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PART 2 Continuation from [Part 1](#)

SIGHTING THE HILAAL WITH OPTICAL INSTRUMENTS

In Ramadhaan 1443, Mufti Ya'qub in U.S.A. had published his view on the issue of sighting the hilaal with binoculars and telescopes. He had correctly concluded that such optical instruments may not be used for sighting and confirming the hilaal for the Islamic months. The publication of his research paper has created considerable controversy among the Ulama of U.S.A. whose view is that it is permissible to utilize optical instruments for sighting the hilaal. His research paper was sent to us for comment. We have published [our comments in Part 1](#) of this dissertation, and this current article (Part 2) is a continuation thereof.

While we are in agreement with the view expressed by Mufti Ya'qub, we are not in agreement with him regarding the dalaa-il which he had proffered in substantiation of his view. We have already elaborated on this issue [in Part 1](#) of our comments.

The Muftis of Markajul Fikril Islami Bangladesh (MFIB), the Central Hilaal Committee (CHC) of U.S.A., and one Abu Sulaiman of Makkah Mukarramah have refuted the view of Mufti Ya'qub. They published their rebuttals. This, Part 2, is our response to their Rebuttals.

OUR RESPONSE TO THE VIEW OF THE HONOURABLE MUFTIS OF MARKAJUL FIKRIL ISLAMI BANGLADESH (MFIB)

We are not in agreement with the view of permissibility expressed by the venerable Muftis of MFIB. The view is based on unsubstantiated suppositions which are devoid of Shar'i substance. MFIB basis its view of the validity of sighting the hilaal with binoculars and telescopes on suppositions regarding which their Mufti says:

The erroneous claim of Ittiffaaq (Consensus) regarding the loudspeaker and the radio

“The following muttafaqah (unanimous) masaa-il is the example for this mas'alah (of optical instruments).

(1) The loudspeaker: Despite the Qiraa't of the Imaam over the loudspeaker being the aqs (reflection) of the voice, the Muftis have set aside the technological subtleties and have decreed that it is in fact the voice of the speaker based on urf (the customary understanding) of the masses.

Our comment: It is not an issue of technological subtleties. It is a real, factual issue, the truth of which cannot be denied or dismissed on the understanding of the *awaam* (masses) or of muftis who lack knowledge in this regard. The urf of the masses is being misapplied. There are many haraam acts and practices today which in terms of the urf of the *awaam* are halaal, e.g. *riba*, shaving the beard, *kuffaar* dress, intermingling of sexes, music pictures, etc., etc. Today the masses are the progeny of Iblees. The claim of *ittiffaaq* is baseless.

(2) Although Sajdah Tilaawat is not Waajib when heard on a tape recording, the Sajdah will be Waajib if recited over the radio in a live programme despite the fact that it is not the exact voice of the Qaari. After a variety of mechanical interventions it is the reflection of the voice.

Our comment: Sajdah is NOT Waajib if the Sajdah Aayat is heard over the radio regardless of the programme/broadcast being so-called 'live'. It is a baseless figment of the imagination to understand that the voice being broadcast over the radio is the voice of the qaari. There is no difference between broadcastings which are 'live and dead'. The only difference is that the sound is heard almost simultaneous with its emergence from the mouth of the speaker. This is exactly the same in a live television programme. It is mistakenly understood by people that the image on the screen is that of the person and not his picture. It is the reconstruction of numerous pictures of the speaker or the appearer. The Qiraa't is not *Saheeh* in terms of the Shariah. The claim of *ittiffaaq* here too is baseless.

(3) It will be Masnoon to respond to the Athaan over the radio if it is a live programme and not a recording.”

Our comment: It is not Masnoon to respond to a parrot reciting the Athaan, nor to the Athaan of an echo. The Athaan over the radio is not the Athaan of a human being. It is the sound of a reconstructed voice. Notwithstanding the swiftness of the reconstruction, it is NOT the Athaan of a living human being. The claim of *Ittiffaaq* is incorrect.

Spurious arguments – No Mansoos basis

The argument of permissibility based on the aforementioned three *nazaa-ir* is spurious. Firstly, these examples are not *Mansoos* masaa-il. Thus, they do not constitute a valid *Maqees Alayh* for structuring a Shar'i *hukm*. Secondly, the claim of consensus on these examples is incorrect. Thirdly, assuming that there is consensus of the recent Muftis on these issues, then too, a Mufti has the right to differ with such consensus which is based on pure *raai* (*opinion*), not on *Nass-e-Shar'i*.

