

wording of ash-Shawkani, once the moon is sighted in one place or one part of the world, everyone must follow along and fast. If Masr declares it, the Arabian Peninsula and the rest of the world should fast. If Makkah declares it, the rest of the world should fast. If in Andalus they happened to confirm it the rest of the world follows along. Why? Because the Hadith are general. The general Ahaadith and the fact that Ibn Abbaas radhiallahu ‘anhuma statement was his opinion, it was his Ijtihaad not the statement of the Messenger sallallahu alayhi wa sallam . With this we have concluded Alhamdulillah the first paragraph of your Kitaab as-Siyaam. Tomorrow Inshaa Allah we beginning of the second paragraph.

CLASS SIX

RAMADHAAN IS OBSERVED BY THE SIGHTING OF ONE JUST, CREDIBLE AND TRUSTWORTHY PERSON

This is our Six Class, Alhamdulillah that we reached this far. We left off at the author’s statement:

وَيُصَامُ لِرُؤْيَا عَدْلٍ مُّكَلَّفٍ وَلَوْ أَنَّهُ

Now the author here where we left off yesterday, he’s going to tell us who can testify to the sighting of the moon. Whose testimony we accept, whose sighting we accept and issues surrounding and pertaining that. He said Ramadhaan is observed by the sighting of one just, credible person.

عَدْلٍ

‘Adlin, means in Arabic means credible, trustworthy.

مُكَلَّفٍ

Mukkalaf, means say over the age of puberty, even if it is a female he said. At the end of his statement, the author said, even if it is a female. Once a person comes forth with these qualities we observe the month of Ramadhaan, Ramadhaan starts. So long as it is an honest trustworthy credible person, he comes forth and announces that he seen the moon or she seen the moon, the Hilaal, then the start of Ramadhaan begins.

DO WE GO BY ONE PERSON'S SIGHTING EVEN IF HE WAS WITH A GROUP WHO DID NOT SEE IT?

Let's discuss some the issue that pertains to this matter. Let's assume first of all that there was a group, they went to the outskirts for the purpose of sighting the moon or just a gathering or a picnic. They were in an area where they seen the moon. One of the people there seen the moon, yet the others didn't. Do we go by one person sighting, even though he was with a group who didn't see it? By the way going out to the outskirts to sight is an abandoned Sunnah, so if you can do that in the future, it's good to do that.

THE FIRST OPINION

The answer to that is; yes we go by what one person said according to the Hanbali Madhab and the majority opinion, even if the rest didn't see it. Those who didn't see it, they are not ruling out that it wasn't there, they just happened that they didn't see it. Not seeing is not ruling out there was a moon. They just happened not to see it. The one who was trustworthy and happened to see it we take his word on that matter because the condition applies to him; he is trustworthy, he is credible, he is Mukallaf, he is 'Adlin, we take his word. One who confirms the sighting in such matters, he is given president over those who didn't see it.

THE SECOND OPINION

The second weaker opinion is that if one is in a group and he didn't see it we don't take his testimony because it not likely that one out of the group who seen it and the others missed it.

THE CORRECT OPINION

The correct opinion and strong opinion is that of the majority and included in them is the Hanbali Madhab is that, and it what the author adopted is that; if we see, if one person see the moon out of the group; he is just, credible the condition are there, we go by what he said.

WHAT DOES MUKALLAF MEAN?

The author said Mukallaf (مُكَلَّف) means one who is obligated to do the command of Islam, that is from, that is the definition from a Fiqh perspective, and it contains two qualities. So when you read it in a book, you know that is one who is obligated to do the command of

Islam; number one he has to be sane, number two over the age of puberty. That's taken from the Hadith the pen has been lifted from three.

WHAT DOES 'ADL MEAN?

THE LINGUISTIC DEFINITION

Then next issue, the author said; is Mukallaf then he said 'Adlin (عَدْلٍ), it mean in English; trustworthy, credible, just person. That's what 'Adlin means.

لِرُؤْيَا عَدْلٍ

What constitutes a credible trustworthy person from a Sharee'ah perspective? Fiqh perspective? Figuratively speaking, the word 'Adlin in Arabic comes from the region of being straight which is the opposite of something crooked. And that is why is called that, because the person who is labelled as an 'Adlin has a straight life. Or overall a straight life, that's why the word was take from that.

