



مفتی محمد یوسف ڈنکا
Mufti Muhammad Yusuf Danka

بِسْمِ اللّٰهِ الرَّحْمٰنِ الرَّحِیْمِ

الحمد لله حمد الشاكرين، والصلاة والسلام على المبعوث رحمة للعالمين، وهادياً للناس أجمعين.
صلاةً وسلاماً دائمين إلى يوم الدين، وآله وصحبه ومن تبعهم بإحسان، وسلم تسليماً كثيراً، أما بعد:

The unanimous acceptance of Jamme Ghafeer (a large group) according to Saheeh Ahadith and views of the great Scholars of Islam:

﴿أن رسول الله ﷺ قال: الشهر تسع وعشرون ليلة فلا تصوموا حتى تروه، فإن غم عليكم فأكملوا العدة ثلاثين﴾
مطلع صاف هو جم غفير کی رویت (مسلمانوں کی بڑی جماعت کی شہادت) حنفیہ کا اجماعی مسئلہ، صحیح احادیث اور اقوال سلف کی روشنی میں

Allah ﷻ has stated in the Holy Qur'an: 'They ask you (Muhammad ﷺ) about the crescent moons. Say: They are signs to mark fixed periods of time for mankind and for the pilgrimage.' (s2, v189)

It is necessary to view the crescent moon with the naked eye as proof of the Hilal. If the sky is clear, the Hanafi scholars state that Jamme Ghafeer (a large group) is required to have witnessed the crescent moon. In the matter of Jamme Ghafeer, there is no difference of opinion from the books of the Ahanaf from the time of the Salaf to the present day. In every generation, the Fuqaha have given great importance to the presence of Jamme Ghafeer.

From the time the Saudi government established the Umm Ul Qura calendar there has never been a report of Jamme Ghafeer, even though the skies are clear. It is unfortunate that there are Hanafi Ulama who are blindly following the Saudi announcements, going against the ruling of their school of thought and regarding fundamental issues are minor ones. They give no regard to the Shari'ah or the rulings of their predecessors behind a guise of a hallucinated unity.

عن ابن عمر رضی اللہ عنہما أن رسول الله ﷺ قال: الشهر تسع وعشرون ليلة فلا تصوموا حتى تروه، فإن غم عليكم فأكملوا العدة ثلاثين. (صحيح بخارى ص306 صحيح مسلم ص347) اس حدیث میں " فلا تصوموا حتى تروه جمع کا صیغہ ہے۔"

Sayyidina Ibn Umar رضی اللہ عنہما relates from Nabi ﷺ that there are twenty nine nights in a month, do not fast until all of you see it (the Hilal), if it is hidden from you then complete thirty days. (Sahih Bukhari p,306/ Sahih Muslim p,347)

The word in the Hadith فلا تصوموا حتى تروه which can mean that when a lot of people sight it (the Hilal) then fasting should begin. Throughout the lifetime of Prophet ﷺ 'Ruyat e A'amah' i.e. a large group as could be understood by this Athar (speech of Sahabah or Tabi'een رضی اللہ عنہم) was practised. Only on one occasion in Madina the moon was not sighted and RasulAllah ﷺ accepted the witnessed statement of a Nomad Arab. But consideration needs to be taken that the person who accepted the testimony was the Messenger of Allah and the witness himself was a just Sahabi (In essence, both parties have no element of doubt). The practice of our Pious Salaf us Saliheen clearly indicates that they insisted upon the 'Ruyat e A'amah'.

