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# SHAYKH AḤMAD SHĀKIR AND THE ADOPTION OF A SCIENTIFICALLY-BASED LUNAR CALENDAR*

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*Abstract*

The computation of the Muslim lunar calendar has been a subject of controversy for centuries. In the twentieth century, the debate surfaced again in different parts of the Muslim world. In Egypt, the distinguished jurist Aḥmad Shākir added his voice to the debate by writing a short treatise or *risāla* in which he argued that a calendar based on crescent sighting should be abandoned in favour of one based on scientific and astronomical computation. After providing some background information on Shākir and the lunar debate in Egypt and elsewhere in the Muslim world, I present an annotated translation of Shākir's treatise.

## *Introduction*

### Biography

AḤMAD MUḤAMMAD SHĀKIR (1309-1377/1892-1958) was born in Cairo in the family of Abī 'Ulyā', descendants of Ḥusayn b. 'Alī b. Abī Ṭālib (d. 61/680). Scion of a family of distinguished scholars, he became renowned as a *muḥaddith* (specialist in prophetic reports), *mufassir* (commentator on the Qur'ān), *faqīh* (jurist) and *adīb* (man of letters).[1] His father, Muḥammad Shākir b. Aḥmad (d. 1358/1939),[2] was a well-known jurist and scholar, as was his maternal grandfather al-Shaykh Hārūn 'Abd al-Rāziq (d. 1336/1918). Aḥmad and his brothers studied *tafsīr* (Qur'ān exegesis), *aḥādīth* (traditions), *fiqh* (positive law), *uṣūl al-fiqh* (legal theory) and *manṭiq* (logic) with their father. Aḥmad acknowledged that his father was a formative influence on his intellectual development.[3] When his father was appointed Chief Justice

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1 'Umar Riḍā Kaḥḥāla, *Mu'jam al-Mu'allifīn* (Beirut: Dār Iḥyā' al-Turāth al-'Arabī, n.d.), vol. 13, 368. See also *EI*$^2$, s.v. Shākir.

2 Khayr al-Dīn al-Ziriklī, *al-A'lām* (8th ed., Dār al-'Ilm li'l-Malāyīn, 1989), 156-57. Also see Muḥammad Shākir, *al-Qawl al-faṣl fī tarjama al-Qur'ān al-karīm ilā al-lughāt al-a'jamiyya* (Cairo: Maṭba'at al-Nahḍa, 1343/1925).

3 Aḥmad Shākir, *Tarjama al-Shaykh Muḥammad Shākir Wakīl al-Azhar*

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(*qāḍī al-quḍāt*) of the sharī'a courts in the Sudan in March 1900, young Aḥmad accompanied him to Khartoum, where he attended Gordon College for at least two years, being among the first class of pupils to be admitted to the school at its inception in 1902.[4] It was at Gordon College that Aḥmad Shākir was exposed to aspects of modern scientific and technical education, including elementary science. When his father was later posted to Alexandria as superintendent of al-Ma'had al-Dīnī (the religious institute), Aḥmad accompanied him to that city, where his education was exclusively in the Islamic disciplines in preparation for admission to al-Azhar.

From an early age Aḥmad demonstrated a predilection for *ḥadīth* studies. An index of his commitment to this discipline is his continuous study of the *Musnad* of Aḥmad Ibn Ḥanbal from 1911 until 1943, when he published an edition of the first few volumes of the text.[5] His biographers claim that few persons rivaled his pioneering (*imāma*) stature in *ḥadīth* studies in the middle of the twentieth century.[6] One of his many teachers, Shaykh Maḥmūd Abū Daqīqa of Alexandria, left an indelible impression on the young Aḥmad, inspiring him to take an interest in the disciplines of *fiqh* and *uṣūl al-fiqh* "until he attained mastery in it."[7]

In April of 1909 his father's appointment as deputy rector (*wakīl*) of al-Azhar coincided with Aḥmad's admission to that celebrated Egyptian institution of traditional Islamic learning at the age of eighteen. Returning to Cairo marked another important step in his intellectual career, for the move gave him access to the leading religious scholars and experts of his time. Among his peers were personalities such as Muḥammad b. al-Amīn al-Shanqīṭī; the Moroccan *ḥadīth*

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*Sābiqan* (Cairo: Dār al-Ma'ārif, 1953); also see Maḥmūd Muḥammad Shākir, "Aḥmad Muḥammad Shākir Imām al-*Muḥaddithīn*," foreword in *Thalātha Kutub 'ani'l-Musnad li'l-Imām Aḥmad b. Ḥanbal*, ed. Aḥmad Muḥammad Shākir (Cairo: Maktabat al-Sunna, 1401/1990), 5.

[4] According to Sir Harold Macmichael, *The Sudan* (London: Ernest Benn Limited, 1954), 85, 120-21, Gordon College opened in November 1902 as a primary technical school and in 1913 it provided a general secondary course and also offered training for qāḍīs. (My thanks to Shamiel Jeppie for directing me to this source.)

[5] Maḥmūd Muḥammad Shākir, "Aḥmad Shākir," 5; Usāma Aḥmad Shākir, "Al-Shaykh Aḥmad Muḥammad Shākir: 'Alam min a'lām al-'aṣr," in *Ḥukm al-Jāhiliyya* (Cairo: Maktabat al-Sunna, 1412/1992), 6. Some six volumes of *al-Musnad* of Aḥmad b. Ḥanbal were edited by Aḥmad Shākir and published in 1365/1946. A twenty volume edition of *al-Musnad*, of which eight volumes were edited by Aḥmad Shākir and the remainder by Ḥamza Aḥmad al-Zayn, was published in 1416/1995 by Dār al-Ḥadīth in Cairo.

[6] Maḥmūd Shākir, "Aḥmad Shākir," 6.

[7] Maḥmūd Shākir, "Aḥmad Shākir," 5.

scholar ʿAbd Allāh b. Idrīs al-Sanūsī; Shākir al-ʿIrāqī; the peripatetic Syrian Salafī scholar Ṭāhir b. Ṣāliḥ b. Aḥmad, fondly known as "Ṭāhir al-Jazā'irī;"[8] and, the reformist scholar Muḥammad Rashīd Riḍā.[9] Most of his teachers gave him an authorization (*ijāza*) to teach *ḥadīth*. In 1917 he took the *ʿālimiyya* degree, a qualification in Islamic law and the religious sciences, from al-Azhar. After four months as a secondary school teacher in Māhir, he was appointed as judicial functionary (*muwaẓẓaf qaḍā'ī*) in the sharīʿa courts. Appointment as a judge (*qāḍī*) to the sharīʿa courts followed soon thereafter, and he rapidly progressed to become deputy chief justice and then, finally, chief justice of the Sharīʿa High Court (*ra'īs al-maḥkama al-ʿulyā al-sharʿiyya*) of Egypt, a position he held at the time of his retirement in 1951.

## Intellectual orientation

Aḥmad Shākir's scholarly work involved one of the most challenging and perhaps least appreciated tasks in scholarship, that of editing and publishing manuscripts dealing with *ḥadīth*, *fiqh* and *adab*. He was the proverbial scholars' scholar, preparing detailed annotations, identifying sources and citations, and generating indices.[10] Having specialized in the skills of a *ḥadīth* scholar as well as a judge-cum-jurist (*qāḍī-faqīh*), Shākir put forward fresh traditionalist (*Salafī*) interpretations of issues confronting Egyptian society in the first half of the twentieth century.

Aḥmad Shākir was not committed to a particular legal school within Islamic law. In *Abḥāth fī Aḥkām* (Studies on Legal Rulings) he said:

> You will find that others have opposed me on some views. Yet, I do not see any harm in mentioning and commenting on their views in order to clarify my own standpoint in pursuit of the truth, not out of a passion for polemics....But just as I respect the views of others, I also respect my own opinion. I will therefore not concede a conviction (*yaqīn*) that I held or an opinion (*ra'y*) I espoused, except for an unequivocal argument and an evident proof.[11]

While Aḥmad Shākir cherished his intellectual independence, he was closer to the Salafī tendency which places a strong emphasis on *ḥadīth* studies. In that sense he can be described as a promoting a neo-Salafī trend with strong Ḥanbalī inclinations in twentieth century Muslim

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[8] He died in 1338/1920.

[9] Maḥmūd Shākir, "Ahmad Shākir," 6.

[10] Among the noteworthy editing assignments undertaken by Aḥmad Shākir was the first two volumes of *al-Jāmiʿ al-Ṣaḥīḥ* of al-Tirmidhī (completed by Fu'ād 'Abd al-Bāqī); Ibn Ḥazm's *al-Muḥallā*, and al-Shāfiʿī's *al-Risāla*.

[11] Aḥmad Shākir, *Abḥāth fī Aḥkām* (Cairo: Maktabat Ibn Taymiyya, 1986), 3.

scholarship.[12] Most of his editorial labours focused on reviving the works of those considered to be the icons of traditionalism, including al-Shāfiʿī (d. 204/820), al-Tirmidhī (d. 272/892), Abū Dāwūd (d. 275/889), Ibn Ḥanbal (d. 241/855), Ibn Ḥazm (d. 456/1064), and Ibn Kathīr (d. 774/1373). Some works were edited with the assistance of his brother Maḥmūd Muḥammad Shākir and his maternal cousin ʿAbd al-Salām Muḥammad Hārūn. He also had a close personal and intellectual association with a prominent Egyptian Salafī scholar, Muḥammad Ḥāmid al-Fiqī (d. 1378/1959), a relationship which later deteriorated because of personal differences between the two men.[13] Aḥmad Shākir also completed some editorial work initiated by Zakī Mubārak (d. 1371/1952), E. Levi-Provençal (d. 1376/1955) and Iḥsān ʿAbbās, among others.

In addition to his editorial projects, Aḥmad Shākir was also a prolific essayist, addressing issues of socio-political and socio-legal significance affecting Egypt and the Muslim world of his day by publishing pamphlets, monographs and essays in journals. A collection of such essays was published in a volume entitled *Ḥukm al-Jāhiliyya* (Governance of Ignorance) that appeared in 1992, the year of his centenary anniversary; the essays reflect his views on controversial issues such as legal procedures relating to marital repudiation (*ṭalāq*);[14] Latinization of the Arabic script; conflicts between sharīʿa and secular laws;[15] the contradictions spawned in Egyptian society as a result of a dual educational system, namely Islamic religious education and modern secular education; demands by women for greater participation in society; and, the impact of modernity on the moral and social values of Egyptian society.

## Context of the essay on the lunar calendar

From Aḥmad Shākir's writings one infers that he viewed modernity as both a foe and friend of Islamic religious tradition and culture. Many reformist scholars viewed modern science as a benefit to Islam if

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[12] See Aḥmad Muḥammad Shākir, *al-Bāʿith al-ḥathīth: sharḥ ikhtiṣār ʿulūm al-ḥadīth* (Cairo: Maktabat al-Sunna, 1415/1994), a commentary on the work of Abū al-Fidā Ibn Kathīr on *ḥadīth*.

[13] Aḥmad Shākir, *Kalimat al-Ḥaqq* (2nd ed., Cairo: Maktabatal-Sunna, 1408 AH), 273-74.

[14] Aḥmad Muḥammad Shākir, *Niẓām al-ṭalāq fi'l-Islam* (Cairo: Maktabat al-Sunna, 1354).

[15] Aḥmad Muḥammad Shākir, *al-Samʿ wa'l-ṭāʿa* (Cairo: Maktabat al-Sunna, 1410/1990).

properly harnessed to alleviate the chronic social-scientific problems that Muslims were experiencing. One issue they thought could be remedied by science was the uncertainty created by a lunar calendar not based on scientific criteria. In the past as well as in the present, the lack of agreement on the beginning and end of a lunar month has caused great confusion and consternation in not only the Middle East but also the Islamic world generally, especially the events relating to Ramaḍān and the annual pilgrimage (*ḥajj*).