The three aforementioned *nazaa-ir*, not having any *Mansoos* basis, neither in the Qur'aan, nor on the Ahaadith nor in the statements of the Fuqaha, may not be presented as a basis for validating sighting of the hilaal with optical instruments. In fact, it is absolutely corrupt and baseless. An instrument or device invented by the kuffaar can never be a Shar'i basis for a *Hukum* on which there exists profound clarity from Rasulullah (Sallallahu alayhi wasallam) who had commanded the commencement of the Saum after physical *Rooyat* (*Sighting*).

Furthermore, the claim of *ittiffaaq* (*consensus*) stated by MFIB regarding the use of the loudspeaker in Salaat is incorrect. There never existed such consensus of our Akaabir as is claimed. On the contrary, there is consensus of our Akaabir that it is **not permissible** to use loudspeakers in Salaat. The difference of opinion among our Akaabir pertains to the issue of *fasaad*. While some say that the loudspeaker is *mufsid-e-salaat* (that it invalidates salaah), others say that despite the impermissibility of using the device in Salaat, it does not invalidate Salaat.

Furthermore, the fatwa of impermissibility of using the loudspeaker according to our Akaabir, was issued on the basis of the understanding that the sound emitted by the loudspeaker is the **actual voice** of the speaker (*ain awaaz*) while MFIB says that it is a reflection (*aks*) of the voice, and that it is not the actual voice of the recite. Thus, notwithstanding the mistaken idea of the Akaabir, namely that the sound being emitted is the actual voice of the speaker, they (the Akaabir) issued the fatwa of impermissibility.

Assuming that MFIB is correct regarding the voice not being the original voice of the Imaam, then there will be consensus on *fasaad-e-salaat*. And, the reality is that the transmitted sound is not the original voice of the speaker. It is the *aks* as the MFIB correctly avers. Therefore, on this basis all our earlier Akaabir have *ittiffaaq* on the issue of *fasaad-e-salaat*.

We do not accept that Sajdah is Waajib when an Aayat of Tilaawat is heard over the radio. This is indeed a silly basis for claiming that optical instruments are permissible for a valid hilaal sighting. Sajdah is not Waajib in this case. Common sense is adequate for understanding that the voice reaching one over the radio from thousands of kilometres can never be the original voice. The original voice to reach one's ears has a very limited scope of distance. The radio voice is never the original voice. It is a reconstructed voice just as pictures transmitted by television are reconstructed images, and not the original images.

The opinion of MIFB that Sajdah is Waajib in this scenario, is their personal *raai* (opinion) bereft of any Shar'i substance. Only a person not applying his mind will claim that the enlarged image seen by means of a magnifying glass is the original object. Regardless of likeness, it is not the original object. Similarly, the magnified sound is not the original voice. It is a reconstruction of the original voice.

Furooe masaa-il

Similarly, it is spurious and baseless to aver that it is Masnoon to respond to the Athaan recited over the radio. On the assumption that it is Masnoon to respond to the radio's Athaan and Sajdah is Waajib, then too, this does not constitute a valid Shar'i basis and daleel for claiming that sighting the moon with optical instruments is valid. All these new *furooe* massa-il are in need of Shar'i *dalaa-il*. The one does not constitute a *Maqees Alayh* for the other. All are reliant on specific *daleel of the Shariah*.

This type of baseless argument is proffered by those molvis who claim that the television picture and digital picture are not prohibited *tasweer*. They argue in the same way as honourable Muftis of MFIB. On the basis of such flawed and baseless arguments have they rendered halaal pictures of animate objects.

Issues such as the loudspeaker, radio, telescopes, etc. are of the *Furoo'* category. The *dalai* for such issues are in need of Shar'i *dalai-il*. A new development cannot be presented as a Shar'i *daleel*. The loudspeaker and the radio require *daleel* – solid Shar'i proof – for *jawaaz or hurmat*. One may not say that optical instruments for sighting the moon are permissible because the loudspeaker is permissible. This is not a *daleel*. The loudspeaker itself is in need of a *daleel* for permissibility. It does not have the ability to be the *maqees alayh*.