The statements of the Companions رضی اللہ عنہم:

Kurayb رحمه الله related: Sayiddina Abdullah ibn Abbas رضی اللہ عنہما sent me to Sayiddina Muawiya رضی اللہ عنہ in Syria. I completed my errand there, the moon of Ramadhan was viewed on Friday night in Syria. I returned to Madinah Munawarrah, Ibn Abbas رضی اللہ عنہما asked me about my journey and the sighting of the moon. I said: 'The moon was sighted on Friday night in Syria.' Ibn Abbas رضی اللہ عنہما asked me: 'Did YOU yourself see the moon?' I replied: (نعم وراه الناس) 'Yes, I and other people also. The next day Muawiya رضی اللہ عنہ and the others kept a fast.' Ibn Abbas رضی اللہ عنہما stated: 'We saw the moon on Saturday night, either we will see the moon for Eid or we will complete 30 days.' I asked: 'Is the sighting of Muawiya رضی اللہ عنہما not enough for you?' Sayiddina Ibn Abbas رضی اللہ عنہما said: 'No, The Prophet ﷺ has ordered us to do this' (to act upon their own moon sighting). (Sunan Abu Dawood #562, Sunan Nasai #2115)

It is proven from the above Hadith, due to the question and answer of the Companion Ibn Abbas رضی اللہ عنہما, it was the requirement of the Sahaba رضی اللہ عنہم that Jamme Ghafeer be performed on the occasion of sighting the crescent moon. Certain people have the belief that due to the blessing of the Haramain Sharifain, Allah ﷻ allows the moon to be seen there before anywhere else in the World. It is proven from the above Hadith that the Muslims of Syria in the time of the Sahaba sighted the moon before the Arab peninsula.

The Statements of the Tabi'een رحمه الله

قلت لعطاء: أرأيت لو أن رجلا رأى هلال رمضان قبل الناس ليلة أيسوم قبلهم أو يفطر قبلهم؟ قال لا، إلا أن يراه الناس، أخشى أن يكون شبه عليه. (مصنف عبدالرزاق، باب كم يجوز من الشهود على رؤية الهلال ج 4 ص 130)

Tabi'i Ataa رحمه الله (who was from amongst the teachers of Imam Abu Hanifa رحمه الله), was asked that if a person was to see the Hilal of Ramadhan a night before the others could see it, should he fast before them, or should he celebrate Eid before them? He replied (لا، إلا أن يراه الناس) 'No, not until the people see it. I fear that he is mistaken'. (Musannaf Abdur Razzaq vol 4, p130)

Hadhrat Shaykh Moulana Zakariya رحمه الله relates the statement of Imam Abu Hanifa رحمه الله from the well known book of the Hanbali Fiqh, Al Mughni: 'If the sky is clear, then a witnessing cannot be accepted without the testimony of a large group of the Muslims. شيخ الحديث شيخ محمد زكريا قدس سره حنبلي فقه كى معروف كتاب المغنى (جلد 3 ص 157) سے نقل کرتے ہیں۔ وقال أبوحنيفة رحمه الله في الغيم كقولنا وفي الصحو لا يقبل إلا الاستفاضة لأنه لا يجوز أن تنظر الجماعة إلى المطلع وأبصارهم صحيحة والموانع مرتفعة فيراه واحد دون الباقيين۔ (أوجز المسالك جلد 5 ص 21) وقال أبوحنيفة رحمه الله في الصحو لا بد من جمع كثير۔ (الروضة الندية جلد 1 ص 292) واگر مطلع صاف باشد در رمضان وشوال جماعت عظيم مے بايد۔ (ملايدمنه ص 93 – از قاضى ثناء الله پانى پتى نور الله مرقدہ)

The Statements of the Tabi'een رحمه الله – Zahirul Riwayat:

When the sky is clear and Jamme Ghafeer witnessing of the crescent moon takes place, only then will the Hilal be established. For this, Imam Azam Abu Hanifa رحمه الله's student Imam Muhammad Shaybani رحمه الله writes in his 1st book, Kitabul Asal Mabsoot:

محمد قال إذا شهد رجل واحد وبالسما علة قبلت شهادته وحده إذا كان عدلا، وأما على الفطر فلا يقبل إلا شهادة رجلين إذا كان بالسما علة، وإن لم يك بالسما علة فلم أقبل شهادة رجل حتى يكون أمرا ظاهرا۔ (كتاب الأصل، ميسوط لإمام محمد رحمه الله، باب تتمته نوادر الصوم، جلد ثانی ص 280)

Imam Muhammad bin Shaybani رحمه الله writes: 'If the sky is cloudy, the witness of just one Muslim person for sighting the crescent moon will be accepted for Ramadhan. If it is for Eid ul Fitr, the Hilal cannot be established without the presence of two male witnesses. If the sky is clear, even the witness of one male cannot be accepted until the situation is made clear, with (a large group of the Muslims sighting the crescent).' (Kitabul Asal Mabsoot, vol 2, p280)

In the commentary on this saying by Allamah Abu Wafa Afghani رحمه الله states: 'This means that the sighting of the crescent moon is not well known and common knowledge (absence of Jamme Ghafeer).'

All the books that have been written in light of the Hanafi Fiqh have taken the ruling of Imam Muhammad Shaybani رحمه الله above as a fundamental basis for establishing the new crescent moon through Jamme Ghafeer.

وإذا لم تكن با لسما علة لم تقبل الشهادة حتى يراه جمع كثير يقع العلم بخبرهم.. لأن التفرد بالرؤية في مثل هذه الحالة يوهم الغلط فيجب التوقف فيه حتى يكون جمعا كثيرا. (مختصر القدوري ص 46، لعلامه احمد القدوري هجرى 428 / هدايه۔ جلد 1 ص 125، لعلامه على بن أبى بكر المرغيناني هجرى 592 / نور الإيضاح ص 167 / مراقى الفلاح ص 236)

'If the sky is cloudy, the witness of one just Muslim person for sighting the crescent moon will be accepted. If the sky is clear then the witnessing will not be accepted until a large group from the Muslims testify to viewing the crescent, not until there is no doubt of the witnessing.' (Quduri, p46, Hidayah, vol1, p125)

If the Qazi gives a ruling against the Qur'an or Sunnah of Ijma, it should not be accepted:

اخبرنا عبدالرزاق عن الثورى قال إذا قضى القاضى بخلاف كتاب الله او سنة نبي الله او شئ مجتمتع عليه فإن القاضى بعده يردہ۔ (مصنف عبدالرزاق، باب هل يرد قضاء القاضى او يرجع عن قضاءه؟ ج 8 ص 234، # 15377)

It is related from the Tabi'een Sufyam Thawri رحمه الله: 'If the Qazi gives a ruling against the Qur'an, the Sunnah of the Prophet ﷺ or a matter upon which there is Ijma, then his ruling will be rejected.' (Masnad Abdur Razak, vol 8, p234)

It can be said that the ruling of the judge of Saudi Arabia is binding upon the inhabitants of Saudi Arabia. However, it cannot be incumbent upon all Muslims to follow this ruling. Therefore it is necessary for those scholars who blindly follow the Saudi rulings in respect of the new crescent moon, to take note of the advices and rulings of their predecessors. When in Saudi the announcements for the commencement of the new moon is not done in accordance to the required principle and is against the Ijma of the predecessors, it cannot be accepted. The scholars of the UK in particular: the Darul Uloom, Markaz and scholarly organisations should make an informed decision for their country of residence in accordance with the rulings of their school of thought.

