have already explained the view of Hadhrat Allaamah Binuri on this issue. He is of the opinion that the invalidity of *Ikhtilaaf-e-Mataali*' is restricted to places close to one other, where the horizons do not differ. This is the view of "*Ustaad-UL-Muhaddiseen*".

Brazenly and arbitrarily, the Darul Ifta of New York issues the preposterous directive which is devoid of Shar'i force:

“In conclusion, Saudi Arabia follows all rules laid down by the Sharia for the sighting of Ramadan and Eid moon, so its declarations are valid, be it against calculations. Therefore, it is incumbent for the Muslims living in USA and Britain to follow the decision provided the decision is conveyed to according to the conditions given by Sharia.”

The claim is baseless as has already been explained above. If it is ‘incumbent’ for the Muslims of the U.S.A. and Britain to submit to the declarations of the Saudi regime since these are hallucinated as conforming with the Shariah, why does the Darul Ifta confine the acceptance to only the U.S.A. and Britain? Why would it not apply to the entire Ummah of the entire world? We have no answer for this sinister conundrum.

As far as calculations are concerned, it is agreed that this method is haraam for determining the Islamic months, not only Ramadhaan and Shawwaal. Astronomical calculations are not valid for determining any of the Islamic months. However, Darul Ifta has deceptively confined the invalidity of calculations to only Ramadhaan and Zil Hajj because it is aware that Saudi Arabia does employ calculations for the determination of the Islamic months. In brazen rejection of Rasulullah’s express and emphatic command to sight the moon, the Saudi regime utilizes calculations to suit their own objectives.

Let it be known that it is Waajib for the Muslims of the U.S.A. and Britain to physically sight the hilaal just as it is Waajib for the entire Ummah. The Muslims of these two countries hold no special status to exclude or exempt themselves from this command of the Shariah. In a vast country such as the U.S.A., there is a 100% possibility of fulfilling the command of the Shariah to sight the moon. U.S.A. Muslims have no valid excuse for discarding this Waajib command.

As far as the UK is concerned, we are informed that at all times the skies are overcast and the possibility of sighting the hilaal is almost nil. Therefore it is imperative for UK Muslims to establish a link with reliable Muslims in a nearby country, preferably Morocco, for information of the hilaal. Once a reliable link has been established, UK Muslims should follow the news arriving from that source. Since the Saudi declarations are, to say the least, extremely dubious, no reliance should be reposed on them. Regarding the Saudi declarations, the contention does not pertain to *Istifaadhah* of the information. Even if the information reaches reliably, the problem is at the source. The Saudi method of plotting the months is corrupt and damaged – in conflict with the Shariah.

The Saudi Ulama whom the Darul Ifta cites, are not a *Hujjat*. There is no reliance on the Salafis. Furthermore, the Saudi regime is firmly and incrementally on an anti-Shariah course in its bootlicking of America. The ‘grudge’ against the Saudi regime which its critics harbour is classified as *Bugdh fillah* (*Animosity/Hatred for Allah’s*

Sake), and this ‘grudge’ is among the most meritorious acts of Ibaadat. The system in Saudi Arabia is HARAAM. The regime now under the aegis of U.S.-educated fussaag and fujaar are repealing the laws of the Shariah. The facts on the ground vociferously bear testimony for Saudi satanism.

Our advice for the Darul Ifta muftis is that they should rather execute the obligation of *Amr Bil Ma’roof Nahy Anil Munkar* and advise the Saudi regime of its course of fisq and fujoor, instead of bootlicking them. The path of fisq and fujoor adopted by the Saudi regime is not hidden. It is conspicuous as bright as daylight, yet, these muftis are silent despite observing the pillage and plunder of the Deen taking place. Their silence places them in the scope of the Hadith:

“He who is silent regarding the Haqq is a dumb shaitaan.”