The three examples cited by MFIB are devoid of substance. Permissibility of using optical instruments for sighting and confirming the hilaal cannot be deduced from the dubious permissibility of using loudspeakers in Salaat.

The Reflection of an object

MFIB states: “Looking (at the reflection) in water and in the mirror is also said to be *rooyat*.”

While looking in a mirror or in water or at anything whatsoever is *rooyat*, it is not the issue. The issue is *rooyat* of the *hilaal* as commanded in the Hadith. In the mirror and water, there is no *rooyat* of the *hilaal*. It is the *rooyat* of the *reflection*. There is a vast difference in the two kinds of *rooyat*. If four persons observe in a mirror zina being committed, their *shahaadat* will not be accepted since their *rooyat* in this case is not valid. If two persons see in a mirror theft being committed, their *shahaadat* is unacceptable for conviction and sentencing.

In the future *rooyat* of the *hilaal* may be made on television screens whilst sitting in the comfort of homes. The image of the *hilaal* can be projected on television screens simultaneous with the appearance of the *hilaal*. The *rooyat on the screen* will not be valid for confirming the *hilaal*. It is necessary that there should be *rooyat* of the ***hilaal*** itself, not of its reflection or its image in another substratum such as a mirror or water.

Basing validity of sighting on the reflection of the *hilaal* can and will develop into future misguidance and total abandonment of the command of *Rooyat-e-Hilaal*. If the reflection seen in a telescope is accepted as valid, then in the same way will the reflection of the *hilaal* projected on the television screen be valid.

The Mutlaq Hukum

MFIB states:

“*‘Soomoo li rooyatihi’ is a Mutlaq hukum and it is not valid to make Qiyaas of Mutlaq on something which is Muqayyad.*”

The view of invalidity of sighting with optical instruments is not making *muqayyad* of that which is *mutlaq*. It is in fact emphasizing the *Mutlaq hukum*. The honourable Muftis convey the ideal that the *hukum* of *rooyat-e-hilaal* is *Mujmal* (ambiguous and unclear), hence they have in fact made *muqayyad* its understanding with further developments from time to time. But the reality is that there is absolutely no ambiguity in the command of *Rooyat-e-Hilaal*. Sighting the reflection of the *hilaal* in fact negates *rooyat* of the *hilaal* for the simple reason that the Hadith orders *rooyat* of the *hilaal*, not *rooyat* of its reflection (*aks*).

The attitude of the Fuqaha

The Fuqaha had introduced the dimension of *reflection* in water and mirror with regard to other masaa-il, but they did not discuss it in relation to the *hilaal* because the meaning of *rooyat-e-hilaal* was quite obvious and required no elaboration. Every person, regardless of who he is or wherever he may be, understands the meaning of sighting the moon. The issue of sighting its reflection was the furthest from the minds of people and from even the Fuqaha.

The Fuqaha were extremely farsighted and were a special class of Ulama created by Allah Ta’ala to prepare the Shariah for all people of all times until the Day of

Qiyaamah. If the reflection of the moon had any validity, it would not have escaped the attention of the Fuqaha. They went to great lengths in discussing on assumed (*farzi*) issues which could act as a basis for posterity regarding new expedencies. A *reflection* is not a phenomenon which has developed only now. It always existed. However, since it had no validity regarding *rooyat-e-hilaal*, the Fuqaha did not touch it while they did elaborate on the issue of *reflection* pertaining to other masaa-il.

Khiyaar-e-Rooyat

MFIB further states:

“The objective of Khiyaar-e-Rooyat in trade transactions is for eliminating such ignorance which leads to dispute. The actual objective (asal maqsad) is not seeing the article (of sale). It is not rooyat-e-ain.”

In the same way we say that the *asal maqsad* pertaining to the moon is *rooyat-e-ain*. It is quite obvious that when Rasulullah (Sallallahu alayhi wasallam) ordered *Rooyat-e-Hilaal*, he meant *Ain-e-Hilaal*, not *aqs-e-hilaal*.

That is why there is the need for even *Shahaadat* to confirm the *rooyat*. If someone testifies that that he has seen the reflection of the moon in water, it will not be said that it is a valid *shahaadat* for having seen the actual hilaal. A man who sees the reflection in water/mirror may not take a *qasam* (oath) that he has seen the actual hilaal. It will be a false oath.