THE SHAR'EE DEFINITION

The Shar'ee Fiqh meaning for us and what's essential for us, there is many definition, but the comprehensive one and adopted by the majority of the 'Ulamaa is it is very comprehensive is; he is the one who does the ordains, refrains from the major sins and does not persisted on minor sins. What do we mean by doing the ordains? Doing the ordains is life a Fardh, like Salah. Doing the Salah, refraining from sins, is like fornication, murder, adultery, but it is not only that, as some may assume. Spreading gossip among the two Muslim, major sin. Backbiting is a major sin. If one is caught backbiting once and it confirmed that he didn't repent, that is a major sin and we don't take the testimony until he repents and fulfils the conditions of repentance.

Imam Ahmad has a higher status than this definition. He didn't except the testimony of one who was known not to perform his Witr Salah. He rejected someone testimony if he leaves an essential Ibaadah. Essential Ibaadah like Witr is not obligatory but Imam Ahmad held people at a higher standard. If you don't do that I don't except your testimony.

So do we take Imam Ahmad's high scrutiny of who he except or testimony in matters like this? The 'Ulamaa of the Hanbali Madhab said no, because Imam Ahmad had a higher standard in who is except their testimony, in financial matter. He rejected their testimony in financial matters if they didn't do Witr because it requires a higher scrutiny. Because in

financial dealings they incentive to lie whether for yourself or someone else. You may get a gain out of it. There is a big incentive to lie. If you are testifying about yourself or to yourself, you may gain something. If you testifying for someone different, you may also gain some wealth out of it. In the sighting of the moon that is not the same, unless sometimes there appear to be an incentive for one to gain by reporting the sighting of the moon then will resort to the standard of Imam Ahmad. That would be like countries who even today they may gave at times the reward for sighting the moon. That makes it an incentive for one to lie. Unlike where someone will go and report and he doesn't expect or get anything. So there is an incentive we will resort to the definition or the method of Imam Ahmad went by.

Some 'Ulamaa said; if we go by the original definition I mention, one who does the ordains, and refrain from the major sins, he does not persist on minor sins, he said if we really, really, go by that? There is no one who fits that category because everyone is a sinner. If we use the scrutiny of Imam Ahmad, that's even impossible. Why? Because everyone has a slip of a tongue or he may have said something about someone backbit, Ilaa man rahimallah, that is a major sin. And that diminishes credibility, then we can't take his testimony.

Therefore the 'Ulamaa said; an Imam or a Khaleefah or of course now in Islamic centres a Shaykh, if you go to him with the sighting. They said; they can analysis the overall person the credibility in circumstances surrounding that person to come with a decision as to whose testimony is accepted and whether they will take his sighting. Because they said, Allah said:

... فَإِنْ لَمْ يَكُونَا رَجُلَيْنِ فَرَجُلٌ وَامْرَأَتَانِ مِمَّنْ تَرْضَوْنَ مِنَ الشُّهَدَاءِ

...البقرة : ٢٨٢ ﴿﴾

And if there are not two men (available), then a man and two women, **such as you agree for witnesses.** (Surat al-Baqarah: 282)

Those who you accept or agree to as a witness. Meaning the definition I just mentioned is just an overall general guideline or the judge or the Khaleefah or a Shaykh or someone in their position has some discretion in whose testimony they accept.

ACCEPTING THE TESTIMONY OF AN ALCOHOLIC OR ONE INVOLVED IN SIMILAR SINS

If one is an alcoholic or has a similar sin, then he came in his twenties we was caught fornicating, he came to testify. Do we take his testimony? If he repented and he applied the rule of repentance, we accept his testimony. Because if we deny the testimony of major sins who repented, there is no one credible, they repented. They are no longer sinners in that

matter. After they repented, they become credible and trustworthy. That's as long as they followed the rule of repentance.

DOES ONE HAVE TO HAVE STRONG EYESIGHT?

The next point is:

لِرُؤْيَا عَدْلٍ

'Adlin the 'Ulamaa said is one condition but including in that, one for this matter has to have strong eyesight. They even criticise the author in this book, saying that he should've added that in addition to 'Adlin he should have a strong eyesight. Because that's the condition essential to this particular task that he is testifying to. So they criticised the author for not adding the condition in addition to 'Adlin they said he should've also added that he should have strong eyesight.