Mufti Rashid Ahmed Luhdyanvi رحمه الله write: The news of the sighting in Saudi Arabia reaching the status of 'Istifaadha' is questionable and further, due to the sighting in Saudi being against the principles of the Hanafi Maslak (Fiqh) and logic; it is unacceptable. According to Hanafi Fiqh when the skies are clear, a large group (Jamme Ghafeer) is a condition. (Ahsan ul Fataawaa Vol 4 P 426)

Imam Abu Yusuf رحمه الله requires 50 witnesses to establish Jame Ghafeer as taking place:

وإذا لم تكن بالسماء علة لم تقبل الشهادة حتى يراه جمع كثير يقع العلم بخبرهم لأن التفرد بالرؤية في مثل هذه الحالة يوهم الغلط فيجب التوقف فيه حتى يكون جمعا كثيرا.... ثم قيل في حد الكثير أهل الملة وعن أبي يوسف رحمه الله خمسون رجلا اعتبارا بالقسامة... (فتح القدير جلد 2 ص 328، لعلامه ابن مہام حنفی 861ھجری) وقيل بلا علة جمع عظيم يقع العلم الشرعي وهو غلبة الظن (بخبرهم وهو مفوض إلى رأى الإمام من غير تقدير بعدد) على المذهب. (درمختار كتاب الصوم- جلد 3 ص 410)

In the Shari'ah of Islam the sighting of the crescent moon is stipulated with the following conditions:

If the sky is clear on the 29th night of the month, then for Ramadhan and Eid to be established, Jame Ghafeer has to be witnessed. In the books of Fiqh the number of witnesses required for Jame Ghafeer to be established range from 50 to 500. Allamah Shami رحمه الله states in respect of the number of witnesses: 'If by receiving the testimony of the witnesses the Qazi is satisfied, together with 2 conditions: (1) it is possible to sight the moon on that day (2) a large group of the Muslims witness the sighting of the crescent moon.' For this reason when the sky is clear, the testimony of 3 or 4 people cannot be accepted. (Fatawa Haqqania, vol 4, p137)

انٹیس کی رات کو مطلع بالکل صاف ہو تو پھر جم غفیر کی رویت روزہ اور عید کیلئے (29) شریعت مقدسہ میں چاند کی رویت کیلئے قانون یہ ہے کہ اگر وغیرہ مروی ہیں البتہ امام ابن ضروری ہے۔ جم غفیر کی تعداد کے بارے میں مختلف اقوال ذخیرہ فقہ میں درج ہیں بعض سے پچاس اور بعض سے پانچ سو عابدین شامی رحمہ اللہ نے تعداد سے قطع نظر کر کے قاضی کے مطمئن ہونے کو ترجیح دی ہے لیکن قاضی کا اطمینان بھی دو شرائط کے ساتھ مشروط ہے (أ) (فتاویٰ حقاتیہ ج 4 ص 137) امکان رویت (ب) کثرت شہود.. اسلئے صاف مطلع کے دوران تین یا چار آدمیوں کی گواہی نا قابل قبول ہے۔ کذا فی ردالمختار ج 2 ص 101

The Statement of the Founders and Senior Scholars of Deoband:

Hadhrat Aqdas Sheykh Moulana Ashraf Ali Thanwi نور اللہ مرقدہ writes "If the skies are clear then the testimony of two or four people will not be sufficient, whether it is for Ramadhan or whether it is for Eid. On the other hand, if so many people came forward with testimonies, that it becomes clear that they are not lying, nor can such a large group lie, then the testimonies will be accepted and the new month will commence. (Bahishti Zewar part 3 p6/ Ilm ul Fiqh vol 3 p425 By Moulana Abdul Shakur Farooqi رحمه الله / Ta'limul Islam vol 4, p69 By Mufti Kifayatullah رحمه الله)

The ruling of Mufti Shafi Uthmani رحمه الله which was authorised by signatures of the senior Scholars and Jurists, Hadhrat Molana Zafar Ahmed Uthmani, Hadhrat Molana Muhammad Yusuf Binori and Hadhrat Mufti Rashid Ahmed Ludyanwi رحمہم اللہ, in respect of witnessing 2 Eids: 'When the horizon is clear and 2 or 4 people have witnessed to sighting the crescent, it is not correct to accept their sighting according to the Shari'ah. Not until a large group of the Muslims do not verify this sighting also, only then will it be acceptable. The sighting of the 2 or 4 people will be ruled as being incorrect or a false statement.' (Jawahirul Fiqah vol1, p399-400)

