

Critics of *Fiqh Council's* Decisions in Quandary

Those opposed to the *Fiqh Council* of North America and Europe's decision to use calculations to determine the beginning and end of Ramadan were themselves split on the place of science in qualifying moon sightings. Some declared Thursday as the first day of *Ramadan* based upon the local Moon sightings in Chicago, New York, Toronto and other cities of North America. Others however declared such sightings unacceptable. In so doing this group—let's call them group three—used a combination of moon sightings with scientific corroboration.

Which of course begs the question: Of the three foregoing methods to determine Ramadan which is wholly in keeping with the *Sunnah* of the Prophet (PBUH), and with scholarly consensus (*Ijma`*), and which is not? Clearly, two out of three groups used explicit methods to make this determination, whereas the third found itself in a quandary. Those who went by actual sightings were following the classical method as found in all our traditional books of Islamic law, even though the sightings themselves violated every rule of science on moon positions. Those, like the two *Fiqh Councils*, who went by calculations were following a combination of science and prophetic directives to find the most reliable and accurate time of Ramadan, even though it meant a slight modification of the prophetic directive. Those who rejected both these approaches, group three that is, went by a combination of science and prophetic directives as well, but to reach the opposite conclusion. To that extent they too were correct. They clearly erred however, in giving the general public the impression that as opposed to the *Fiqh Council* they were not abandoning the prophetic example or juristic consensus; and they were not quite using modern science. The truth of the matter is that their method too was dependent on science; and their method also required a modification of the *Hadith* directives on moon sighting. Clearly, they used science to reject multiple sightings, and used *Hadith* traditions to reject the use of science. Their objectives were honorable as were ours: they were attempting to reject dubious claims to sightings, and we were attempting to find a more precise method to determine the times in which Allah SWT wants Muslims to fast. And yet, we were accused of many errors, whereas they seemed to escape criticisms.

To clarify this argument further: even though scholars initially allowed only two methods to determine *Ramadan*, actual moon sighting, or the completion of 30 days in case of cloud cover, the fact that the completion stipulation was part of the *Hadith* itself meant that the door of calculation was open, albeit ever so slightly! How else would we know the number of days to have reached thirty? And even though sighting is the stated method in the *Hadith* itself, a small group later in our history, emboldened by the

calculation wording of the *Hadith* itself, went so far as to allow calculations more than to just determine 30 days.

To summarize the arguments on calculations: There are three *Fiqh* opinions about the use of calculations in regards to *Ramadan*.

(1): The majority prohibits the use of calculations in any form. They require either actual sightings or the completion of thirty days. (Like we said earlier, they too were calculating without realizing it!).

(2): A few jurists like Ibn al-Shikhir, Ibn Surayj, Ibn Daqiq al-‘Id, al- Qushayri’ and others permit the use of calculations only in case of cloud cover.

(3): Imam al-Subki permits the use of calculations in case of cloud cover, as well as to negate witnesses if the calculations prove that the new Moon was not viewable. According to him this is correct because sightings are probable whereas astronomical calculations are categorical. But for this, he like us, was reprimanded by his peers and even by his own school on this score; and scholars such as al-Ramli and others even accused him of introducing a heresy. Almost all the later classical jurists strongly opposed al-Subki’s use of calculations to negate the testimony of witnesses; and this, because the Prophet (PBUH) never asked scholars to refer to astronomers to verify or negate sightings.

But a further modification to the ‘sighting tradition’ was made when scholars in the Hanafi and Shafai’ schools along with others, added to its requirements the need to corroborate sightings with the oath (*shahadah*) as mentioned in the Ibn ‘Abbas tradition quoted in the *Sunan of Abu Dawu’d*. But even in the case of the oath there was a dispute: most schools required only one witness to a sighting, and others two in case of obscurities. So it should be clear, we hope that through our history scholars have made multiple modifications to the interpretation and the implementation of the ‘sighting *Hadith*’.

Now, back to our groups: The third group also abandoned the prophetic tradition when it rejected global sightings. On Wednesday countless reports of moon sightings came from Qatar, UAE, Saudi Arabia, Malaysia, Indonesia and many other countries, so much so that together they fulfill the legal requirement of what jurists call a “public sighting”. These critics of the *Fiqh Council* rejected all such reports because they were not corroborated by science! This rejection of the sightings of so many Muslims throughout the world has taken the legal idea of varying horizons (*ikhtilaf al-matali`*) to an all new level. And it is a brand new method of determining the month of Ramadan. In so rejecting the testimony of so many Muslims, these scholars followed calculations, and that too, the calculations of a handful of astronomers.

But to do so this group had to abandon the acclaimed *Ijma`a* and follow the isolated opinion of one Imam, al-Subki, in opposition to the consensus of the classical jurists. For this they must be applauded, for like al-Subki, they too believed that calculations are

categorical. This exactly, was the reason why the *Fiqh Council* adopted the calculation criterion over that of sightings. Surely, our critics must concede that none of our religions texts, not the Qur'an, or the *Hadith* books, or the books of Fiqh require that the testimony to a moon sighting be verified by astronomers or by astronomical calculations?

So based on classical texts, their use of the following paragraph must be deemed baseless: "If the elongation of the moon is less than 7 degree (Danjon limit), sighting claim is not acceptable. If the elongation and altitude of the moon is between 7 and 10 degrees, we need approximate 50 witnesses each from 5 places (total approximate 250). If the elongation of moon is between 10 and 12 degrees, altitude is less than 10 degrees, and moonset-sunset lag is >35 minutes we need 10+ witnesses each from 3+ places if cloudy and al-jam` al-ghafir if clear. If the moon's elongation > 12 degree, altitude is > 10 degrees, we need 1 witness for *Ramadan* and 2 witnesses for all other months in case of cloudy skies and al-jam` al-ghafir for clear skies." But this scientific ruling is the basis of group three's method!

The question remains, what gives one party the right to use science to reject multiple sightings that are in no way in violation of prophetic requirements, and denies the *Fiqh Council* the same right to use calculations to determine Ramadan? We would say, nothing! We would also argue that these are the same texts which underpin the Council's acceptance of calculations to affirm *Ramadan*. The *Hadith* of Ibn 'Umar that permits "estimation or counting" does not restrict the use of calculations for negating witnesses only. It is a positive command which strongly implies the use of calculations to affirm *Ramadan* rather than to negate witness testimony.

Then there is the question of local or global sightings. The early authorities including the Imams Abu Hanifah, Malik, Shafi'i, Ahmad, and Ja'far al-Sadiq all required global fasting if the moon was seen in any one place on the planet. In time however, the minority opinion of regional sightings gained greater acceptance. To do that however, scholars had to arbitrarily fix boundaries based upon various analogies; the Qur'an or the Sunnah had not much of a role to play in this. This shows the extent to which scholars in the past had to interpret and reinterpret prophetic material in keeping with changed circumstances. Why then such harsh words for the *Fiqh Council* when it decided to do the same?