Other Ulamaa defended the author here and said; when he is a credible person and trustworthy, is included in that that he has to have strong eyesight. Because he is credible trustworthy, he would never testify to that which he didn't see. Therefore it's included under the term 'Adlil (just, credible , and trustworthy).

The argument was then rebutted by saying; he may be credible, trustworthy, but his weak eyesight may cause him to suspect or to see that which he didn't see. And that has nothing to do with the credible issue. So it must be an additional factor that the author should've stated. Some contemporary 'Ulamaa went to the extent, of contemporary that I studied with, they said; they would reject the testimony of who wears glass. That may go to an extreme because glass or contacts compensate for the loss of sight, Allahu A'lam, that may be a little extreme.

Now what's the proof that you need to have strong eyesight for matter like this. Is in the story of Musa alayhi salaam. When Musa alayhi salaam went to the man of Madyan who later became his father in law. One of the daughters of that man said:

...يَا أَبَتِ اسْتَأْجِرْهُ ۖ إِنَّ خَيْرَ مَنِ اسْتَأْجَرْتَ الْقَوِيُّ الْأَمِينُ ﴿٢٦﴾ القصص :

﴿٢٦﴾

"O my father! Hire him! Verily, the best of men for you to hire is the strong, the trustworthy." (Surat al-Qasas: 26)

Did she say just trustworthy? She said:

الْقَوِيُّ الْأَمِينُ

Strong and trustworthy. She said those two factors, for the task that they needed him for; trustworthy and strong.

Likewise the second factor we need for moon sighting is; trustworthy, yes. In addition to trustworthy you need strong eyesight. Likewise additional proof 'Ifreet the jinn who brought the palace of the queen from Saba' said:

...وَإِنِّي عَلَيْهِ لَقَوِيَّ أَمِينٌ ﴿النمل: ٣٩﴾

I am indeed strong, and trustworthy for such work. (Surat an-Naml: 39)

The task that he sent out for needs two characteristics; he needs to be trustworthy and he needs to be strong at the same time. So trustworthiness is not enough, because one must have strong eyesight. Some said the author included it in being trustworthy, some said no the author should have mentioned it separate.

HOW MANY WITNESSES DO WE NEED?

THE FIRST OPINION

According to this book and the Hanbali Madhab as well and the opinion of Imam Ahmad and the selected opinions of Imam Ash-Shafi'ee and Ibn al-Mundhir and Tirmidhi and the people of Kufaaah and Nawawi and the saying of Umar and Ali and Ibn Umar, Ibn Mubarak and many others, the opinion they'd adopted is; one. One person. Their proof for that is the Hadith in Abu Dawud and others and is authenticated by Ibn Hibban, al-Haakimi, Ibn Hazm and others; where Ibn Umar radiya Allahu anhum said, the people went out to pursuit the moon so I informed the Messenger sallallahu alayhi wa sallam. That I have seen it. He said the Messenger sallallahu alayhi wa sallam order that everyone fast. Based on the sighting of Ibn Umar that everyone fast. This Hadith is not Sahih Muslim. Some disputed on its authenticity but it is authentic. In fact a lot of the 'Ulamaa compared the men of the chain to that which is Sahih Muslim.

The second proof is the one in Sunan Abu Dawud on the authority of Ibn Abbaas radhiallahu anhum that a Bedouin came to the Messenger sallallahu alayhi wa sallam, and I told the Messenger I sighted moon. The Messenger sallallahu alayhi wa sallam said do you testify la ilaaha illallah, he said; yes I do. He sallallahu alayhi wa sallam said; do you testify that the

Messenger sallallahu alayhi wa sallam is the messenger of Allah, he said; yes. He said Bilal go up and call that Ramadhaan has begun.

This Hadith of the Bedouin some 'Ulamaa like Ibn Khuzaymah and Ibn Hibban consider it authentic, while others consider it weak or Mursal. I believe been weak and Mursal is the stronger opinion. So it is somewhat weak. But the first one the one on Ibn Umar is not. But these Hadith specified that one person was sufficient for Ramadhaan. The Messenger took the word of Ibn Umar by himself to announce and declare Ramadhaan. That's the first opinion, that's correct opinion.