بہر کیف ہلال عیدین کیلئے شرعی ضابطہ شہادت کے بارے میں، حضرت مفتی اعظم پاکستان مفتی محمد شفیع عثمانی نور اللہ مرقدہ اور اس وقت کے فقہاء کامتفقہ فیصلہ تھا کہ "جب چاند کی رویت عام نہ ہو سکے صرف دوچار آدمی نے دیکھا ہو، تو یہ صورت حال اگر ایسی فضامیں ہو کہ مطلع بالکل صاف ہو، چاند دیکھنے میں کوئی بادل یا دھواں غبار وغیرہ مانع نہ ہو تو ایسی صورت میں صرف دو تین آدمیوں کی رویت اور شہادت شرعاً قابل اعتماد نہیں ہوگی، جب تک مسلمانوں کی بڑی جماعت اپنے دیکھنے کی شہادت نہ دے چاند کی رویت تسلیم نہ کی جائے گی۔ جو دیکھنے کی شہادت دے رہے ہیں اسکو انکامغالطہ یا جھوٹ قرار دیا جائیگا"۔ (جواہر الفقہ جلد 1 ص 399-400) (دستخط کندہ 10 شوال 1386ھجری، حضرت مفتی محمد شفیع عثمانی، علامہ ظفر احمد عثمانی، علامہ محمد یوسف بنوری، مفتی رشید احمد لدھیانوی رحمہم اللہ)

In Saudi Arabia, there is never a report of a large group that witness the sighting of the crescent moon (Muhaqqaq Ru'yat Basari - محقق رویت بصری). The reality of the condition is that Saudi Arabia claims to have sighted the crescent moon, yet the continents nearby: Africa, Asia etc do not report a sighting. This makes the Saudi statement very doubtful. It is a unanimous decision of the jurists of Islam, when the sky is clear, it is a necessary condition that the sighting of the crescent moon be witnessed by a large group (Jamme Ghafeer). (Fatawa Mazahirul Uloom Saharanpur, Mufti Maqsood & Mufti Muhammad Tahir)

It is Wajib Alal Khifayah to sight the crescent moon, it is for this reason in the UK, when the skies are clear and it is possible to sight the crescent moon (the correct nights of the month), we should not sit at home accepting the announcement of the Saudi government as gospel. (Fatawa Darul Uloom Kandariya, Mufti Abdullah Kawi)

In Saudi Arabia, there is no principle of following the Hanafi Fiqh and the system for observing the crescent moon and commencing the months is also contrary to the guidance of the Shari'ah and Sunnah. It is for this reason that it is not necessary to accept nor is it recommended for the Muslims in the UK to follow the Saudi announcement, especially for Eid ul Fitr and Eid ul Adha. (Fatawa Jamia Hussainiya Gujrat, Mufti Ismail Wari & Moulana Zaheerudeen Faiz Abadi, 7/7/2007)

Hadhrat Mufti Sayed Abdur Raheem Lajpuri رحمه الله writes: If the skies are clear the testimony of the two or four people will not be enough. A testimony of a large group is essential to the extent that the Qadhi, Aalim or Mufti is fully confident and satisfied that the Hilal has been sighted, and no doubts remain. (Fataawa Rahimiyah vol 10, p 169/129 ص 3 جلد 3 ص 169/129)

Jamme Ghafeer will be used to verify testimonies on days when the sighting is not possible:

Sheykh Mufti Taqi Uthmani writes: 'When the sky is clear then the Fuqaha state that the testimony of 1 or 2 people will not be accepted, until Jamme Ghafeer is established. This is due to the fact that, if the sky is clear, why should only 1 or 2 people sight the moon... there should have been many witnesses. In this situation the sighting of 1 or 2 people will be doubtful. The testimony of the witnesses will only be accepted through being supported with Jamme Ghafeer. In such a condition where there is no possibility to sight the moon, Jamme Ghafeer is even more necessary. The testimony of 2 people in this situation should not be accepted. There are many scholars who have this opinion and mine also. (Inamul Bari, vol 5, p489)

