

## **Moon Sighting: A Silent Revolution**

He it is Who made the sun radiant light and the moon reflected light, Who determined for it phases; (and this He did) that ye might know how to count years and to measure. None of this has God created without a deeper significance. (10:5)

ISNA's decision to follow the Fiqh Council of North America's ruling on lunar timings was celebrated by some as an 'eminently sensible' decision and reviled by others as the handiwork of the devil himself. But whilst most attention was focused on the ruling *per se*, I found more interesting the subtle change in progress that in the first place facilitated both the ruling itself as well as the consequences thereof. The change I speak of is twofold: on the one hand there's this gradual broadening of the juridical circle which now seems to include any one with access to a plinth, both actual as well as virtual, from which to voice their opinions. On the other hand, there's this almost imperceptible shift in the interpretive process itself, in the objectives Muslims unknowingly pursue when reinterpreting the sources of the sacred law, or rationalizing its overall objectives.

First the broadening of the juridical circle: at its inception Islam's teachings and practices were interpreted exclusively by the Prophet (s) himself. As messenger of God he was both recipient of the Divine intent as encapsulated in the Qur'an as well as its interpreter, *par excellence*. He authorized all ritual practices for instance, determined the prerequisites for their performance, and demonstrated physically the minutiae of each separate ritual performance. He also determined the norms of the community, and through his physical presence within the community of believers he singlehandedly shaped its social and metaphysical revolution. And in all of these activities his word was final and unchallenged. Let's call this the apostolic era of the law.

After his demise the legislative process passed to those with no claims to inerrancy, at least not in Sunni legal thought. To the extent that the Prophet as legislator was inerrant, to the extent that even his errors—and there were a few, as the Qur'an itself points out—were rectified through divine intervention, his legislation was overall the yield of an entirely non rational process; even where he may have made rational decisions such decisions, in terms of Muslim dogma, were also implicitly divine. The same is not true of the era that followed, however, for the legislation of the successors to the Prophet (s) is not considered by Sunnis at least, to have any legitimacy through divine endorsement. But without such endorsement no Muslim, for fear of heresy (*bid`ah*), would willingly engage in a religious practice prescribed by a fellow Muslim. So how then did they stretch the divine imprimatur to apply to new legislation? I would suggest it was through the gradual development of the science of *usul*. It is thus not surprising, I would argue, that in all areas of early Muslim thought, *praxis* preceded theory, *fiqh*, that is, preceded

usul, not just in the areas of law, but also in hadith, tafsir, and even language. Now, whilst it is true almost universally that it is praxis that necessitates method, and not vice versa, in the case of early Islam it was prophetic decree that obviated the need for method. In the first era of Islamic thought both theory and praxis were inextricably rolled into the apostolic command, or to use our religious idiom, the Word Allah is what defined the actions of His Messenger rather than the situation on the ground. Even where social exigencies clearly drove apostolic policy the theological presumption always is that this too was divinely ordained. In the second phase however, the divine cover legitimating juridical authority was, so to speak, ripped off, and had to be replaced with a rational infrastructure linking the rule of the jurist to the will of God. This link or usul ostensibly arranged coherently the disparate textual and oral material that together provides the source evidence for the sacred law. More importantly however, the usul arrangement provided the validation that the jurist's rule required for acceptance among Muslims. To avoid the trap of bid`ah the rules of usul were used to show logically how the verdict of the jurist is tied to the will of God.

The third phase began with the collapse of Muslim political power and peaked when literacy, particularly of the religious kind, spread among the educated elite. This loss of political power, no doubt, was the direct result of Europe's military conquests, but the outcome would have been the same even without such conquests, for Muslims, then and now, have produced no cogent response to the widespread cultural conquests that are far more deleterious. Instead, they replaced, by fiat, scholarly authority with personal opinion, and passed off source material randomly taken from the Qur`an and the hadith as definitive juridical argument. The knowledgeable scholar with mandate to address the juridical needs of his community was replaced by the literate individual doing the same with the translated or condensed primary text in hand, but with no such mandate. And this to some extent explains the singular lack of scholastic coherence, i.e., usul, that often defines deliberations pertaining not just to the moon but to all matters Islamic. There is if anything a certain intolerance for such classical juridical mechanisms particularly with the agendas we now set for the law itself. This then, brings me to my final observation.