THE SECOND OPINION

The second opinion is by 'Uqma radiya Allah 'anhu, Maalik, al-Awza'i, al-Layth, and others they said that and others, you need two for the start of Ramadhaan. Their proof is:

وإن شهد شاهدان ذوا عدل فصوموا وأفطروا

The Hadith says: If two witness come forth then fast and break your fast to their sighting.

The first opinion response to that is:

وإن شهد شاهدان

"If" two witnesses come forth, he didn't say that you "need" two witnesses. That's the first response. He didn't say you have to have two witnesses. He said "if" two witnesses. You may infer that he meant two only but that's not explicit in the Hadith. What the Hadith is saying; if it so happens two comes forth, then except it. That's not to say if one comes reject it. You may infer that but it is not explicit in the Hadith. The Hadith used here if two come forward general. The previous two Hadith the one of Ibn Umar of the Bedouin and clearly accepting the testimony of one and especially the Hadith of Ibn Umar Hadith, because that is the authentic one, it clearly except one. In a scenario like this the rule Usool is that there is a specific Hadith and that's the Hadith used by the first group where the Messenger accepted the testimony of one, that's specific. Then there is a general or non-explicit Hadith which is the Hadith used by the second opinion, If two people come forward. The issue that the Messenger sallallahu alayhi wa sallam accepted a single man's testimony is direct and specific.

The rule is the Usool rule is; if there is a conflict among a specific Hadith and a general one, we try to combine. If combining is not possible then we give president based on an additional factor. Now what's the additional factor in this situation that we in? the additional factor that we're in is that the is one Hadith Ibn Umar specific and one that is

general which is if two people come forward. The specific Hadith of the Messenger sallallahu alayhi wa sallam in this issue is; excepting the testimony of Ibn Umar radiya Allahu anhumah alone. Keep in mind that is not only general verses specific. The Hadith, the second group you used, is not even clear on accepting two as a requirement. It just merely said "if" two come forward. Those are the two opinions on how many are requested to declare Ramadhaan, in the beginning of Ramadhan, and we said the correct opinion is one.

THE THIRD OPINION

There is a unique third opinion. Some books of Fiqh don't stated but it is unique. Abu Haneefah said; during cloudy days we go by what the Hanabilah said; one is enough. If it's a clearly day we need more than one. It sounds inconsistent if you take it face value like that, what on earth is Abu Haneefah Rahimahullah saying? But Abu Haneefah Rahimahullah said; because if it is cloudy then it obvious not many are going to see it, so if one comes forth, that's you know, understandable and that is sufficient. On the other hand when it is a clear day, there are many that are going to see it. So basically what he is trying to say is; I can't imagine one person seeing the moon on a clear day, therefore we need more than one. While on a cloudy day, yes, because it's cloudy. If one person comes, we'll accept it.

CAN A WOMAN OR A SLAVE TESTIFY?

Now the next issue is the author says:

وَلَوْ أَنَّثَى

Even if it is a female. In attached to that or tagged along with that is a slave. Meaning don't get the impression that the author is saying, is only male. If a female reports the sighting of the moon with the condition we stated, then we take her testimony. The issue, is that really true? Can a woman or a slave testify to the reporting of the moon sighting. There is a dispute and the dispute is; based on; does one informing of the sighting of the moon, fall under, the Shahaadah or Iqbaar? A woman or a slave reporting of a matter, that is called Iqbaar, that is something called reporting, which is not at the level of testimony. If a woman or a slave for example, teaches a Hadith, is called reporting, that is called narrating. We except it even if it is one, that is called Iqbaar, that is called reporting, that is called relating information, that is called passing on information. That not testimony, we have examples where a woman in the chains of Hadith, reporting a Hadith. No one ever said bring me a Hadith two women for this chain.

Is sighting the moon Iqbaar? If it is then a woman and a slave can report it and we don't need any more than that. Now if it is considered testimony, which called in Arabi

Shahaadah, then a woman or a slave alone are not accepted. The scrutiny is higher, a woman and a slave are not accepted.

Ibn Hazm, Imam Ahmad, Ash-Shafi'i in one or two opinions, they considered this Iqbaar, reporting, testimony, relating information, so a woman and a slave and a male are at the same in this matter. Just like if they were to relate or convey a Hadith.