In 1357/1939 Aḥmad Shākir wrote an essay (*risāla*) entitled *Awā'il al-Shuhūr al-ʿArabiyya* (Beginnings of the Arabic Months) in which he stressed that Muslims ought to adopt a lunar calendar based on scientific criteria. He provided detailed juristic arguments as to why it was not merely permissible, but imperative to adopt scientific criteria in order to establish such a calendar. The tenor of the article suggested that the author was familiar with modern science and tried to relate it to questions of Islamic law. A most unusual feature of the *risāla* was this neo-Salafī author's willingness to innovate in ritual matters (*ʿibādāt*) such as fasting and pilgrimage by linking their occcurences to scientific techniques and setting aside traditional methods of ascertaining the lunar month. Normally, *bidʿa* (innovation) in devotional matters is strongly resisted if not condemned outright.[16] But this essay indicates that at least some Salafī jurists in the middle of the twentienth century were prepared to harmonize the achievements of science and modernity with an understanding of Islamic law.[17] This type of eclectic synthesis was readily embraced, especially if it did not threaten to radically alter the nature of the devotion or drastically change the juristic practice in question.

The issue of a scientifically-based lunar calendar illustrates *inter alia* two developments. First, it shows how pre-modern and modern presumptions of Islamic law fuse and synthesize in order to create a new hybrid. Second, it demonstrates how juristic activity not only continues to renew and reshape the practice of Islamic law, but also affects its internal logic. Modern assumptions are grafted onto pre-modern texts dealing with crescent sighting affecting Muslim religiosity. The goal of a scientific calendar is to eliminate inconsistency and arbitrariness in the determination of the Muslim almanac which may not have

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16 See Abū Isḥāq al-Shāṭibī, *al-Iʿtiṣām* (n.p.: Dār al-Fikr, n.d.), vol. 1, 36-45.

17 For a detailed discussion of Salafī legal reforms, see David Dean Commins, *Islamic Reform: Politics and Social Change in Late Ottoman Syria* (New York: Oxford University Press, 1990).

been the intention of the pre-modern jurists. Inconsistencies produced by the application of pre-modern law have become more noticeable in the modern and post-modern global village, and some representatives of traditional Islamic jurisprudence have felt compelled to address it as a problem. In this instance, the existing social context not only impinges on the self-understanding of Muslims, but also forces jurists to re-read the religious texts in order to derive new meanings that are in harmony with the new context. Surreptitiously, a new juridical logic evolves and transplants itself onto existing practice, without hardly any acknowledgement of the occurrence of such changes—in itself a phenomenon insufficiently documented in the history of Islamic law. Aḥmad Shākir, in the present instance, and other jurists who wrote on other issues, consciously or unconsciously interpolated Islamic law with the technology of modernity, creating thereby a desire for regularity and consistency in *fatāwā* or juridical responsa, a subject that needs to be addressed elsewhere.

This issue of the lunar calendar occupied not only the minds of several twentieth century Muslim jurists but also their pre-modern predecessors. Among the latter were the Shāfi'ī jurist-theologian Ibn Surayj (d. 235/849-50) and the Shāfi'ī chief justice (*qāḍī al-quḍāt*) of Damascus, Taqī al-Dīn al-Subkī (d. 756/1355). Early in this century, around 1911, al-Shaykh Muḥammad Bakhīt al-Muṭī'ī (d. 1354/1935), the grand muftī of Egypt, advanced a detailed position in a monograph entitled *Kitāb Irshād Ahl al-Milla ilā Ithbāt al-Ahilla* (Book on Guiding the Religious Community to the Verification of the Crescents), to which was appended Taqī al-Dīn al-Subkī's *Kitāb al-'Ilm al-Manshūr fī Ithbāt al-Shuhūr* (Book on Public Knowledge about the Verification of Months). Al-Subkī's view was endorsed and re-circulated for debate by the Syrian reformer, al-Shaykh Muḥammad Jamāl al-Dīn al-Qāsimī (d. 1332/1914).[18] One figure whose views were not engaged or refuted by either al-Muṭī'ī or Aḥmad Shākir was that of the Ḥanbalī scholar Ibn Taymiyya (d. 728/1328). In his *Risāla fī'l-Hilāl* (Tract on the Crescent), Ibn Taymiyya had categorically rejected the use of astronomical calculation in determining the lunar month.[19] His view on this

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[18] al-Shaykh Muḥammad Bakhīt al-Muṭī'i, *Kitāb Irshād Ahl al-Milla ilā Ithbāt al-Ahilla* (n.p.: Maṭba'at Kurdistān al-'Ilmiyya, 1329/1911), followed by Taqī al-Dīn al-Subkī, *al-'Ilm al-Manshūr fī Ithbāt al-Shuhūr*. See also Commins, *Islamic Reform*, for further discussion on al-Qāsimī.

[19] Taqī al-Dīn Aḥmad b. Taymiyya, "Risāla fī'l-Hilāl," in *Majmū' Fatāwā Shaykh al-Islam Aḥmad b. Taymiyya*, ed. 'Abd al-Raḥmān b. Muḥammad b. Qāsim (n.p., n.d.,), vol. 25, 126-201.

topic provided a defence for many contemporary jurists who continued to resist the adoption of a scientific calendar.

Al-Muṭī'ī closely followed the views of the Shafi'ī's, Ibn Surayj and al-Subkī, as well as that of the Ḥanafī scholar al-Marghinānī (d. 593/1197), all of whom permitted the use of astronomical criteria in order to establish the lunar month for fasting. Al-Muṭī'ī was of the opinion that what appeared to be a convincing consensus of traditional jurists favoring the naked-eye sighting of the crescent was not necessarily a consensus which prohibited scientific calculation. In a report, the Prophet mentioned sighting because it was the most common and acccessible method of establishing the month at that time. The obligation of fasting did not stem from "sighting" the crescent, al-Muṭī'ī argued, but rather from the "occurrence" of the month of Ramaḍān.[20] Specifications about times were indices predicated upon the dominant practice. But that did not mean that the obligation associated with such indices lapsed if these indices did not appear. If that were the case, then it would lead to the absurd conclusion that people living in abnormal geographical zones would not have to fulfill the ritual obligations of fasting and prayer, since the indices, i.e., the sun and moon, are not visible during some part of the year in those areas. Al-Muṭī'i was convinced that testimonies of crescent sightings should be rejected if they contradicted scientific evidence, namely astronomical calculations.

An older contemporary of Aḥmad Shākir, al-Shaykh Ṭanṭāwī Jawharī (1278-1359/1862-1940) made similar calls for the adoption of results based on scientific endeavour in matters of religion.[21] According to Jawharī, to attain knowledge of *'ilm al-falak* (astronomy), *ḥisāb* (algebra) and *handasa* (geometry) was a *farḍ kifāya* (collective duty) which received its sanction from the Qur'ān. Therefore, some Muslims at least had to be skilled in these sciences.[22] It was a "disgrace," lamented Jawharī in the 1920's, to witness the lack of knowledge of astronomy among Muslims in the east and west.[23]

The views of persons like Jawharī and Shākir favoring the adoption of science in certain matters of religion at the beginning of the twentieth century did not surface in Egypt without an historical context. Aḥmad Shākir and some of his older contemporaries lived through a period in which the Egyptian educational system had undergone a major over-

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20 al-Muṭī'i, *Irshād*, 272.

21 See *EI*[2] (supp), s.v. Djawharī.

22 Ṭanṭāwī Jawharī, *al-Qur'ān wa'l-'Ulūm al-'Aṣriyya* (Cairo: Maṭba'at Dār Iḥyā' al-Kutub al-'Arabiyya, 1241/1923), 28-29.

23 Jawharī, *al-Qur'ān*, 28.

haul following the initiatives taken by the father of modern Egypt, Muḥammad ʿAlī (d. 1849), and the efforts of the modernist reformer, Saʿd Zaghlūl (d. 1926). Founded by Zaghlūl and his colleagues, the old Egyptian University (al-Jāmiʿa al-Miṣriyya), also known as al-Jāmiʿa al-Ahliyya, played a leading role in exposing Egyptians to the modern disciplines in the humanities, science and technology. Leading European scholars, including such prominent orientalists as David de Santillana (d. 1931) and Louis Massignon (d. 1962), were invited to teach periodically at this university. Among this select group of Europeans was the Italian Arabist, Carlo Nallino (d. 1938), who, in 1909, one year after the university was founded, delivered lectures to Egyptian students on the history of Arabic literature and the Arab contribution to astronomy.[24] Nallino, who visited Egypt until the late 1930's, made a profound impact on Egyptian intellectual circles with his book, *ʿIlm al-falak* (Science of Astronomy), a collection of the lectures he delivered.[25] Aḥmad Shākir demonstrated his familiarity with some of this orientalist literature, especially Nallino's work on astronomy, and referred to it as a source in his essay on the lunar calendar. Although it is difficult to identify Aḥmad Shākir's attitude toward educational reforms in Egypt, his willingness to cite and defer to orientalist sources indicates a certain openness, if only for the purposes of pragmatism and expedience, since Nallino was positive in his appraisal of Arab achievements in astronomy.

## Aḥmad Shākir's approach to law

One is struck by Aḥmad Shākir's extreme ambivalence to legal reform.[26] Despite being associated with the reformist Rashīd Riḍā (d. 1935), he was firmly opposed to social reforms affecting women's empowerment in Egypt and wrote scathing attacks on Western influences in Muslim society. Shākir argued that it was not permissible for a woman to be a judge.[27] Taking his neo-Salafī argument further, he alleged that individual legislators and judicial officers who enforced laws that were not based on the sharīʿa were in effect placing

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[24] ʿAbd al-Raḥmān Badawī, "Carlo Alfonso Nallīno," in *al-Turāth al-Yūnānī fī'l-Ḥaḍāra al-Islamiyya* (Cairo: Dār al-Nahḍa al-ʿArabiyya, 1965), 320-30, esp. 324.

[25] Carlo Nallīno, *ʿIlm al-Falak: Taʿrīkhuhu ʿInda 'l-ʿArab fī'l-Qurūn al-Wusṭā* (2nd ed., Cairo: Maktabat al-Dār al-ʿArabiyya li'l-Kitāb, 1413/1993).

[26] See Aḥmad Shākir, *Abḥāth fī Aḥkām.*

[27] Aḥmad Muḥammad Shākir, "Wilāyat al-Mar'ati al-Qaḍā'," in *Ḥukm al-Jāhiliyya*, 79-103.

themselves outside the fold of Islam, even though they observed the mandatory devotional and religious rituals.[28] But his anathema was reserved for the far-reaching judicial reforms proposed by the Liberal Constitutionalist minister of justice, ʿAbd al-ʿAzīz Fahmī Pasha (d. 1951), whom he accused of subverting Islam to satisfy his European overlords.[29] Aḥmad Shākir was adamant that even if secular laws did not contradict, but, to the contrary, corresponded with sharīʿa rulings, such laws were to be rejected because they were "accidentally correct, neither based on proof (*dalīl*) and certainty (*yaqīn*) nor founded on sound *ijtihād* (independent thinking)."[30]

In the light of his conservative approach to the issues mentioned above, Aḥmad Shākir's seemingly modernist interpretation of ascertaining the lunar calendar is both anomalous and surprising. He admitted that his conviction to adopt scientific criteria was one which he arrived at gradually. Prior to his new view, he had objected to a comparatively minor amendment to the rules of crescent-sighting proposed by al-Shaykh Muḥammad b. Muṣṭafā al-Marāghī (d. 1364/1945), an influential reformist and twice the shaykh of al-Azhar. Al-Marāghī, following the view of the earlier Shāfiʿī authority, al-Subkī, proposed that no evidence of naked-eye crescent sightings be accepted if scientific knowledge contradicted such testimony. After acknowledging his previous error in opposing al-Marāghī, Shākir went on to accept scientific knowledge as a sufficient basis for calculating the lunar calendar. He appeared to be convinced that the objective of Islamic law was to establish an accurate calendar irrespective of the means of doing so.[31] In this regard, he was opposed by orthodox and traditionalist quarters in the Arab world. Al-Shaykh Abū Naṣr Mubasshir al-Ṭirāzī al-Ḥusaynī wrote a treatise criticising his view, entitled *Baḥth fī Tawḥīd Awāʾil al-Shuhūr al-ʿArabiyya* (Discussion on Uniting the Beginnings of Arabic Months), as did al-Shaykh Ismāʿīl b. Muḥammad al-Anṣārī, in a tract entitled *Law Ghayruka Qālahā Yā Ustādh* (If Only Someone else Said it, O Teacher).[32] There was also disappointment in Salafī

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28 Aḥmad Shākir, *Ḥukm*, 151-52, esp. 151.