Mufti Khalid Saifullah Rahmani writes: 'One may benefit from Astronomical research to the extent that if on any day, there is no possibility of sighting, then on that basis a testimony should only be accepted with great care and research, and even then so many people must sight the moon that it is not possible to reject their testimonies. (Jadeed Fiqhi Masaail Vol2 P26)

شریعت مقدسہ میں چاند کی رویت کیلئے قانون یہ ہے کہ اگر (29) انتہی کی رات کو مطلع بالکل صاف ہو تو پھر جم غفیر کی رویت روزہ اور عید کیلئے ضروری ہے۔ جم غفیر کی تعداد کے بارے میں مختلف اقوال ذخیرہ فقہ میں درج ہیں بعض سے پچاس اور بعض سے پانچ سو وغیرہ مروی ہیں البتہ امام ابن عابدین شامی رحمہ اللہ نے تعداد سے قطع نظر کر کے قاضی کے مطمئن ہونے کو ترجیح دی ہے لیکن قاضی کا اطمینان بھی دو شرائط کے ساتھ مشروط ہے (أ) امکان رویت (ب) کثرت شہود۔ اسلئے صاف مطلع کے دوران تین یا چار آدمیوں کی گواہی نا قابل قبول ہے۔ مکتافی ردالمختار ج2 ص101 (فتاویٰ حقانیہ ج4 ص137)

In the books of Fiqh the number of witnesses required for Jamme Ghafeer to be established range from 50 to 500. Allamah Shami رحمہ اللہ states in respect of the number of witnesses: 'If by receiving the testimony of the witnesses the Qazi is satisfied, together with 2 conditions: (1) it is possible to sight the moon on that day (2) a large group of the Muslims witness the sighting of the crescent moon.' For this reason when the sky is clear, the testimony of 3 or 4 people cannot be accepted. (Fatawa Haqqania, vol 4, p137)

From the 19th to 21st of Rabi Ul Awwal 1433AH (11th to 13th February 2012) the Muslim World League (Rabita Al-Alam Islami in Makkah) conducted a conference wherein it was agreed that witnessing of a crescent sighting when the moon is known to have set below the horizon before the sun, will not be accepted. It is fully acknowledged by all concerned that it is normally only the astronomers that indicate whether the moon has set before the sun has set. However, it was not mentioned or discussed whether the testimony will be accepted if the moon is present on the horizon for even a minute after the sun has set (وجود قمر) (which should have been one of the main issues of the Arabian sighting).

The scholars outside of the Arabian Peninsula should therefore place in front of them the Shari'ah principles of sighting the crescent moon and work actively to establish this in accordance with the Shari'ah, if this is done regionally, it is a step towards achieving unity in their respective countries, *Insha-Allah*.

The requirement of Jamme Ghafeer is a unanimous verdict amongst the Ahanaf:

The issue of Jamme Ghafeer is found in books of Fiqh from the time of Imam Muhammad Shaybani رحمہ اللہ – Zahirur Riwayat to Taleemul Islam of Mufti Kifayatullah, Mufti Azam Hind. The Scholars of the Ahanaf of every generation have unanimously accepted the requirement of Jamme Ghafeer and it was not opposed in any way. In the current time of Fitna and deception, there is an even greater need to unite on certain Islamic principles.