Thuboot (Verification)

MFIB says:

“Regarding rooyat-e-hilaal, in reality the knowledge of verification is the objective (thuboot ka ilm matloob he), and for this (objective) mere rooyat (sighting) is adequate regardless of whether the rooyat was of the actual object (ain) or the reflection of that time (of the appearance of the object). In both cases nafs-e-rooyat is present.”

This argument is putrid and corrupt. The command of the Shariah is to make *rooyat* of a specific object, namely the hilaal, not of something else which is not the objective of the *rooyat* mentioned in the Hadith. The modernist astronomers also argue the *thuboot* of the hilaal thereby denying the imperative importance of *rooyat*. The modernists claim that regardless of the inability to sight the moon, after its birth it is present on the horizon, hence the month should be commenced. If the *principle is thuboot*, it is what the deviates claim in negation of the fundamental importance of *rooyat*.

Thuboot of the hilaal on the horizon after its birth is known to everyone. But such *thuboot* is not valid without *rooyat*. Just as *thuboot* is established by *rooyat* so too

is it established by astronomical calculations, but the latter is *baatil* as far as the *rooyat-e-hilaal* command is concerned.

Our explanation has no relation to the *Bay' mas'lah* which MFIB is refuting. Our argument is simple and devoid of any intricacy. It is just the issue of *rooyat-e-hilaal* which is not reliant on the several other issues which had been introduced to argue the case in favour of seeing the actual hilaal.

All the arguments presented by MFIB in its refutation of Mufti Yaqub's article, are of no concern to us. The only issue as far as we are concerned is *Rooyat-e-Hilaal* – the sighting of the actual moon, not of its reflection.

No Valid Daleel

MFIB has not presented a single valid daleel to bolster its view. It proffered the spurious example of the loudspeaker and the radio. It is indeed ludicrous to posit these devices as *daleel*. These devices for their permissibility are themselves in need of *daleel*. A Shar'i *hukm* cannot be structured on such putrid baseless premises.

The arguments which MFIB has proffered in refutation of Mufti Yaqub's *dalaa-il* related to several other *masaa-il* which he has presented to vindicate his stance, has been generally ignored by us since we too believe that despite Mufti Yaqub's understanding of impermissibility of using optical instruments being valid, his *dalaa-il* are not valid relative to the Fiqhi *masaa-il*. There was no need to advance the other *masaa-il*. The issue regarding *Rooyat-e-Hilaal* is simple and crisp. By means of optical instruments *rooyat* of the *aks* takes place, not *rooyat* of *ain-e-hilaal*. This is the be all of this simple issue which the honourable Muftis, including Mufti Yaqub, have obfuscated with a variety of uncalled for arguments.

Rasulullah (Sallallahu alayhi wasallam) ordered us to recite the following Dua when seeing the moon (not the new moon), but the moon every night:

أَعُوذُ بِاللَّهِ مِنْ شَرِّ هَذَا الْغَاسِقِ

“O Allah! I seek Your protection from
the evil of this *Ghaasiq* (this object which
conceals itself in darkness).”

Perhaps the honourable Muftis have forgotten about this Dua, hence are plagued by this *Ghaasiq*. Thus, they dwell in a labyrinth of mental confusion which precludes understanding of simple issues which did not pose any problem to the Sahaabah and the Fuqaha during *Khairul Quroon*.

OUR RESPONSE TO THE RESEARCH OF CENTRAL HILAL COMMITTEE (CHC)

The CHC has dealt primarily with the arguments tendered by Mufti Ya'qub. We too are not in agreement with Mufti Ya'qub's arguments despite our agreement with his view. There is no need for us to traverse the Fiqhi arguments of the two parties pertaining to *rooyat* relative to *bay'* and *musaaharat*.

The primary issue of contention is *rooyat* of the *ain* and *rooyat* of the *aks*.

Binoculars and Telescopes

In this regard, CHC says:

"....the question here is what is the telescope doing to an object at a distance? Is it distorting it or producing something that is not there? Or is it bringing the said object in the distance closer to the eye which will observe the object... What would we say if a person went to an elevated location, bringing himself up to a far-off object instead of the other way around? Or if a person wore eyeglasses and sighted from a high location, when the Fuqaha clearly accept it?"