29 Aḥmad Shākir, *Ḥukm*, 132-45.

30 Aḥmad Shākir, *Ḥukm*, 150.

31 Al-Shaykh Muḥammad Bakhīt al-Muṭīʿī, *Kitāb Tawfīq al-Raḥmān līʾl-Tawfīq bayna mā Qālahu ʿulamāʾ al-Hayʾa wa bayna mā Jāʾa fīʾl-Aḥādīth al-ṣaḥīḥa wa āyāt al-Qurʾān* (Cairo: Maṭbaʿat al-Saʿāda, n.d.), 35 asserts that there is no contradiction between astronomy and the sources of Islamic law, namely the Qurʾān and *ḥadīth*.

32 Bakr b. ʿAbd Allāh Abū Zayd, "Tawḥīd Bidāyāt al-Shuhūr al-Qamariyya," in *Majalla Majmaʿ al-Fiqh al-Islamī: al-Dawra al-Thālitha li-Muʾtamar Majmaʿ al-Fiqh al-Islamī*, vol. 3:2 (1408/1987), 820-41, esp. 827-28.

quarters that someone of Aḥmad Shākir's intellectual stature had adopted a modernist stance on this matter. In a strange twist of events, it is alleged that Aḥmad Shākir, in private correspondence with Shaykh al-Anṣārī, said that he had published the *risāla* "in order to stimulate debate among the learned" but that otherwise he did not have a firm view on the matter.[33] However, this *risāla* was never withdrawn from circulation and was republished as late as 1992.

"Conservative" is also a relative term. For while Aḥmad Shākir himself was extremely critical of modernist legal reforms, he was in turn subjected to a vituperative critique by the Ḥanafī formalist scholar and former under-secretary to the Ottoman religious institution (*wakīl al-mashaykha al-Islamiyya*), Muḥammad Zāhid al-Kawtharī (d. 1371/1952).[34] In his response to Aḥmad Shākir's reformist attitude to the law of repudiation (*ṭalāq*), al-Kawtharī accused him of having pretences of being an independent jurist (*al-mutamajhid*) and advised him to desist from writing about the disciplines of *fiqh* and *ḥadīth*. In al-Kawtharī's words, Aḥmad Shākir should realise that the two disciplines are "not within his ken" and that "an intelligent person abandons that in which he does not excell."[35]

## Recent developments

Five decades after its publication, Aḥmad Shākir's *risāla* has received scant scholarly attention and has not gained acceptability among Muslim jurists. Ironically, the issue which Shākir attempted to remedy, namely, the unpredictable nature and arbitrary consequences of a lunar calendar based on naked-eye sightings, continues to plague Muslim communities all over the world annually.[36] In recent years this debate has once again been raised at the level of the Islamic Fiqh Academy affiliated with the Organisation of the Islamic Conference (OIC).[37]

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[33] Bakr b. 'Abd Allāh Abū Zayd, "Tawḥīd," 828.

[34] See Muḥammad Zāhid al-Kawtharī, *al-Ishfāq 'alā Aḥkām al-Ṭalāq* (Beirut: Dār Ibn Zaydūn, n.d.), 3-9, which is a response to Aḥmad Shākir's *Niẓām al-Ṭalāq fī'l-Islam*.

[35] al-Kawtharī, *al-Ishfāq*, 8-9.

[36] For a brief summary of lunar controverseys among the minority Muslim community in South Africa and the context in which Aḥmad Shākir's essay on the lunar calendar was used as a reference, see the Appendix.

[37] Several attempts were made to find an acceptable solution to the problem of the Islamic lunar calendar. In 1375/1955 the Hāshimite Kingdom of Jordan appealed to the Arab League to address the issue of Muslim festivals in the Islamic world. In 1381/1961 the League sent a memorandum to al-Azhar requesting that it investigate the principle of a uniform lunar calendar and prayer time-table. Over the years several conferences or seminars have dealt with the same topic: Tunis

Shaykh Muṣṭafā al-Zarqā', the leading Jordanian jurist and former professor of Islamic law at Amman University, tried to persuade the Islamic Fiqh Academy to adopt a lunar calendar based on scientific calculation.[38] Another prominent figure, Shaykh Yūsuf al-Qarḍāwī, the Qaṭar-based Egyptian jurist, also made an appeal for the adoption of scientific criteria for the purposes of the lunar calendar.[39] The furthest the Academy went was to say: "it is mandatory to accept sighting. However, one may get assistance from astronomical calculations and observatories to more fully implement the saying of the Prophet and scientific facts."[40] As yet there is no credible consensus among contemporary jurists to support the idea of a calendar based on astronomical new moon.

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(1383/1963); Cairo (1385/1966); Kuala Lumpur (1389/1969); Kuwait (1393/1973); Istanbul (1398/1978); and Makka (1401/1981).

[38] Muṣṭafā Aḥmad al-Zarqā', "Ḥawla i'timād al-ḥisāb al-falakī li-taḥdīd bidāyat al-shuhūr al-qamariyya: hal yajūzu shar'an aw lā yajūz?" in *Majallat Majma' al-Fiqh al-Islamī: al-Dawra al-Thāniya li-Mu'tamar Majma' al-Fiqh al-Islamī*, vol. 2:2 (1407/1986), 927-36; also see al-Shaykh Muṣṭafā Kamāl al-Tārzī, "Naẓarāt Islamiyya fī Tawḥīd Bidāyat al-Shuhūr al-Qamariyya," in *Majalla Majma' al-Fiqh al-Islamī*, vol. 3:2 (1408/1987), 845-73, who approves of a calendar based on scientific calculation.

[39] Yūsuf al-Qarḍāwi, *Kayfa Nata'āmal ma'a al-Sunna al-Nabawiyya* (2nd ed., Herndon, Virginia: International Institute of Islamic Thought, 1411/1990), 154-57; Muḥammad Fatḥī al-Durayni, "Ikhtilāf al-maṭāli' wa-atharuhu fī thubūt al-ahilla," in *al-Fiqh al-Islamī al-Muqāran ma'a al-Madhāhib* (5th ed., Damascus: Manshūrāt Jāmi'at Dimashq, 1415/1995); Mohammad Ilyas, "New moon's first visibility: review of astronomy and current Islamic calendrical practices," *Islamic Culture* 1 (1982), 43-59; idem, "New moons first visibility 2: lunar date line (LDL) calculations, sighting and calendar," *Islamic Culture*, 2 (1983), 87-112; idem, "International Islamic calendar and its new presentation," *Islamic Culture*, 4 (1991), 11-34; idem, *Astronomy of Islamic Times for the Twenty-first Century* (London: Mansell, 1988); idem, Islamic Calendar, Times and Qibla (Berita Publishing: Kuala Lumpur, 1984); idem, "La calendrier de l'Hégire: Une crise scientifique," in *Islam Today* (L'Islam Aujourd'hui) in *Journal of the Islamic Education, Scientific and Cultural Organisation*, April 1985, 114-16; David King, *Astronomy in the Service of Islam* (London: Varorium, 1993); Abdul Latif Samian, "An analysis of the growth and decline of Islamic astronomy," *Islamic Culture*, 4 (1991), 34-62; Mohammad Ilyas, "Moon sighting for Ramadan: the need for a common view," *Arabia: The Islamic World Review*, May 1986, 81-82; Imad-ad-Dean Ahmad, "The Islamic lunar calendar," *Arabia: The Islamic World Review*, July 1987, 50-51; also see Maulana Yaqub Qasmi, *An Overview of Crescent Moon Sighting*, trans. Ayyub Patel (Dewsbury: Islamic Research Institute of Great Britain, 1993); Mawāhib Fākhūrī, "Al-Shuhūr al-'arabiyya wa ḍarūrat i'timād al-ḥisāb al-falakī fī taḥdīdihā," *al-Fikr al-Islamī*, vi (1393/1973), 64-68; George Saliba, "The role of the astrologer in medieval Islamic society," *Bulletin d'Etudes Orientales*, XLIV (1992), 45-67.

[40] Islamic Fiqh Academy: Resolutions and Recommendations, "Resolution No (6) Concerning Unification of the Beginning of Lunar Months," 1406-1409/1985-1989, 31; also see "Resolution No (11) Concerning the Questions Submitted by the International Institute of Islamic Thought in Washington," 36-42, esp. 41; for the Arabic text of resolution 6 see *Majalla Majma' al-Fiqh al-Islamī*, vol. 3:2 (1408/1987), 1075.

Among the difficulties that a scientific lunar calendar poses is the need to ensure that it is acceptable to Muslims all over the world. Those who do subscribe to it should agree to the adoption of some conventions by consensus. With regard to time, for instance, the International Date Line is used as a standard convention. What will the date line be for the Islamic lunar calendar? One suggestion is that since the Gregorian calendar is universally acceptable it would make sense to synchronize the Islamic lunar calendar with the Gregorian one. Another proposal is to use Makka as the date line for the lunar calendar given its centrality in Islamic faith and practice. This is also the view of Aḥmad Shākir. If this view were to be adopted, then scientists could prepare a lunar calendar for countries east and west of Makka, which would enhance predictability and accuracy, even though celebrations might occur on different days of the Gregorian calendar. These are some of the issues to be debated once the principle of a scientifically-based lunar calendar is accepted. Whatever the intricacies of the debate, Aḥmad Shākir's opinion on this subject deserves scholarly attention and therefore this translation is provided.

*The Translation*[41]

> In the Name of Allah, the Most Gracious, the Dispenser of Grace
> Beginnings of the Arabic Months: Are astronomical calculations permissible according to Islamic law (*shar'*)? A free and new scientific investigation.[42]
>
> by Aḥmad Muḥammad Shākir

[Introduction]

This year (1357/1939), the Supreme Sharī'a Court in Egypt established that the month of Dhū al-Ḥijja began on Saturday (20 January), hence

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[41] I found it necessary to undertake certain editorial measures in order that the translation would read more smoothly, while remaining loyal to the author's ideas and order of presentation, wherever possible. All emendations are indicated by means of a footnote. In the Arabic version of the text the author cited only the title and page number of references. Bibliographical references provided in this translation have been checked against later editions of the titles cited, and all relevant information has been included. Additional bibliographical sources, as well as annotations, have been provided by the translator/editor. Text between brackets contains the comments, interpolations and additional bibliographical references provided by the translator.

[42] Aḥmad Muḥammad Shākir, *Awā'il al-Shuhūr al-'Arabiyya: Hal Yajūzu Shar'an Ithbātuhā bi'l-ḥisāb al-Falakī? Baḥthun Jadīdun 'Ilmīyun Ḥurr* (Cairo: Dār al-Istiqāma, 1412/1992).

ʿĪd al-Aḍḥā (the Festival of Sacrifice) was on Monday (30 January 1939).