Ijma is of 3 stages:

1. The strongest Ijma is that which the Companions of the Prophet ﷺ adopted by action and mention. There is no doubt in its authenticity for the Ummah (Hujate Qata'iyah).
2. The second Ijma is proven from the actions of some of the Companions of the Prophet ﷺ performing an action or making a statement. This action or statement then went on to become well known in the Ummah. If there was no objection to this (action or statement) from another Companion of the Prophet ﷺ after seeing it or being made aware of it, this classifies as Ijma Saqooti. (Taheelul Wusool, p173)
3. The third Ijma is that which is proven from the actions and statements from the Fuqaha Scholars of Islam after the time of the Sahaba رضی اللہ عنہم. This is a proof in the view of the majority of Scholars, but, the first 2 Ijma hold a much greater authenticity.

However, whenever a ruling is obtained from Ijma or it is mentioned by the Scholars of each generation through the ages with a mutual opinion, it is necessary for those Scholars and general masses who follow a school of thought to accept and adopt this opinion. It is not valid for them to seek an alternative ruling to this Ijma.

If in the current age, a respected Scholar leaves off the Ijma in a few matters or rulings, it is correct to respect and honour them, however, their action cannot be utilised as proof against an established Ijma from the past generations.

For example; there are proofs of such instances from the previous generations: Ibn Taymiyya رحمه الله raised his difference of opinion in the matter of issuing 3 divorces, his students, the like of Ibn Rajab رحمه الله and contemporary scholars from his generation did not use this alternative opinion against the established opinion. It was taken as a difference of opinion that Ibn Taymiyyah رحمه الله had in this matter and left aside.

Shaykhul Islam Hussain Ahmed Madani رحمه الله preferred the opinion of performing Tahajjud with Jam'at (congregation) and acted upon this. The contemporary Ulama of Deoband, after having great respect and love for Hussain Ahmed Madani رحمه الله, still prefer to view the performance of Tahajjud in congregation as disliked. There are many examples like this to be found from the history of Islam.

The respect of scholars of Islam in the UK, or any other country is taken into perspective. If there is an opinion of a respected scholar of Islam in respect of 1 or 2 rulings which differs to the Ijma of the Madhab, it should be taken in the same manner as mentioned above, this is their own personal opinion...The ijma of the scholars of the past cannot be left out due to this one opinion. The respect and honour of such scholarly personalities should be maintained. However, the ruling of Shari'ah is always to be the greatest priority.

For example: by issuing 3 talaqs, they are correct and binding.

This is the Ijma of the Ummah from the time of the Companions ﷺ to the present day. Allamah Zurqani رحمه الله has mentioned this is Shara Muwatta, Ibn Abdul Barr رحمه الله has mentioned this, Qazi Abul Waleed Baji رحمه الله relates in Muntaqi, Imam Abu Bakr Razi Jassas رحمه الله relates in Ahkamul Quran, Imam Tahawi رحمه الله relates in Shara Ma'aniyul Athaar and Hafiz Ibn Hajar Asqalani رحمه الله relates the Ijma of the Salaf on this matter in Fathul Bari.

Even after this matter being so prolifically mentioned and agreed upon in the Ummah, Ibn Taymiyyah رحمه الله related his own opinion against this consensus in his generation. His students did not adopt his opinion; Ibn Rajab Hanbali رحمه الله who was a very close student of Ibn Taymiyyah and Ibn Qayim from his early childhood; when this opinion was raised, with all due respect, Ibn Rajab رحمه الله rejected this opinion of his teacher.

There are many similar incidents that are found in the histories of the great scholars of the past. When their opinion went against the consensus, their students respected the opinion of their teacher but chose to adopt the established verdict and consensus of the Ummah. This matter should be borne in mind by the students of knowledge and graduates from Darul Uloom in the UK. There is no book of Fiqh, be it Arabic, Urdu or Farsi, wherein the issue of Jamme Ghafeer is not present...it is taught as part of the curriculum. If in a Darul Uloom a principle or teacher does not give importance to this issue, it does not mean that due to the respect of their teacher, the students also ignore the rulings of the Deen. This would not be correct for a scholar or learned person to do. The knowledge of Deen and its propagation is a trust granted to this Ummah from the heavens, more so to the learned persons. The respect of a personality is from good character. The trust of the Heavens cannot be disregarded in place of that which is lesser in status.