It does not bring the object closer to the observer. It brings the reflected image of the object into close proximity of the eye.

To bolster this statement, CHC cites an Arabic text from *Raddul Muhtaar* without presenting its translation for some unknown reason. CHC has presented the English translations for all the other Arabic and Urdu texts it has mentioned, but not for this one from *Raddul Muhtaar*.

We have inferred that the translation was not proffered because the Arabic text does not support the contention mentioned above. In this text there is no reference to sighting from a height with eyeglasses.

The validity of sighting from a height is simply because it is a true *Rooyat*. Whether the *rooyat* is from a height or at sea level, there is no difference. The fundamental requisite of *Rooyat-e-Hilaal* is fulfilled. Sighting from both levels is sighting the actual (*asal*) hilaal. It is not the sighting of its reflection (*aks*). *Raddul Muhtaar* states with clarity that the horizon is clearer if viewed from a height, hence at times the hilaal can be seen from a height whilst not from lower ground. The issue stated in the aforementioned text of *Raddul Muhtaar* has absolutely no relationship with eyeglasses nor with seeing a reflection of the hilaal.

The text from *Al-Fatawal Hindiyyah* merely states:

"At-Tahaawi said: 'The shahaadat of one person shall be accepted when he comes from outside the city. Similarly, when he is on an elevated place.'"

This is no reference whatsoever to eyeglasses, telescopes, etc. in what Tahaawi said. The one person has to incumbently give *shahaadat* (testify) on the basis of his *rooyat* of the actual hilaal.

The statements of Odeh of ICOP and others mentioned by CHC confirm that all of them have understood that the image viewed in the telescope is the *asal* (actual) hilaal. None of them have understood that what they are seeing is in fact a reflection of the hilaal.

Shaikh al-Muti of Egypt as quoted by CHC states:

“In our view, the testimony of one who sighted the hilal with binoculars will be accepted when the hilal is possible to be sighted without enhanced vision....”

The Shaikh has stipulated the condition *“when the hilal is possible to be sighted”*. Thus, it flows from this that there can be times when the hilaal can be sighted by means of a telescope whilst it being impossible to sight it with the naked eye, e.g. a couple of hours after the birth of the moon. This supposition completely prohibits using telescopes, etc. for sighting the hilaal.

We have not understood what is meant by *“without enhanced vision”*. If CHC explains, we shall, Insha-Allah, respond.

In their conclusion, CHC states:

“With the previously mentioned conditions (visibility curves, possible altitudinal positioning and reasonable atmospheric conditions) for a person to sight the moon, there is reason to accept the sighting through binoculars and telescopes, precisely because the object observed is only one, and there are no questions about its presence. This is only to prove that it is there and observable in the sky, and hence it was seen...”

Regardless of the moon being seen or not, everyone is aware of its presence in the sky. The presence of the hilaal is of no significance for determining the Islamic months. It is the *rooyat* of the *asal*, not of the *aks*, which is the determinant. The deviate modernist astronomers base their view on the presence of the moon. The birth of the moon brings it onto the horizon despite the fact that the naked eyes cannot see it immediately after its birth.

CHC has listed a number of conditions for the validity of sightings by telescopes. It follows that sighting with a telescope is possible minus the conditions. Now if the hilaal is visible by means of a telescope, then there is no intelligent reason to reject the validity of the sighting in the absence of the listed conditions. The moon is present and it has been sighted validly with a telescope according to the votaries of

optical instruments. Thus, the stipulation of conditions highlights the ambiguity of the sighting by means of a telescope.

The condition of “*if the atmospheric conditions are suitable for sighting*” then the sighting with a telescope will be valid. This is incongruous for the simple reason that regardless of the unsuitable atmospheric conditions, if the hilaal is seen through a telescope then it should be valid according to the view of permissibility. Despite the atmospheric conditions not being suitable for sighting, the *shahaadat* of one man coming from the outskirts of the city will be valid, so why should the sighting of the telescope not be valid in the same scenario according to those who claim that sighting with telescopes is permissible?

The Logical position

The only logical argument which has validity, proffered by the votaries of optical instruments is the fact that the telescope does not create anything new. It only indicates what exists in reality. While this is accepted, it has to be set aside in view of the fact that according to *Nass*, *rooyat* of the actual hilaal is Waajib, not of its reflection. There is no gainsaying in the fact that the image in the telescope is a reflection of the moon, it is not the actual moon.