A few days later *al-Maqṭam* magazine reported that the Saudi Arabian government had decided that not Saturday, but Sunday (21 January), was the first of Dhū al-Ḥijja. As a result the pilgrims went to ʿArafa on Monday and the ʿĪd was, as a consequence, on Tuesday (31 January 1939).

*Al-Balāgh* newspaper in its Friday, 21 Dhū al-Ḥijja (10 February 1939) edition, carried a report from its Bombay correspondent in India, dated 1 February, which said: "The Muslims in Bombay this year celebrated ʿĪd al-Aḍḥā on Wednesday contrary to what was announced in other Muslim countries." This meant that for Indian Muslims, the first of Dhū al-Ḥijja, was neither Saturday nor Sunday, but Monday.

This happens in most months in which Islamic festivals occur. In some Muslim countries crescent-sighting results in some people sighting it while others are unable to do so. As a consequence, the religious festivals differ from one Muslim country to another: some countries fast while others do not, some celebrate the Festival of Sacrifice, while on that very day others observe a fast, assuming it to be the day of ʿArafa.

The learned scholars (*ʿulamāʾ*) and jurists have written some excellent treatises on how to establish the crescent. These are found in Qur'ān commentaries, prophetic reports (sg. *ḥadīth*, pl. *aḥādīth*) as well as in manuals of law and other ancilliary sources. Scholars are virtually unanimous that the rule in establishing the lunar month is by sighting the crescent with the naked eye. They say that calculations of the phases of the moon or calculations made by astronomers have no validity. The exception is the Shāfiʿī school which approves [such calculations] by a person who calculates (*ḥāsib*) or by an astronomer (*munajjim*) in accordance with his/[her] astronomical calculations. The Shāfiʿī school also permits non-specialists persuaded by the veracity of calculations or astronomy to follow the opinions of specialists. Alternately, some jurists say that it is permissible to follow the opinion of the one who calculates but not that of the astronomer.[43]

Since the invention of the telegraph and telephone and, subsequently, the radio, there have been repeated discussions [among scholars] in recent years as to the permissibility of using speedy forms of communication to relay crescent sightings from one part of the world to

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[43] Abū Zakariyyā Yaḥyā b. Sharaf, *al-Majmūʿ; Sharḥ al-Muhadhdhab* (2nd ed., Cairo: Dār al-Fikr, n.d), vol. 6, 279-80; [See *EI*$^2$, s.v. Hilāl].

another.[44] Muslim countries have virtually all become one in being able to receive messages from anywhere in the world regarding the sighting or non-sighting of the crescent. Most people view the confusion in important legal matters as intolerable when it affects a year and date of a month. Therefore, they have attempted to rid themselves of this confusion and find alternative means for the unity of their [religious] expression

I remember that last year [1938] or perhaps the previous year, a detailed inquiry (*su'āl mufaṣṣal*) from India on this topic was directed to the senior scholars of al-Azhar [university]. A copy of this inquiry was circulated among a leading group of learned scholars, each of whom was expected to reply according to his view and knowledge. A copy was sent to my father, and I do not know what finally happened to the inquiry. As for my father, illness prevented him from either dictating or writing [a response], may Allah heal him.

I wrestled with this investigation for a long time after I had arrived at an opinion, hoping that it was correct. Then, this year [1939] a controversy arose over the day of ʿArafa, which is the supreme day of pilgrimage (*yawm al-ḥajj al-akbar*) and the greatest of Islamic festive seasons. The month of Dhū al-Ḥijja is the most crucial of months in terms of its religious significance. For surely the ninth day, the day of vigil (*wuqūf*) at ʿArafa, has a limited duration for the fulfillment of a pillar of the ḥajj and occurs only once a year. Most people have the opportunity to perform the pilgrimage only once in their lifetime and they fear that in the case of an error in determining the real day of *wuqūf* they may fail to fulfil their religious obligation. This controversy prompted me to write a treatise on determining the crescent and to circulate this opinion [for comment] among intellectuals (*ahl al-ʿilm wa'l-naẓar*), jurists (*fuqahā'*), experts in prophetic reports (*muḥaddithūn*), and others—in different parts of the world.

[The Issue]

The standard authentic reports (*aḥādīth*) on this topic (*bāb*) are:

> Fast when you see it [the crescent] and end your fast when you see it [again]; but if it is hidden from you [by cloud or mist] then complete Shaʿbān to thirty [days].

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[44] In the Arabic original, this paragraph, starting with "Since the invention..." and continuing until "....in different parts of the world" is found on pages 6 and 7. For the sake of readability and comprehension, I have inserted this passage here in order to bring together the contextual details of the essay.

> Do not fast until you sight the crescent and do not end your fast until you sight it; but when it is hidden from you [by cloud or mist] calculate it.

There are also other sound reports containing statements to this effect.[45] The *'ulamā'* disagree whether the differences in horizons (*ikhtilāf al-maṭāli'*) are consequential.[46] In other words, does the visibility of the crescent in one country have legal consequences for the beginning of the month in other countries, irrespective of distance and variances in horizons? Or is each individual country or region bound to its own crescent sighting, so that Egypt's would differ from that of the Ḥijāz or 'Irāq, etc.?

The Shāfi'īs are of the opinion that each region should [determine] its own sighting, based on a disagreement among them as to what constitutes remote and proximate distances between regions: Is the requisite distance the difference in horizons; or is it the unification or diversity of regions (*ittiḥād wa-ikhtilāf al-aqālīm*); or is it the minimum distance (*masāfat al-qaṣr*) [for shortening the prayers]? Al-Nawawī (d. 676/1278), after a detailed discussion, said in *al-Majmū'*:[47]

> There are divergent views among the learned (*madhāhib al-'ulamā'*) as to the [binding] status of a crescent sighting in one region for another region where it was not sighted. We have already stated the view of our

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[45] Muḥammad b. Ismā'īl al-Bukhārī, *Ṣaḥīḥ al-Bukhārī*, ed. Aḥmad Muḥammad Shākir (Beirut: Dār al-Jīl, n.d.), vol. 1, part 3, 34-35, "Kitāb al-Ṣawm"; Jamāl al-Dīn Abū Muḥammad 'Abd Allāh b. Yūsuf al-Zayla'ī, *Naṣb al-Rāya li-Aḥādīth al-Hidāya* (Cairo: Dār al-Ḥadīth, n.d.), vol. 2, 437-40); Muḥammad b. 'Alī al-Shawkānī, *Nayl al-Awtār* (Cairo: Dār al-Turāth, n.d), vol. 4, 188-94); Walī al-Dīn Abū Zar'a al-'Irāqī, *Ṭarḥ al-Tathrīb* (Cairo: al-Jam'iyya al-Azhariyya li'l-Tarjama wa'l-Ta'līf, n.d.), vol. 4, 111-14. [Ibn Ḥajar al-'Asqalānī, *Fatḥ al-Bārī* (Beirut: Dār al-Fikr, n.d.), vol. 4, 119].

[46] [See *EI*$^2$, s.v. al-Maṭla'. *Ikhtilāf al-maṭāli'* has a specific connotation in *fiqh* and differs from the notion of *maṭla'* or *maṭāli'* as understood in astronomy. An appropriate translation of this phrase may be "difference in horizons." As a juristic convention it is closer to the notion of a geographic jurisdiction in modern parlance. Shāfi'ī jurists make a distinction between near and remote regions (*balad qarīb* and *balad ba'īd*). The minimum distance between any two regions is 24 *farāsikh* (sg. *farsakh*) or 133.05 km. Although some Shāfi'ī jurists say the distance is 89 km, which is the minimum distance to be travelled before prayers can be shortened (*masāfat al-qaṣr*), this is not the approved view. Each such region is also assumed to have its own horizon (*ufuq*). Sightings of the crescent within a specified horizon are valid only for people within this jurisdiction and as a result make them legally liable. It is not permissible to extend liability to places outside the 133 km boundary which have not sighted the crescent. In terms of crescent sightings, difference in horizons, that is, difference in jurisdiction, is consequential for the Shāfi'īs, while for other law schools it is not. (see al-Nawawī, *al-Majmū'*, 273-74; Wahba al-Zuḥaylī, *al-Fiqh al-Islāmī wa-Adillatuhu* (3rd ed., Beirut: Dār al-Fikr, 1409/1989), 2:607].

[47] al-Nawawī, *al-Majmū'*, 274.

school. Ibn al-Mundhir transmited on the authority of ʿIkrima [*mawlā* of Ibn ʿAbbās], al-Qāsim [b. Muḥammad b. Abī Bakr], Sālim [b. ʿAbd Allāh b. ʿUmar] and Isḥāq b. Rāhwayh: "It [a crescent sighting] does not compel people other than those of the region where it was sighted." [But] reports from al-Layth b. Saʿd (d. 175/791), al-Shāfiʿī (d. 204/820) and Aḥmad b. Ḥanbal (d. 241/855) state that it [a crescent sighting in one region] is compelling [for regions where it was not sighted]. [Al-Nawawī] said:[48] I do not know of such reports except from the Madinan and the Kufan, meaning Mālik (d. 179/795) and Abū Ḥanīfa (d. 150/767).[49]

[Pre- and Post-Islamic Notions of the Calender]

There is no doubt that during the pre-Islamic and early Islamic periods, the Arabs did not possess authoritative scientific knowledge (*maʿrifa ʿilmiyya jāzima*) of astronomy. They were an unlettered community, and writing and calculation were not part of their prevalent culture. Whoever acquired a smattering of astronomy could lay claim only to an elementary understanding gained by practical observation and adherence, or by means of oral traditions and reports. [Their knowledge of] astronomy was not based on mathematical rules or apodictic empirical proofs (*barāhīn qaṭʿiyya*), based, in turn, on certain a priori and incontestable premises. It was for this reason that the Prophet (God's peace be upon him) stipulated the lunar months as the basis for ritual devotions (*ʿibāda*), with its definite and visible features that are accessible to all persons, if not most of them, namely, viewing the crescent with the naked eye. This indeed was the best standard and most precise measure to determine the time-cycle for religious practices and devotions. By means of sighting it was possible for them to attain certain and reliable knowledge. "God does not burden any human being with more than he is well able to bear" (Q. 2:286).

It would have been inconsistent with Divine wisdom to make calculation and astronomy the burden of proof (*manāṭ al-ithbāt*) for crescent visibility. Most Arabs were rural and received news from urban areas only after long intervals. [A requirement to use] calculation and astronomy would have been a burdensome imposition. Only a rare

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[48] [The subject of the verb *qāla* ("he said") is the narrator of the text, who is attributing the statement to al-Nawawī.]

[49] Abū Sulaymān Ḥamd b. Muḥammad al-Khaṭṭābī al-Bustī, *Maʿālim al-Sunan: Sharḥ Sunan Abī Dāwūd*, ed. ʿAbd al-Salām ʿAbd al-Shāfiʿī Muḥammad (Beirut: Dār al-Kutub al-ʿIlmiyya, 1411/1991), vol. 2, 84; Abū ʿAbd Allāh Muḥammad b. Aḥmad al-Qurṭubī, *al-Jāmiʿ li-Aḥkām al-Qurʾān* (2nd ed., Cairo: Dār al-Kutub al-Miṣriyya, 1373/1954), vol. 2, 294-96.

number of rural people would have had such knowledge if it reached them through oral transmission. Even urban people followed the opinions of experts in astronomy at the time, most if not all of whom were People of the Book (Jews and Christians).