In conclusion, it can be understood from the time of the Salaf to the present day, the same conditions have been upheld for the sighting of the crescent moon. However, the Saudi announcements disregard all of these requirements and adopt a way other than the way of the Shari'ah and Sunnah. 'It is not acceptable for a Mufti, Qadhi or Scholar to ignore the principles of the Shari'ah, in the guise of a hallucinated unity, to give rulings against their Fiqhi Maslak'. (Sharah Uqood Rasmul Mufti)

The laws and restrictions of obeying the order of a Judge (Qadhi) in an Islamic court:

It is proven from the Saheeh Ahadith that the Prophet ﷺ sent Companions and representatives to different areas of the Islamic kingdom, to act as a judge and governor. For example: Muadh bin Jabal رضي الله عنه was sent to Yemen. The responsibility of these governors was to give rulings within their own stipulated districts. They only held the authority to give rulings within their own governorship. This was also the case in the time of the Khulafa Rashideen, independent governors were sent to each district of the Islamic Kingdom. They had a responsibility to enforce the rulings of the Shari'ah for their subjects, in Syria, Egypt, Yemen, Iraq etc... 'The Shari'ah has placed restrictions upon a judge appointed by the Ameer of an area or country. These restrictions apply both to regions (vicinity of a town or country) and in specific fields (Zakat, Talaq, Iddat etc). The Judge can only decide matters upon topics that he has been appointed to the position for. Further, his ruling will only be enforceable and binding in the area that he is appointed over. A Judge will not have the jurisdiction to enforce a ruling in an area that is not within their appointed dominion, nor will the ruling

be established outside of the appointed region'. (Fathul Qadir, vol 7, p254 / Al Bahrur Raiq, vol 6, p259 / Fatawa Hindiya, vol 3, p315 / Adhahul Nawadir, vol 2, p124)

If there is no other way to encourage the masses to follow the Saudi moon sighting, the laymen are told that the order of the Chief Judge in Saudi Arabia has to be followed and it is Wajib to do so. This is incorrect, in accordance to the Islamic teachings and rulings. A layman should not be blackmailed emotionally in this manner by those who hold more knowledge and a better understanding of the Deen.

بعث الإسلامى ذو الحجة ١٣٩٩ هجرى

سماحة الشيخ عبد العزيز بن باز – الرئيس (والإفتاء والدعوة والإرشاد - الرياض)
فأما قول من قال أنه ينبغي أن يكون المعتبر رؤية هلال مكة خاصة . فلا أصل له ولا دليل عليه

Z-Hijjah 1399HA (1979) Sheykh Bin Baaz رحمه الله: The grand scholar Mufti of Saudi Arabia (After doing extensive research on this moon issue, he concludes with this statement). 'As for those who say that it is necessary to follow the sighting of Makkah (Saudi Arabia) then let it be known that there is no proof or basis for this in the Holy Qur'an and Sunnah'. (Al Ba'thul Islami p 63)

The same statement of Sheykh Bin Baaz رحمه الله was repeated in 2011 by the Imam of Masjid Haram Makkah, Shaykh Shuraim in a Jumuah Khutbah.

When an issue is resolved through consensus and all the Shari'ah proofs are present, that which is contrary to this should not be adopted. If this is done, then the result will be what we are seeing today.

May Allah ﷻ grant us the ability to act upon the Truth (Haq) and protect us from the Evil of ourselves and others. آمين Ameen!

والله وحده هو المسؤول والمستعان وهو الهادي إلى سبيل الخير والسلام .
مفتى محمد يوسف دنكا (عفا الله عنه)

Mufti Muhammad Yusuf Danka
Croydon Masjid & Islamic Centre
(30/Rabi'al-Thani /1433 AH) 23/03/2012)