



5th National Conference

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Venue: Madina Center, Stockton, CA

Host: Islamic Shariah Council of California



Ittihad al-Matali' and Zahir ar-Riwayah

Compiled by the Central Hilal Committee of North America
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How do we determine Zahirur Riwaya?

What are the books that contain Zahirur Riwayah?

If we are not being able to locate It in the books of Imam Muhammad (which are the Zahirur Riwayah), are there secondary books which contain the narrations of Zahirur Riwayah?

1. مختصر الحاكم الشهيد
2. مبسوط السرخسي
3. المحيط البرهاني
4. المحيط الرضوي
5. خزانة الاكمل

Is there any narration where a person was sent outside of the city to go to another city to find out the condition of their siting in order to start fasting or to break?

لا عبرة لاختلاف المطالع

- A very famous text found in many books and as well as in the fraternity of Ulama and Scholars. Very famously known as the Zahirur Riwaya when it comes to moon sighting.
- Is this really the Zahirur Riwaya?
- Who is the first person who mentioned that this is Zahirur Riwayah?
- Was this a misunderstanding?
- If yes, Why?
- Is this text found in the books of Mutoon of the Mazhab?

مختصر الطحاوى

مختصر الكرخى

مختصر القدورى

تحفة الفقهاء

بداية المبتدى

المقدمة الغزنوة

تحفة الملوك

الوقاية

النقاية

عن محمد فى النوادر :اذا صام اهل مصر شهر رمضان على غير رؤية ثمانية وعشرين يوما ثم رأوا هلال شوال قالوا :ان كانوا عدوا شعبان لرؤية ثلاثين يوما وغم عليهم هلال رمضان قضاوا يوما واحدا وان صاموا تسعة وعشرين يوما ثم راوا هلال شوال فلا قضاء عليهم لانهم قد اكملوا الشهر ولو صام اهل بلدة ثلاثين يوما للرؤية واهل بلدة اخرى تسعة وعشرين يوما فعليهم قضاء يوم ولا عبرة لاختلاف المطالع فى ظاهر الرواية وكذا ذكر شمس الائمة الحلوانى رحمه الله وقال بعضهم يعتبر اختلاف المطالع [فتاوى قاضى خان على هامش الهندية [1/197]

- Few points to ponder over:
- As Qadhi Khan says, it is from Nawadir thus it's not from Zahirur Riwayah.
- What is the Murad and purpose of Qadhi Khan because if this is taken to be in its apparent meaning, definitely it is an error. We certainly did not find this text in the ZahirurRiwayah neither in the books which record the masaail of ZahirurRiwayah and neither in the mutoon.
- Mufti Abdul Malik explains that if you look at the context, you will realize that Qadhi Khan does not intend any technicality here in this ibarah when he says “in the ZahirurRiwayah”.
- Those Mashaikh who fell into the mistake of quoting this to be the ZahirurRiwayah (taking it in its literal sense), like Ibnul Humam and Ibn Abideen and Ibn Nujaim, are also not blame worthy as it is very likely that they did not have access to the books of Zahirur Riwayah due to lack of resources. Continuous mistakes in misquotations (Tawarud alal Khata) is something all ifta students learn from Sharh Uqood Rasmil Mufti.

Ulama who explained the text of NAWADIR

- Question: How did the Scholars before Qadhi Khan explain this narration of Nawadir?
- Answer: All of the Ulama before Qadhi Khan had explained this Mas'ala in the following manner:

وهذا اذا كان بين البلدين تقارب بحيث لا تختلف المطالع فان كان تختلف لا يلزم احد البلدين حكم الاخر

الامام القدورى (428) فى شرح مختصر الكرخى

الامام حسام الدين الصدر الشهيد (537) فى واقعات الحسامى

الامام نجم الدين يوسف ابن احمد الخاصى تلميذ الصدر الشهيد

الامام عبد الرشيد الولوالجى (540)

الامام رضى الدين السرخسى فى المحيط الرضى (544) مخطوط

الامام جمال الدين اليزدى (من اجل شيوخ ركن الدين الكرماني)

ابو الفتاح الاسمندی (552)

ابو الحسن المرغينانى صاحب الهداية (593) فى التجنيس والمزيد ومختارات النوازل

ركن الدين ابو الفضل عبد الرحمن بن محمد الكرماني (543) فى الايضاح و تجريد الايضاح

ملك العلماء الكاسانى

- List of fuqaha who recorded the above ruling which Qadhi Khan quoted from Nawadir and they have clearly mentioned that there was a difference of opinion in Hanafi School when the horizon of the moon was similar. However, when it differs i.e. countries that are far away from one another, then this ruling will not apply. Thus, in conclusion, the ikhtilaaf is actually about اتحاد المطالع .
اختلاف المطالع .

Ulama who mentioned the ruling of اعتبار اختلاف المطال

الامام ابو عبد الله الفقيه الجرجاني شيخ القدوري وتلميذ الحصاص (398)

ابو العباس الناطفي صاحب الوقعات (446)

ابو ابراهيم اسماعيل ابن احمد الصفار (461)

شمس الائمة محمود الاوزجندی جد قاضي خان

مجد الشريعة سليمان بن حسن الكرمانی

ركن الدين محمد بن عبد الرشيد الكرمانی (565)

الامام سراج الدين على بن محمد الاوشی (569)

الامام نجم الدين النسف

- These are Ulama who were before Qadhi Khan or his contemporaries who mentioned the ruling of considering the difference of the moon horizon as an independent ruling. Their purpose was not to further explain the Mas'ala of Nawadir. **And it is of great importance to further note** that they did **NOT** even consider the other opinion as an opinion in the Mazhab. We clearly understand from this that لا عبرة لاختلاف المطالع is definitely not ZahirurRiwayah.

Ulama who came after Qadhi Khan who mentioned the Ruling of اختلاف المطالع

الامام برهان الدين محمود البخارى صاحب المحيط البرهاني (616)

ظهير الدين ابو بكر محمد ابخارى (619)

زين الدين محمد بن ابى بكر بن عبد القادر الرازى (666) صاحب مختار الصحاح

عبد الله بن محمود الموصلى (689)

ابو العباس السروجى (710)

فخر الدين الزيلعى (743)

الامير كاتب الاتقانى الفارابى

ابراهيم ابن عبد الرحمن القاهرى صاحب الفيض (923) وعبارته فيه "والصحيح اعتبار اختلاف المطالع"

عبد الغنى اسماعيل النابلسى (1143)

الشاه ولى الله الدهلوى (1176) يراجع المصنفى شرح الموطا بالفارسية

الشاه محمد انور الكشميرى (1352) يراجع العرف الشذى ومعارف السنن

المفتى محمد شفيع ينظر ما كتبه فى امداد المفتين

الشيخ محمد يوسف البنورى فى معارف السنن له بحث نفيس فى المسألة

- If we ponder over one reality: Quduri, Mabsoot and Hidayah, none of them mentioned the Ruling of fasting one more day for those people who seen the moon on the 29th day in the case where another town fasted 30 days upon which they seen their moon. Similarly, they didn't mention the Ruling of لا عبرة لاختلاف المطالع. Further Imam Quduri, Sahib e Hidayah and Kasaani, in spite being from the Scholars of Tarjeeh, have clearly mentioned that the ruling mentioned in Nawaadir is related to countries which are close to one another. Once this reality comes in front, it has become compulsory for the Mufti to look deeply into the text of Khaniya and Khulasa and analyze it from scratch.

- Wallahu A'lam