Later, however, Muslims conquered the world, took possession of the reins of knowledge and contributed to every discipline. They translated and excelled in the "sciences of the ancients" (*'ulūm al-awā'il*), explored many of their secrets and preserved these for posterity. Amongst these [sciences] were astronomy, astrology and measuring the distances between stars.[50]

[Religious Scholars and the Astronomical Sciences]

Most jurists and experts in prophetic reports were either not familiar with the astronomical sciences (*'ulūm al-falak*) or had only an elementary knowledge of them. In fact some [scholars], if not many, did not trust those who knew these sciences and did not consider them reliable. Some religious scholars went so far as to accuse anyone involved with these sciences with deviance (*zaygh*) and heretical inclinations (*ibtidā'*). They mistakenly believed that those knowledgeable in astronomy laid claim to knowledge of the unseen. Some astronomers actually did make such claims, harming their own reputation and that of their science and profession. Given this background, the jurists may to some extent be excused. On the other hand, those jurists and scholars who did know these sciences were unable to express the correct relationship between science, religion and law. And when they did take recourse to astronomy, they did so with great trepidation.

Consider the *fatāwā* (responsa) of Taqī al-Dīn al-Subkī (d. 756/1355), who mentions that if calculation based on conclusive premises proves that crescent visibility is impossible, then the testimony of witnesses [who allegedly sighted the crescent] should not be accepted but should be regarded as fraudulent or committed in error. Then he [al-Subkī] said:

> For indeed calculation [yields] definitive (*qaṭ'ī*) [knowledge]. [On the other hand] testimony and a report both [yield] probable (*ẓannī*) [knowledge]. The probable does not contradict the definitive, let alone being given priority [over it]. A condition of evidence is that it must be based on that which is possible in terms of sensory perception (*ḥiss*), reason and law. Thus, if a calculation conclusively determines that which is impossible [to determine by testimonial means], then it is

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50 Nallino, *'Ilm al-Falak.*

> juristically absurd (*istaḥāla*) to accept [such testimony] due to the absence of evidentiary qualities. The Law does not entertain absurdities (*wa'l-shar' lā ya'tī bi'l-mustaḥīlāt*).[51]

After that he adds:

> By definitive (*qaṭ'*) we do not mean that which is acquired by demonstrative proof (*burhān*), which consists of rational premises. That is not the situation here. [Definitive] is that which is based on observation (*irṣād*) and repeated testing (*tajārib ṭawīla*); [observing] the motion of the stages of the sun and the moon; and knowing how the moon acquires its light which enables people to sight it. And people vary in the strength of their sight (*wa'l-nās yakhtalifūna fī ḥiddat al-baṣr*).

The great imām, Taqī al-Dīn b. Daqīq al-'Īd (d. 702/1302),[52] in his [*Iḥkām al-aḥkām*], a commentary on the '*Umdat al-aḥkām*, said:

> I am of the opinion that it is not permissible, for the purposes of fasting, to rely on calculation, which merely indicates the separation of the moon from the sun. This is the method of the astronomers, [according to whom] the calculated month precedes the sighted month by one or two days. There is no legal sanction for this innovation in the sight of Allāh, the Almighty and Sublime. However, if one could establish by calculation that the crescent had indeed risen above the horizon, although it was not visible due to some impediment such as clouds, then calculation itself becomes compulsory on the grounds of the presence of a legal cause (*al-sabab al-shar'ī*). Actual sighting is not a pre-requisite [for fasting] to become obligatory. [Jurists] agree on the fact that when a prisoner held in a subterranean vault knows by means of calculation that the month has been completed, or knows by means of *ijtihād*, guided by certain indices that disclose [to him] that a particular day is the month of Ramaḍān, then he is obliged to fast, even though he did not personally see the crescent nor was he informed by one who sighted [the crescent].[53]

This was the situation of [the traditional jurists]. At that time the cosmic sciences (*al-'ulūm al-kawniyya*) were not as widespread as were the

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[51] Taqī al-Dīn al-Subkī, *Fatāwā al-Subkī* (Beirut: Dār al-Ma'rifa, n.d.), vol. 1, 209.

[52] He was a leading scholar among both the Mālikīs and Shāfi'īs, and an authority in both law schools. Born 625/1228 and died in Cairo 702/1302. See Abū 'Abd Allāh Shams al-Dīn Muḥammad al-Dhahabī, *Tadhkirat al-Ḥuffāẓ*, ed. 'Abd al-Raḥmān b. Yaḥyā al-Mu'allimī (3rd ed., Hyderabad, India: Osmania Oriental Publications Bureau, 1376/1956), vol. 4, 1481-84; Muḥammad b. Shākir al-Kutubī, *Fawāt al-Wafayāt*, ed. Iḥsān 'Abbās (Beirut: Dār Ṣādir, 1974), vol. 3, 442-50; 'Abd al-Raḥmān al-Asnawī, *Ṭabaqāt al-Shāfi'iyya*, ed. Kamāl Yūsuf al-Ḥūt (Beirut: Dār al-Kutub al-'Ilmiyya, 1407/1987) vol. 2, 102.

[53] Taqī al-Dīn Abū al-Fatḥ Muḥammad b. 'Alī b. Daqiq al-'Īd, *Iḥkām al-Aḥkām Sharḥ 'Umdat al-Aḥkām*, ed. Aḥmad Muḥammad Shākir (2nd ed., Beirut: 'Ālam al-Kutub, 1407/1987), vol. 2, 8.

religious sciences and their ancilliary disciplines. Neither were the rules of astronomy conclusively verifiable, according to the *'ulamā'*.

[The Sharī'a and Juristic Interpretation]

Nevertheless, this noble and tolerant sharī'a will remain for as long as Allāh allows this world to flourish. It is a legislative system capable of serving every community and age. For this reason we observe that the textual sources (*nuṣūṣ*) of the Qur'ān and the *Sunna* contain a number of subtle inferences to [serve] as contingencies. When such [new] occasions do arise, these inferences are interpreted and understood [in a creative manner], even though the ancients (*mutaqaddimūn*) may have explained these incorrectly (*'alā ghayri ḥaqīqatihā*).

In the sound *Sunna* such an instance occcurs. Al-Bukhārī (d. 256/870) reported on the authority of Ibn 'Umar that the Prophet, on whom be peace, said:

> We are an unlettered community. We do not write or calculate. The month is like this [demonstrating with his hands] and, like this: meaning at times twenty-nine [days] and at times thirty [days].[54]

In another version, Mālik in his *al-Muwaṭṭā*,[55] al-Bukhārī, Muslim (d. 261/875) and other scholars cited this report as [follows]:

> The month is twenty-nine [days]. So do not fast until you see [the crescent] and do not eat until you see it. And if it becomes obscured, calculate it (*fa'qdurū lahu*) [i.e., the month].

The ancient scholars—may Allāh shower His mercy on them—were correct in their commentary (*tafsīr*) on this report, but erred in its

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[54] al-Bukhārī, *Ṣaḥīḥ*, 35; Abū al-Ḥusayn Muslim b. Ḥajjāj al-Naysābūrī, *Ṣaḥīḥ Muslim* (Beirut: Dār al-Iḥyā al-Turāth al-'Arabī, 1394/1974), vol. 7, 192, "Kitāb al-Ṣiyām"; Abū Dāwūd Sulaymān b. al-Ash'ath al-Sijistānī, *Sunan Abī Dāwūd*, ed. Muḥammad Muḥyī al-Dīn 'Abd al-Ḥamīd (2nd ed., Cairo: Matba'at Muṣṭafā Muḥammad, 1369/1950), vol. 2, 398; Abū al-Ṭayyib Muḥammad Shams al-Ḥaqq al-'Aẓīmābādī, *'Awn al-Ma'būd*, ed. 'Abd al-Raḥmān Muḥammad 'Uthmān (2nd ed., Beirut: Dār al-Fikr, 1399/1979), vol. 6, 433, "Kitāb al-Ṣiyām"; Abū 'Abd al-Raḥmān Aḥmad b. 'Alī al-Nasā'ī, *Sunan al-Nasā'ī* (Beirut: Dār al-Kutub al-'Ilmiyya, n.d), vol. 4, 139-40, "Kitāb al-Ṣiyām." [Ibn Taymiyya argued that being an "unlettered community" and having no knowledge of calculation in the context of sighting the crescent was not a negative quality but a virtue, since it implied that sighting or completing the month to thirty days was the easiest and most convenient way of establishing the calendar. (Ibn Taymiyya, *Risāla fī'l-Hilāl*, vol. 25, 174)].

[55] Jalāl al-Dīn 'Abd al-Raḥmān al-Suyūṭī, *Tanwīr al-Ḥawālik Sharḥ 'alā Muwaṭṭā Mālik* (Beirut: Dār al-Kutub al-'Ilmiyya, n.d.), vol. 1, 269. [See also Muḥammad al-Zurqānī, *Sharḥ al-Zurqānī 'alā Muwaṭṭā al-Imām Mālik* (Beirut: Dār al-Kutub al-'Ilmiyya, 1409/1989), vol. 2, 152-53.]

interpretation (*ta'wīl*). Their most representative position is reflected in the statement of Ibn Ḥajar [al-ʿAsqalānī] (d. 852/1449), who said:

> By calculation here is meant calculating the stars and their motions. And [the ancients'] knowledge of calculation was negligible. Therefore, the command (*ḥukm*) to fast and other [obligations] were linked to sighting [in order] to ease the inconvenience of [observing] the phases of the moon. [For this reason], the rule of fasting continued on the basis of sighting, even though people later came to know of it [i.e. calculation]. The apparent context negates linking the command [to observe fasting] with calculation, as a matter of principle. [This argument is] explained by the statement of the previous report: "if [the crescent] is hidden, then complete the prescribed period at thirty [days]." The narration did not say: "ask those who are experts at calculation." The wisdom underlying [counting the days] when the crescent is hidden is [to ensure] that those who are obligated to observe the precepts of religion (*mukallafūn*) are all on an equal level, and [such parity] would eliminate dispute and conflict among them. However, a group of people, the rejectionists (*rawāfiḍ*) preferred to solicit the opinions of 'the people who follow the movements' (*ahl al-tasyīr*) [i.e. the astronomers] in these matters.[56] It has been reported that some jurists supported their view [i.e. that of the *rawāfiḍ*]. Al-Bājī (d. 474/1081) said: "The consensus of the pious ancients (*al-salaf al-ṣāliḥ*) counts against them [i.e. those jurists who follow the *rawāfiḍ*]." [ʿAbd al-ʿAzīz] b. Bazīza (d. 663/1264) said: This is an invalid doctrine. The sharīʿa prohibited indulgence in astronomy precisely because it is conjecture (*ḥads*) and guesswork (*takhmīn*). It does not produce apodictic knowledge or preponderant probability. Besides, if the command [to fast] was linked to calculation it would have caused hardship, since only a few people would have knowledge of it.[57]

The aforementioned explanation is correct insofar as sighting—and not calculation—is the decisive factor. But the interpretation is wrong insofar that, if it so happened that someone knew calculation, the latter would apply to fasting. Indeed, the command to rely on sighting constitutes only part of the ratio legis (*ʿilla*) which is textually supported, that the community (*umma*) is "an unlettered one, which neither writes nor calculates." Legal rules are contingent on the absence or presence of causes. Thus, when the community eradicates illiteracy and acquires

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[56] We do not know to whom Ibn Ḥajar is referring by the term *rawāfiḍ*. If he means the Imāmī Shīʿīs, then it is well-known that they do not accept calculation. If anyone else is intended then we do not know who it is. [It is well-known that the Imāmī Shīʿīs insist on sighting the crescent. Calculation became a distinguishing feature of the Ismāʿīlīs and the Mustaʿlī Ismāʿīlīs (Bohras) and they may be the target of Ibn Ḥajar's criticism. See *EI*[2], s.v. Hilāl].