CONCLUSION

Despite our view, it must be stated with clarity that we are not dogmatic on our view. Since our view is based on our understanding based on the principles of the Shariah – and not on Wahi – error cannot be excluded.

OUR RESPONSE TO THE RESPONSE OF ABU SULAIMAN

The issue of sighting the hilaal from mountains and elevated locations is really a non-issue in relation to the topic of this discussion, namely sighting with optical instruments. Whether the hilaal is sighted at sea level or from Mount Everest, the sighting will be valid if effected with the naked eye.

Also the averment that people were not sent out to sight the moon during the era of the Sahaabah is incorrect. Hadhrat Ibn Umar (Radhiyallahu anhu) would in fact send several people to the outskirts to search for the hilaal. This is merely by the way. It has no bearing on the matter of contention. Thus the discussion pertaining to sighting from mountains and outskirts is superfluous and futile. It has no relevance to the issue of sighting with optical instruments. In having introduced this discussion, Abu Sulaiman has not dented the view of Mufti Yaqub.

Shaikh al-Mut'i's view

In the extract from his kitaab cited by Abu Sulaiman, Shaikh al-Mut'i states:

*“The seen object seen by means of the telescope is **ainul hilaal** (the actual hilaal).”*

This understanding of Shaikh al-Mut'i is fallacious. In the telescope, *ainul hilaal* is not seen. *Aksul Hilaal* – the reflection of the moon – is seen. On the basis of this misunderstanding did the venerable Shaikh conclude the permissibility of the *shahaadat* of the person who sees a reflection of the object, but testifies that he has seen the actual object (*ain*).

If a person sees in a mirror theft or zina being committed, he may not give *shahaadat* that he has seen the actual persons committing the crimes. If anyone claims that testifying on the basis of having seen the reflection is valid, then he should produce his *Shar'i daleel* for his preposterous claim.

The honourable Shaikh clearly laboured under the misapprehension that *ainul hilaal* is seen by way of the telescope when in reality, it is the reflection (*aks*) of the hilaal. If the Shaikh was better apprized and had awareness of this fact, we are certain that he would not have approved sighting with optical instruments. This is evident from the very passage cited by Abu Sulaiman from al-Muti's *Kitab Irshaad*.

In the extract proffered by Abu Sulaiman, the venerable Shaikh says:

“That which our (Hanafi) Mashaaikh have said regarding non-reliance on seeing it (hilaal) in water or from behind a glass is based on the fact that the seen object is a likeness (mithaal) of the hilaal, not ainul hilaal, for verily, seeing the hilaal in water or from behind a glass is by way of reflection (al-inkaas). Therefore, in this

case the seen entity is not *ainul hilaal*...hence *shahaadat* shall not be accepted (of one who has seen the reflection).

The Shaikh's conclusion: *"Seeing with telescopes is like seeing with the (naked) eye without any difference."* This conclusion is preposterous and manifestly fallacious. The image in the telescope is without doubt a reflection of the object. It is never the actual object.

Abu Sulaiman alleges:

"Sighting the moon using eyeglasses, binoculars, or a telescope is just like sighting it with the naked eye. Since sighting it with the naked eye is valid, so these situations will be valid as well."

We reject this flawed syllogistic argument. The premise: *'is just like sighting with the naked eye'* is fallacious, hence the conclusion too is baseless. With the telescope and binoculars the reflection is seen, the *hilaal* is not seen.

The fundamental feigned misunderstanding which obfuscates the issue is the fact that those who are today aware of the fact that it is the reflection (*aks*) which is seen by means of optical instruments, not the actual (*asal*) *hilaal*, seek to conceal it and to peddle the idea that it is *ainul hilaal* being seen as Shaikh al-Muti and others have understood on the basis of what was explained to them. The Shaikh had stated unequivocally that *shahaadat* of having seen the *hilaal* based on having seen its reflection, is not valid.

Pursuing his untenable argument, Abu Sulaiman says:

"Nonetheless, it is a point to note that regardless of the mechanism of the device (be it eyeglasses or binoculars, telescope, and all their different types), the image is still skewed and different when looking through them. If that is not a problem in this matter, there is no need to go further. If that is a problem, and there is an exception afforded to eyeglasses, it should be afforded to the other devices as well, on the merit that they all cause the image to be skewed to some degree albeit with different mechanisms."