Another matter pertaining to this is since this is Iqbaar, not Shahaadah, it's reported, conveying information not testimony, there is no need for the ruler to announce it. You can fast based on by a credible person reporting, because it's not testimony. Testimony must be brought before a ruler or a judge to decide. Now however, these days due to the ignorance in the moon sighting and its conditions, it should be presented to 'Ulamaa to make sure the conditions of the sighting were met. That is to avoid the Fitna and ignorance in this issue. The point is though, since it's considered Iqbaar relaying information, not testimony as we said, it does not need the ruling of a ruler or a judge for one to except. You can go by the sighting of one who sighted it if they are credible and over the age of puberty and sane.

CAN A YOUNG BOY UNDER THE AGE OF PUBERTY REPORT THE SIGHTING?

Another issue, if a young boy under the age of puberty reports a sighting, it's not accepted by overwhelming majority of 'Ulamaa because the author said:

عَدْلٌ مُكَلَّفٌ

A young boy is not Mukallaf – he is not obligated to do commands of Islam. He is under the age. He is not obligated to do the commands of Islam. So the stronger of two opinions, is rejecting the testimony of someone who's under the age of puberty.

HOW MANY WITNESSES ARE NEEDED TO TESTIFY TO THE END OF RAMADHAAN?

Another issue, for the departing of Ramadhan, the end of Ramadhan, and all other months and after that you must have two. There must be two male witnesses. What we mentioned was merely an exception for the start of the Ramadhan. What we mentioned was exception for the start of Ramadhan. This is the opinion like I said the overwhelming majority of 'Ulamaa except Abu Dhur; he said at the end of Ramadhan, Shawwaal, the moon for Shawwaal, one person is accepted just like the beginning of Ramadhan. He used analogy he used Qiyaas, he compared the end of the Ramadhan to beginning of

Ramadhaan. He said if we accept one for the start of Ramadhaan, then we should accept one at the end of Ramadhaan. He used analogy, Qiyaas. The response to Abu Dhur Rahimahullah is that the proof on this matter is clear, there is no need for Ijtihaad. Qiyaas, analogy is good when we don't have proof. But on this matter we have proof. Tirmithi said there is no dispute that the end of Ramadhaan and every other month other than the beginning of Ramadan we need two to testify.

By the way, side issue, Abu Dhur Rahimahullah is not a simple scholar many have not heard of him, but he is an 'Aalim and he is actually at the status of Imam Maalik Rahimahullah in 'Ilm. He is at the status and knowledge of Imam Maalik. However it was said; that is was the faults of his students of his student that his knowledge didn't spread because they didn't really preserve his knowledge and spread it and convey it and gather it. That is why sometimes, the failure of 'Ulamaa is from themselves, a lot of the times. Some get for example get fed up with dealing with people and how people treat and they say; you what? Why do I have to deal with this. Let me get a peaceful life, close my door and go on my own.

And sometimes it's the students who are the failures. Failures in how? In preserving knowledge. Failures for example in spreading their knowledge and gathering their knowledge and helping the 'Ulamaa. Like now for example, some are so stingy they wouldn't even retweet for an 'Aalim that they study with, and they claim day and night, this is an 'Aalim that we study with. Spread his knowledge if you really , really believe that person is a trustworthy 'Aalim, spread his knowledge. You get Ajr for that, you preserve the knowledge and Inshaa Allah it will stay the knowledge until judgment in one way or another, stay until judgment day we get continue to get reward. Abu Dhur Rahimahullah was among the unfortunate is the student's failures who didn't preserve knowledge, his knowledge and help him. And that is why they said wasn't as famous as Imam Maalik, even though they were at the same status.

Back to the Ramadhaan issue, the only reason the 'Ulamaa, exempted this situation of having two to testify in the beginning of Ramadhaan is because there is a specific Hadith on that. So they said; in the beginning of Ramadhaan what we need is one, while at the end of Ramadhaan every other month, we need two.

CLASS SEVEN

We stopped off at the statement by the author and he said:

فَإِنْ صَامُوا بِشَهَادَةِ وَاحِدٍ ثَلَاثِينَ يَوْمًا فَلَمْ يَرِ الْهَلَالُ ، أَوْ صَامُوا الْأَجَلَ
غَيْمٍ لَمْ يُفْطَرُوا