[57] al-ʿAsqalānī, *Fatḥ*, vol. 4, 127.

the skills of writing and counting, in other words, the majority, including specialists and lay persons are able to acquire certainty (*yaqīn*) and definitive [knowledge] (*qaṭ'*) in calculating the beginning of a month, and if it is possible for them to rely on calculation as they [did rely] on sighting or something better, and if this becomes the condition of the majority of people, with the result that the legal cause (*'illa*) of illiteracy disappears—then it becomes obligatory to take recourse to verifiable certainty (*al-yaqīn al-thābit*). Then it [actually] becomes [mandatory] to accept the establishment of crescent visibility (*ithbāt al-ahilla*) only by means of calculation. People ought not to resort to sighting except when knowledge of calculation becomes difficult, as in instances in which remote rural areas and villages are unable to access authentic and reliable information from the experts on calculation.

If it is accepted that it is mandatory to resort to calculation exclusively, following the disappearance of the legal cause which impeded it, then it is equally mandatory to apply the true calculation of the complete cycle through the phases of the moon, [i.e. lunations] (*al-ḥisāb al-ḥaqīqī li'l-ahilla*) and [thereby] discard the notion of the possibility and impossibility of sighting. The beginning of the 'true month' (*al-shahr al-ḥaqīqī*) would be the night in which the crescent wanes after sunset [i.e. conjunction],[58] even if it did so momentarily.

Our country, Egypt, has an observatory considered to be one of the best observatories, staffed with experts in astronomy. Among the staff are graduates of al-Azhar as well as others who are capable of calculating the position of the moon when it disappears behind the sun [conjunction] even for a moment, at all times and every month. They can, according to the scientists, issue a conclusive and authoritative ruling based on compelling knowledge. What harm would it do us if we accepted their word and knowledge and relied on their calculations in this matter, as we already do on their calculations for prayer times and other acts of devotion? We already rely on the telegraph, telephone and radio to serve as a means to provide information on crescent sightings from any of the provinces of Egypt, Sudan or any other country.

More than ten years ago the Grand Master (al-Ustādh al-Akbar) of al-Azhar, Shaykh Muṣṭafā al-Marāghī issued an opinion, when he was the head of the Supreme Sharī'a Court, that he would reject the testimony of sighting if scientific calculation conclusively proved such

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58 [Aḥmad Shākir does not mean the waning of the visible moon, but the instance of conjunction. This becomes evident from the context, where he speaks of the "actual" or "real" month in order to distinguish it from the observable month.]

sighting to be impossible.[59] This is similar to the opinion I cited previously of Taqī al-Dīn al-Subkī. His [al-Marāghī's] opinion generated great debate. My father, myself, and some friends were among those who opposed the opinion of the Grand Master. Now, however, I declare that he was correct. I would even add: it is mandatory to establish the lunations [i.e. duration of a lunar month] by calculation (*wujūb ithbāt al-ahilla bi'l-ḥisāb*) in all circumstances, except in the case of those persons for whom it is difficult to have access to such science.[60]

My view is not novel. Rules change with a change in the conditions affecting those who are obligated to observe the precepts of religion (*yakhtalif al-ḥukm bi-ikhtilāf aḥwāl al-mukallafīn*). This occurs frequently in the sharī'a, a fact known to people of knowledge and others. An example that illustrates my point in this case is the *ḥadīth*: "...If it is hidden from you, then complete the reckoning (*fa'qdurū lahu*)," i.e., count the month. This has also been reported in different words: "...If it is hidden from you, complete the period to thirty [days] (*fa-akmilū al-'iddata thalāthīn*)." Most of the *'ulamā'* explained the concise report "complete the reckoning" in the light of the explanatory report, "complete it to thirty."

However, one of the greatest and leading scholars among the Shāfi'ī's and the doyen of his age, Abū al-'Abbās Aḥmad b. 'Umar b. Surayj (d. 306/918), interpreted the [seemingly] diverse reports by assigning to each a specific context.[61] The phrase "complete the reckoning," meant count it according to the phases (*manāzil*) [of the moon] and was addressed to a specialised audience, those whom Allāh had

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[59] [Shaykh Muḥammad b. Muṣṭafā al-Marāghī was twice shaykh of al-Azhar (1928, 1935), where he contributed towards reformist ideals. See *EI*$^2$, s.v. Iṣlāḥ].

[60] [Paradoxically, in 1320/1902 the reformist and liberal thinker Muḥammad 'Abduh ruled that it is not permissible to follow calculations. 'Abduh reasoned that it was controversial among some scholars and that Islamic law preferred the most convenient solution, which was sighting. See *al-Fatāwā al-Islamiyya min Dār al-Iftā' al-Miṣriyya*, (Cairo: al-Majlis al-A'lā li'l-Shu'ūn al-Islamiyya, 1402/1981), vol. 4, 1553].

[61] Abū al-'Abbās (d. 306/918) was a student of Abū Dāwūd, author of the *Sunan*. About him Abū Isḥāq al-Shirāzī states: "He is among the greats of the Shāfi'is and leading scholars of the Muslims. He was preferred above all the companions of al-Shāfi'ī, even al-Muzanī." (*Ṭabaqāt al-Fuqahā'*, ed. Iḥsān 'Abbās [Beirut: Dār al-Rā'id al-'Arabī, n.d.],108-09). There are several biographical entries on Abū al-'Abbās in al-Khaṭīb al-Baghdādī, *Ta'rīkh Baghdād* (n.p.: Dār al-Fikr, n.d.) vol. 4, 287-90; Ibn Khallikān, *Wafayāt al-A'yān* (Beirut: Dār Ṣādir, 1968), vol. 1, 66; and Tāj al-Dīn al-Subkī, *Ṭabaqāt al-Shāfi'iyya al-Kubrā*, ed. Maḥmūd Muḥammad al-Tanāḥī and 'Abd al-Fattāḥ Muḥammad al-Ḥilwu (Cairo: Fayṣal 'Īṣā Bābi al-Ḥalabī, 1971), vol. 3, 21-35.

endowed with the knowledge of astronomy. The other statement "complete the period to thirty," he said, was directed to a general audience.[62]

My opinion is similar to that of Ibn Surayj, except that he suggested it only for instances in which the moon was hidden and out of sight. Furthermore, he permitted calculation only for a minority, given the fact that few people in his day had knowledge of astronomy and [even fewer] relied on the statements and calculations of those [knowledgeable in astronomy]. Even if the month is established in some countries, the relay of news to another country would take a long time. I favor the adoption of sophisticated and reliable astronomical calculations, applicable to all people, now that it is easy to transmit and circulate information speedily. A rare minority will rely on sighting, especially those out of reach of communication and who do not possess reliable knowledge about astronomy and the phases of the sun and moon. My view is [perhaps] the more moderate of the opinions in that it is closer to sound intellection (*al-fiqh al-salīm*) and a proper understanding of the reports received on this topic.

[Difference in Horizons]

What remains after this is a very intricate matter that leads to a variety of opinions to which I have already referred, concerning differences in horizons (*ikhtilāf al-maṭāliʿ*).

It is known that the horizons differ with a variation in latitude and longitude. Just as this variable has a bearing on determining the month by sighting, it also affects calculation. The ancient jurists differed on this matter, as explained above. It is evident from some reports that the majority of jurists did not consider a difference in horizons to be consequential, as reported by al-Nawawī, who narrated this from Ibn al-Mundhir. From this [report] it is understood to be the view of the founders of the four [Sunnī law schools] as well as al-Layth b. Saʿd, even though their later followers differed with them on the matter. This was also the position of Shihāb al-Dīn al-Qarāfī (d. 684/1285) in *al-Furūq*. Al-Qarāfī said: "Indeed, the Mālikīs made the sighting of the moon in one region the legal cause (*sabab*) for its obligatoriness (*wujūb*) in all parts of the world, and the Ḥanbalīs agree with them."[63] Then al-Qarāfī, a Mālikī, gave preference (*rajjaḥa*) to a view which

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[62] Abū Bakr b. al-ʿArabī, *ʿĀriḍa al-Aḥwadhī* (Beirut: Dār al-Fikr, n.d.), vol. 3, 207-08; al-ʿAsqalānī, *Fatḥ*, vol. 4, 122; al-ʿIrāqī, *Ṭarḥ*, vol. 4, 111-13.

[63] Shihāb al-Dīn Abū al-ʿAbbās Aḥmad b. Idrīs al-Sanhājī al-Qarāfī, *Anwār al-Burūq fī Anwāʾ al-Furūq* (Beirut: ʿĀlam al-Kutub), vol. 2, 181.

contradicts the established position of his own Mālikī school, and added:

> If it is agreed that the times of prayer differ due to the disparity in times of sunset, and that, as a consequence, each community will have its own morning, midday and other times, then the same should apply with respect to crescent [visibility]. The reason being that localities in the east will find the crescent in that region to be [obscured] in the glow of the sun, while the sun will continue to move with the moon in a westerly direction. And the sun will have hardly reached the western horizon when the crescent will have moved out of the sun's glow, and hence the people in the west will sight it [the crescent] whereas the people of the east will not sight it. This is one of the reasons for the differences in sighting the crescent. There are also other reasons for this which are mentioned in the science of astronomy but which are not appropriate to mention here. I mention only those reasons that are necessary to clarify the issue. If crescent visibility varies in tandem with the different horizons (*āfāq*) then it becomes obligatory for each community to sight its own crescent, in the same way that each locality has its own dawn, and as a consequence different prayer times. This is the evident truth and proper answer. The obligation on all regions to fast on the strength of a crescent sighting in one area seems to be a conclusion incompatible with the rules and is not supported by legal arguments (*adilla*).[64]

In this view of his, al-Qarāfī was preceded by Ibn ʿAbd al-Barr (d. 463/1070), who stated that this was especially true in cases where countries were far apart from each other. He cited a juristic consensus in support of his view. Al-Shawkānī (d. 1260/1834), remarking on the differences of the learned and their opinions on this matter, said:

> What ought to be the standard opinion in this matter is the view of the Mālikīs, and a group of Zaydīs—whose view was approved by al-Mahdī [li-Dīn Allāh Aḥmad b. Yaḥyā al-Murtaḍā (d. 840/1436)], and which was also reported by al-Qurṭubī (d. 671/1272) from his own authorities: if people in one region sight the crescent, [that sighting] obliges people in all regions. No consideration should be given to Ibn ʿAbd al-Barr's claim that [such a view] is contrary to the established consensus. [Ibn ʿAbd al-Barr] also claimed that scholars unanimously rejected sightings from far off countries like Khurāsān and al-Andalus.[65] His claim should be ignored simply because no consensus is valid when the opponents of such [an alleged] consensus happen to be such [distinguished] people (*jamāʿa*) [i.e. the people of Khurāsān and al-Andalus].[66]

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64 al-Qarāfī, *al-Furūq*, vol. 2, 182.
65 al-Qurṭubī, *al-Jāmiʿ*, vol. 2, 295; al-ʿAsqalānī, *Fatḥ*, vol. 4, 123.
66 al-Shawkānī, *Nayl*, vol. 4, 194-95.

What is self-evident and in no need of proof is that the beginnings of months do not differ as a result of different regions and distances even though there is variation in the rising points of the moon. If the moon disappears after sunset [i.e., conjunction], then the new month has entered and begun. We have already explained the legal cause—as contained in the textual sources of the authentic *Sunna*—for linking the obligation to perform certain acts of devotion to crescent visibility, because obligation is contingent upon the presence and absence of legal causes.

Those scholars who gave consideration to the difference in horizons —that each locality should have its own crescent visibility—were excessively committed to [deductive] logic in their rulings since that was in vogue at the time. [More importantly,] the notion of difference in horizons has nothing to do with the beginnings of the [lunar] month. Taken to its logical conclusion, it means that each locality would have its own month [i.e., calendar] just as each has its own crescent visibility. What should be taken into consideration, in our understanding, is to relate the discourse of moral responsibility (*khiṭāb al-taklīf*) to those who are obligated to observe the precepts of religion (*mukallafūn*). Whosoever has received knowledge about a religious obligation by means approved by the Legislator (*Shāriʿ*) to serve as a cause [i.e., source] of knowledge, as is sighting in the case of an unlettered community (*umma ummiyya*), then such a cause is linked to a discourse which demands a scheduled act to be performed at an appropriate time. Those who reject the consideration of difference in horizons and favor the validity of one sighting as compelling for all regions of the earth grasp the true reality. Indeed, it is necessary that the beginning of the month be the same day over the entire globe, a truth from which there can be no escape. This point of detail is redundant if one agrees with calculation, as we did and preferred. Surely, the first day of every lunar month is the same [lunar] day all over the globe and does not change with a change in region or distances between regions.

[Reference Point for Calculations]

The matter for me is [as follows]: Is it compulsory to consider the beginning of the month from any point of reference on the globe where the moon wanes behind the earth [i.e., conjunction]? Or should there be a specified universal point of reference for consideration?

I approve of the fact that there should be only one specific point for that purpose, namely, Makka, as has been referred to in the two

sources of the sharī'a, the Qur'ān and prophetic *Sunna*. Consider Allāh's word: "They will ask thee about the new moons. Say: They indicate the times for [various activities of] humankind, including the pilgrimage (*ḥajj*)" (Q. 2:189). Here Allāh directs people to the function of the cycle of phases of the moon, its waxing and waning, as a notion of time in their affairs, and a period of pilgrimage. I view the specific mention of pilgrimage after a general statement [about time] to be a subtle signal that due consideration should be given to the principle that time scheduling should be attached to one place, the location of *ḥajj*, which is Makka.

This view is supported by the *Sunna*. Al-Tirmidhī (d. 279/892) reported in his *Sunan*,[67] on the authority of a chain of narrators which includes Isḥaq b. Ja'far b. Muḥammad b. al-Ḥusayn, the husband of Sayyida Nafīsa, daughter of al-Ḥasan b. Zayd b. al-Ḥasan, from 'Abd Allāh b. Ja'far al-Makhramī al-Zuhrī, from 'Uthmān b. Muḥammad al-Akhnasī, from al-Maqbarī, from Abū Hurayra who reported that the Prophet, on whom be peace, said: "The day of fasting is the day *you* fast, the day of eating is when *you* eat, and the day of sacrifice is when *you* sacrifice." [emphasis added] Al-Tirmidhī said: *"hādha ḥadīthun gharībun*—this narrative is reported by one person (*gharīb*)[68]—and it is good (*ḥasan*)."[69] We agree that it is a sound (*ṣaḥīḥ*) report. [On another occasion,] al-Tirmidhī authenticated a report in a transmission from al-Mu'allā b. Manṣūr, on the authority of 'Abd Allāh b. Ja'far [al-Makhramī,] with this chain of authorities.[70] Furthermore, Isḥāq b. Ja'far was not the sole (*munfarid*) transmitter of this report. Both Abū Sa'īd, a client (*mawlā*) of the Banū Hāshim and Muḥammad b. 'Umar al-Wāqidī, also transmitted [reports] on the authority of 'Abd Allāh b. Ja'far al-Makhramī, with the [same] chain of authorities.[71] Neither was 'Abd Allāh b. Ja'far al-Makhramī the sole transmitter of this report. Al-

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[67] Abū al-'Alā' Muḥammad b. 'Abd al-Raḥmān b. 'Abd al-Raḥīm al-Mubārakfūrī, *Tuḥfat al-Aḥwadhī*, ed. 'Abd al-Raḥmān Muḥammad 'Uthmān (al-Madīna, Saudi Arabia: Muḥammad 'Abd al-Muḥsin al-Kutubī, n.d.), vol. 3, 382, *ḥadith* no. 693; Ibn al-'Arabī, *'Āriḍa*, vol. 3, 216; Abū 'Īsā Muḥammad b. 'Īsā b. Sawra al-Tirmidhī, *al-Jāmi' al-Ṣaḥīḥ: Sunan al-Tirmidhī*, ed. Muḥammad Fu'ād 'Abd al-Bāqī (Beirut: Dār al-Fikr, 1408/1988), vol 3, 80.

[68] A *gharīb* report is narrated by a single Companion or by any single person after this generation.

[69] See *EI*$^2$, s.v. ḥadīth for translation of terminology.

[70] Ibn al-'Arabī, *'Āriḍa*, vol. 2, 141-42; al-Mubārakfūrī, *Tuḥfa*, vol. 1, 382-83.

[71] The report of Abū Sa'īd can be found in *al-Sunan al-Kubrā*, vol. 4, 252; and the report of al-Wāqidī in 'Alī b. 'Umar al-Dāraquṭnī, *Sunan al-Dāraquṭnī* (4th ed., Beirut: 'Ālam al-Kutub, 1406/1986), vol. 2, 163. Al-Wāqidī is reliable, in our opinion, contrary to those who undermine him.

Wāqidī had [transmitted] from him on the authority of Dāwūd b. Khālid, Thābit b. Qays and Muḥammad b. Muslim, all three of them having transmitted on the authority of al-Maqbarī who, in turn, [transmitted] on the authority of Abū Hurayra.[72] For this reason al-Qāḍī Abū Bakr b. al-ʿArabī (d. 543/1148) in his commentary of al-Tirmidhī's *Sunan* [rated] the [above] as a sound report (*ḥadīth ṣaḥīḥ*). Abū Dāwūd (d. 275/888) in his *Sunan* transmitted a path (*ṭarīq*) including Ḥammād b. Zayd, on the authority of Ayyūb [al-Sakhtiyānī], from Muḥammad b. al-Munkadir, from Abū Hurayra, [containing a report rated] as *marfūʿ* (traced to the Prophet):

> Your ending the fast (*fiṭrukum*) is the day all of you eat (*tuftirūn*); your sacrifice (*aḍḥākum*) is the day all of you sacrifice; all of ʿArafa is a place of assembly; all of Minā is a place of slaughter; all the paths between the two mountains are a place of slaughter; and all congregations are a festival of assembly (*mawqif*).[73]

Al-Dāraquṭnī (d. 385/995) also transmitted this [above] path, as well as from the path of Rawḥ b. al-Qāsim on the authority of Ibn al-Munkadir. Al-Bayhaqī (d. 458/1066) also transmitted [this report] in his *al-Sunan al-Kubrā* from the path of ʿAbd al-Wārith and Rawḥ b. al-Qāsim on the authority of Ibn al-Munkadir;[74] and [al-Dāraquṭnī], also transmitted [it] from the path of Ḥammād b. Zayd, similar to the transmission of Abū Dāwūd.[75]

Al-Dāraquṭnī and al-Bayhaqī both transmitted from Ismāʿīl b. ʿUlayya and ʿAbd al-Wahhāb al-Thaqafī, on the authority of Ayyūb, from Muḥammad b. al-Munkadir, from Abū Hurayra in a report discontinued at source and traceable to a Companion only (*mawqūf*),[76] saying:

> The month is twenty-nine days and do not fast until you see it [viz., the crescent] and do not eat until you see it [viz., the crescent] again. And if it is hidden, then complete the period to thirty days. Your eating is the day you all eat; your sacrifice is the day you all sacrifice; all of ʿArafa is a place of assembly; and all of Minā is a place of slaughter; so are all the paths between two mountains in Makka a place of slaughter.

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72 al-Dāraquṭnī, *Sunan*, vol. 2, 163.

73 al-ʿAzīmābādī, *ʿAwn al-Maʿbūd*, vol. 6, 443, "Kitāb al-Ṣiyām." [Also see *EI*$^2$, s.v. "Mawḳif"].

74 Abū Bakr Aḥmad b. al-Ḥusayn b. ʿAlī al-Bayhaqī, *al-Sunan al-Kubrā* (Beirut: Dār al-Maʿrifa, n.d.), vol. 5, 175, "Kitāb al-Ḥajj."

75 al-Bayhaqī, *al-Sunan*, vol. 5, 175.

76 That is, from the transmission of Abū Hurayra. See al-Bayhaqī, *al-Sunan*, vol. 4, 252.

Ibn Māja (d. 273/886) in his *Sunan* transmits from the path of Ḥammād b. Zayd, on the authority of Ayyūb, from Muḥammad b. Sīrīn, from Abū Hurayra who reported that the Prophet, on whom be peace, said: "The Day of Eating is the day all of you eat and the Day of Sacrifice is the day you all sacrifice."[77]

All these chains of authority [above] are sound, mutually corroborative and supportive. Together they rebut al-Tirmidhī's assessment that [the original *ḥadīth*] is a single (*gharīb*) report, since they emanate from several sound paths. But what is the meaning of this report? The ancient scholars explained it in accordance with its literal and apparent meaning. Al-Tirmidhī said in his *Sunan*: "And some people of knowledge explained this report to mean that fasting and eating must be with the group and the majority of the people."[78] Al-Khaṭṭābī (d. 388/998) said:

> The meaning of the report is that people are excused from committing an error in the process of performing *ijtihād*. If a community, which, after having exerted itself, saw the crescent only after the thirtieth [day,] resumed eating when they had completed the required period, but later discovered that the month was only twenty-nine [days], then their fasting and eating is something of the past, and there is no burden (*wazar*) or rebuking (*'atab*) of them.[79]

Taqī al-Dīn al-Subkī stated in his *Fatāwā*: "The report [to fast with the majority] means: when the [majority] of people agree upon it [viz., fasting]. Muslims do not agree on error, and consensus is a binding proof."[80]

The above explanations are supported in al-Tirmidhī's transmission of the report by Ma'mar, on the authority of Muḥammad b. al-Munkadir, from 'Ā'isha, from the Prophet, Allāh's blessings and peace be upon him, who said: "Ending the fast is the day the people eat, and sacrifice is the day the people sacrifice."[81] Commenting on this, al-Tirmidhī said: "This *ḥadīth* is good (*ḥasanun*), narrated by a single person (*gharībun*) and sound (*ṣaḥīḥun*) from this viewpoint."[82] But we

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[77] Abū 'Abd Allāh Muḥammad b. Yazīd, *Sunan Ibn Māja* (Cairo: Dār Iḥyā al-Kutub al-'Arabiyya, n.d.), vol. 1, 531, "Kitāb al-Ṣiyām."

[78] al-Tirmidhī, *Sunan*, vol. 3, 80.

[79] al-Khaṭṭābī, *Ma'ālim*, vol. 2, 82.

[80] al-Subkī, *Fatāwā*, vol. 1, 215.

[81] al-Mubārakfūrī, *Tuḥfa*, vol. 3, 382; Ibn al-'Arabī, *'Āriḍa*, vol. 4, 14; al-Bayhaqī, *al-Sunan*, vol. 4, 252, in another chain from 'Ā'isha, narrated a similar meaning. [The only difference being that the report of 'Ā'isha said: "Slaughtering is the day all the people (*al-nās*) slaughter, and the end of the fast is when all the people eat"].

[82] [Ibn al-'Arabi, *'Āriḍa*, vol. 4, 14].

also know that many transmitters abbreviate reports and only transmit the meanings of some. For this reason the authorities of *ḥadīth* studies and critics collect several transmissions. These very often lengthy explanatory reports clarify the meaning of the abbreviated ones. So we find a *ḥadīth* of ʿĀʾisha transmitted by al-Bayhaqī from the path of Sufyān al-Thawrī, on the authority of Muḥammad b. al-Munkadir, from ʿĀʾisha, who reported that the Prophet, Allāh's blessings and peace be upon him, had said: "[The day of] ʿArafa is the day the Imām assembles at ʿArafa; [the day of] Sacrifice is the day the Imām sacrifices; and [the day of] eating is the day the Imām eats."[83] The chain of authorities for this report is sound. This explanatory transmission explains the meaning of "people" [in the previous *ḥadīth*] to mean the Imām, with whom the majority of people will be. The transmissions discussed here, especially the reports of Abū Hurayra and ʿĀʾisha, have a common repertoire that begs investigation. The words mentioned are "ʿArafa," as a day and place, "Makka," "Minā," and "al-Muzdalifa,"; "all of ʿArafa is an assembly place," and "ʿArafa is the day the Imām assembles." An interrupted (*mursal*) transmission from the path of al-Shāfiʿī, according to al-Bayhaqī, says: "ʿArafa is the day you all go to ʿArafa; and all of Minā is place of slaughter; and all the paths of Makkah are a place of slaughter and all congregations are a festival of assembly."[84]

The mention of the various locations of *ḥajj* and their times in several of the transmissions of the report, if not most of them, supports the conviction that this *ḥadīth* was reported on the occasion of the Farewell Pilgrimage, when the Prophet, on whom be peace, was teaching the people the rituals of pilgrimage (*shaʿāʾir al-ḥajj*) and addressed them at ʿArafa, Minā and other sites. No other instance is recorded on which he taught the people the ritual of pilgrimage, except on the occasion of the Farewell Pilgrimage. This was reported by Jābir b. ʿAbd Allāh, who described the Farewell Pilgrimage in a lengthy report, but one familiar to the experts of *ḥadīth*. This report in part resembles the report of Abū Hurayra. And Jābir mentioned that the Prophet, Allāh's blessings and peace be upon him, slaughtered his sacrificial animal, ate of it, and then said: "I have slaughtered here, and all of Minā is a place of slaughter. And then he stopped at ʿArafa and said: I stood here and all of ʿArafa is a place of assembly. Then he stopped at

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[83] The word "*al-taʿrīf*" means to assemble at ʿArafā; *ʿarrafa al-qawm* signifies "when all assemble at ʿArafa." See al-Bayhaqi, *al-Sunan*, vol. 5, 175.

[84] al-Bayhaqī, *al-Sunan*, vol. 5, 176.

al-Muzdalifa and said: I stopped here and all of al-Muzdalifa is a place of assembly."[85]

Abū Hurayra's unbroken (*marfūʿ*) report to the Prophet: "Your eating is the day all of you eat...," was an address to the pilgrims at the place of pilgrimage, since it is mentioned with ʿArafa, Makka and al-Muzdalifa. Thus, another *marfūʿ* report of Abū Hurayra, which says: "Fasting is when you all fast...," is also part of the previous report and was also [part] of the address to the pilgrims at the site of pilgrimage. All the transmissions of ʿĀ'isha and others carry the [same] meaning in that they were all transmissions about the Farewell Pilgrimage. Those persons who transmitted the words "The day the people end their fast," or "The day the Imām ends his fast," had reported by paraphrasing [the report]. The original source of the report was an address to those who were at the pilgrimage sites.

From these reports we understand that fasting is when the people of Makka and the areas adjacent to it fast, and that the day of eating is when they eat, and that sacrifice is when they do so, and that ʿArafa is when they go to ʿArafa. In other words, these areas are the criteria for establishing the crescent and will constitute the rising places of the crescents for all regions to follow. This also underlines the wisdom of mentioning "time" before "pilgrimage" in the words of Allāh: "They will ask thee about the new moons. Say: They indicate the times [for the various activities of] humankind, including the pilgrimage" (Q. 2:189).

If the manner in which I view and understand [this matter] will be followed, Muslims will be united in identifying the lunar months. Makka—the fountainhead and cradle of Islam, the place where Muslims meet annually without fail in mutual friendship, the city that hosts the House of Allāh to which [Muslims] turn in their prayers—can be the symbol of their unity and the headquarters of the agency that will stipulate the time [date] for them.

[Conclusion]

I did not write this essay without engaging in considerable reflection and soul-searching contemplation. In doing so, I followed the method

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[85] Aḥmad b. Ḥanbal, *Musnad al-Imām Aḥmad* (Beirut: Dār Ṣādir, n.d.) vol. 3, 321; Muslim b. al-Ḥajjāj, *Ṣaḥīḥ*, vol. 8, 195, "Kitāb al-Ḥajj"; al-ʿAzīmābādī, *ʿAwn al-Maʿbūd*, vol. 5, 387-88, "Kitāb al-Manāsik"; Abū al-Fidā al-Ḥāfiz b. Kathīr, *al-Bidāya wa'l-Nihāya*, ed. Aḥmad Abū Malḥam, ʿAlī Najīb ʿAṭwī, Fu'ād al-Sayyid, Muhrī Nāṣir al-Dīn & ʿAlī ʿAbd al-Sātir (5th ed., Beirut: Dār al-Kutub al-ʿIlmiyya, 1409/1988), vol. 5, 132.

of the learned and pious ancestors in my approach to the Qur'ān and the *sunna*, discarding the need to follow established doctrine (*taqlīd*) and bigotry (*'aṣabiyya*). Thus I hope that I have arrived at a correct answer, with Allāh's help and the success only He can grant. I present this for the eyes of the learned and research scholars. I surely will be grateful for criticism and thankful for support, in order to clarify the reality and unveil the correct perspective. I do not insist on any prerequisites, save that the Qur'ān and *Sunna* be the primary sources and foundation of investigation, extrapolation and understanding.

To talk without restraint in a rhetorical flourish fuelled by base opinion and desire, as those who call themselves reformers (*mujaddidūn*) are wont to do, is to take the investigation away from its proper scientific perspective. [Such an approach] neither promotes the truth nor dismantles error. As to those who cling tenaciously to the views of past jurists in calling these opinions textual sources (*nuṣūṣ*) and pretend that these are convincing proofs against us and everyone else, let them be assured that we also have access to these sources and are aware of the arguments.[86] We will not debate those who argue on the basis of such statements. Yes, I cannot prevent the idle talkers from their utterances, but I can prevent my pen from the vanity of such idleness. I ask Allāh for protection and success.

Aḥmad Muḥammad Shākir
al-Qāḍī al-Shar'ī
Kūbrī al-Qubba, Tuesday
24 Dhū'l-Ḥijja 1357/13 February 1939

## APPENDIX

In South Africa, the minority Muslim community of just over half a million people has experienced several controversies over crescent sightings in the last decade. On the occasion of 'Īd al-Aḍḥā in 1987, the '*ulamā*' body of the Transvaal province (now called the Gauteng region), the Jamiatul 'Ulama (Jam'iyya al-'ulamā') of Transvaal, refused to accept the testimony of sighting from the '*ulamā*' of Cape Town, a city 1400 kms away. This body argued that Cape Town's

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[86] [Aḥmad Shākir makes this disclaimer following the criticism levelled at him by Muḥammad Zāhid al-Kawtharī following the publication of his *Niẓām al-Ṭalāq*, some three years before he wrote this *risāla*].

sighting was not binding or applicable in their region due to the distance between them. Although this Jam'iyya adheres to the Indo-Pak version of the Ḥanafī school, their ruling was inconsistent with established Ḥanafī doctrine, namely, that a difference in horizons (*ikhtilāf al-maṭāli'*) of the moon does not affect the validity of any crescent sighting.

The following year, the same body declared the beginning of Ramaḍān 1988 a day later than Cape Town and Durban, the capitals of the Western Cape and Kwazulu-Natal regions, respectively. And when 'Īd al-Fiṭr in that same year produced another controversy, this time in Kwazulu-Natal, this only added to the existing confusion over crescent sightings. On this occasion, theological sectarianism was the cause of the disputes. The testimony of a sighting by a person belonging to the Barelwī theological doctrine was not accepted by its opponents, the Deobandīs, to which the Jamiatul 'Ulama (Jam'iyya al-'ulamā') of Kwazulu-Natal adhere.[87] The latter body insisted that a crescent sighting must be witnessed by a "large group" (*jam' ghafīr*), a Ḥanafī requirement that had not been strictly observed in the past. The pro-Barelwī *'ulamā'*, represented by the Sunnī Jamiatul *'ulamā'* (Jam'iyya al-'ulamā') of South Africa, which had both Ḥanafī and Shāfi'ī followers, decided to accept the testimony of sighting and celebrated 'Īd al-Fiṭr in the Kwazulu-Natal region, while their opponents did so a day later. In the Western Cape region where the majority of South African Muslims reside, the Muslim Judicial Council (MJC) as well as Muslim authorities in other regions followed the ruling of the Deobandī Jamiatul *'ulamā'* of Kwazulu-Natal. As a result, in 1988, the majority of South African Muslims celebrated 'Īd al-Fiṭr a day after the Barelwīs in Kwazulu-Natal did.

Following these lunar controversies, Shaykh Abū Bakr Najjār (d. 1993), then president of the Islamic Council of South Africa (ICSA), mooted the idea that South African Muslims ought to follow the calendar of Makka in Saudi Arabia in celebrating 'Īd al-Aḍḥā, a practice adopted in the Middle East and other parts of the Muslim world. By following the Makkan calendar, it was also hoped that the controversy of local sightings would be minimized. Najjār's proposal, supported by other groups, was favorably received by the influential

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87 [The Barelwi school of thought was founded by Aḥmad Riḍā Khān (d. 1921) in India. This school favors populist religious practices such as visiting shrines and the intercession of saintly personages, amongst other things deemed heretical (*bid'a*) by their main opponents, the school of Deoband. See Barbara Daly Metcalf, *Islamic Revival in British India* (Princeton, N.J., Princeton University Press, 1982)].

MJC, which claimed to have the following of the largest number of mosques in the Western Cape region. An agreement was reached between the MJC and the other organisations in the Western Cape region to follow the Makkan calendar beginning in 1989 on the occasion of ʿĪd al-Aḍḥā. However, the MJC subsequently reversed its earlier decision, arguing that national unity with other *ʿulamā'* bodies was a priority, especially after the pro-Deoband Jamʿiyyas indicated their opposition to following the Makkan calendar.[88] Since 1989, mosques under the jurisdiction of the Islamic Council of South Africa, al-Majlis al-Shūrā and a few independent mosques in the Western Cape region, have followed Makka in celebrating ʿĪd al-Aḍḥā, while the majority of mosques observe the local calendar.

One of the arguments against following Makka, in addition to the question of national unity, concerns allegations that Saudi Arabia's declaration of the lunar calendar is subject to "manipulation."[89] It has been argued that while official Saudi policy is based on naked-eye crescent sightings, there have been occasions when Saudi declarations are in keeping with neither calculation nor sighting: therefore, Saudi Arabia cannot be regarded as a reliable authority and example to be followed on the question of the Islamic calendar.

In a bid to circumvent the obvious difficulties of naked-eye sightings, a small group of younger *ʿulamā'* has suggested the adoption of a scientifically-determined lunar calendar which would provide both accuracy and predictability in the religious affairs of Muslims. The ʿIbād al-Raḥmān Study Group at the Claremont Main Road Mosque, in Claremont a suburb of Cape Town, under the leadership of Imām ʿAbd al-Rashīd ʿUmar, has taken the lead in advocating this position. It was in the context of seeking juristic arguments in favor of a scientific lunar calendar that Aḥmad Shākir's essay was favorably received by this group of younger *ʿulamā'*. However, his view was neither rebutted nor adopted by the mainstream traditional *ʿulamā'* in South Africa. Outside South Africa several Muslim conferences on the lunar calendar have attempted to establish a uniform calendar based on crescent sighting.[90]

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88 [See the pamphlet issued by the Muslim Judicial Council (MJC), *The MJC Speaks*, July 1987, 4-5].

89 [*MJC Speaks*, 17].

90 [See *Proceedings of the Lunar Calendar Conference*, ed. Imad-ad-Dean Ahmad (Herndon, Virginia: The International Institute of Islamic Thought (IIIT), 1408/1988), held at Herndon on 6-7 June 1987].