This is indeed a silly dimension introduced by Abu Sulaiman. The 'skewed' factor does not feature anywhere in this contentious topic. Since he has introduced this factor, we must say that far from acceptability being extended to telescopes/binoculars on the basis of its acceptance for eyeglasses, the latter devices must be rejected for the resultant distortion which emphasizes the fact that it is not *ainul hilaal* which is seen, but its reflection passed from one mirror to another mirror.

There is no Shar'i incumbency to transfer the exception made for eyeglasses to telescopes and binoculars. Whatever the basis may be for the exception relative to eyeglasses is not our concern at this juncture. The validity of using eyeglasses should be substantiated by means of Shar'i daleel by those who claim its permissibility. Thereafter the issue shall be examined and commented on.

Abu Sulaiman has also now made *qiyaas* of telescopes on eyeglasses whose permissibility Mufti Ya'qub said was *khilaaf-e-qiyaas*. We reiterate that we are not delving in this 'exception' at this stage. We have mentioned the eyeglass only to highlight the fallacy of Abu Sulaiman's argument.

A rule applicable to an exceptional case may not be extended to telescopes and binoculars, since their use for hilaal sighting is totally uncalled for. There is no need (*dhuroorat*) whatsoever to resort to the use of these devices for sighting the hilaal. We have the glittering Sunnah of Rasulullah (Sallallahu alayh wasallam) and the Sahaabah to guide us. This Sunnah is not in need of any complimentary or supplementary devices and instruments which only create obfuscation.

The Skewed Image

The *skewed* image enforces the argument that telescopes, etc. should not be used because the image seen is not the actual hilaal. It is the reflection of the hilaal. If it was *ainul hilaal* it would not have been skewed.

Eyeglasses have been made an exception, not on the basis of the 'skewed' factor. Whatever the basis of the exception may be, it is not the 'skewed' image. Thus, there is absolutely no merit in this argument presented by Abu Sulaiman.

The Fuqaha and the moon in water/mirror

Regarding this issue, Abu Sulaiman avers:

"In fact, there is no mention in the entire corpus of Fiqh regarding sighting the moon in water or in a mirror. The Fuqaha are silent regarding this matter. Did these situations not exist in the past millennium? As long as water existed, mirrors existed and the moon existed, it was very possible that these situations could occur.....The question remains as to why they did not mention it at all."

But Shaikh al-Muti mentions it.

It is inconceivable that our illustrious Fuqaha would have been in the dark regarding this issue. They had commented on reflections in water and mirrors with regard to other masaa-il, so why did they not do likewise regarding the moon? The simple answer is that in terms of the command of Rasulullah (Sallallahu alayhi wasallam) *Rooyatul Ain* is Fardh. Since the imperative need is to sight the actual hilaal, not its image, it was superfluous and futile for the Fuqaha to traverse the issue of the hilaal's reflection.

This is the reason for them not having discussed the reflection of the moon. However, with regard to the other masaa-il, there is no *Nass* from Rasulullah (Sallallahu alayhi wasallam), hence the Fuqaha had to resort to suppositions to meet any future developing eventuality.

In this regard, Abu Sulaiman committed the same blunder as Mufti Ya'qub who had endeavoured to outlaw optical instruments on the basis of *rooyat* pertaining to other unrelated masaa-il. Now Abu Sulaiman is making *qiyaas* of telescopes on the basis of eyeglasses. This *qiyaas* is invalid because eyeglasses are not a valid *maqees alayh*. In all probability it will be like binoculars, but excluded as an exception for whatever reason the exception is deemed valid.

Our advice for brother Abu Sulaiman and all the other Muftis is to always recite the Masnoon Moon Dua whenever they see the moon with their eyes. This will assist to eliminate the superfluities which clutter their researches. A simple issue has been transformed into something intractable with incongruities.

أَعُوذُ بِاللّٰهِ مِنْ شَرِّ هَٰذَا الْغَاسِقِ

“O Allah! I seek Your protection from the evil of this Ghaasiq (this object which conceals itself in darkness).”

CONCLUSION

The only factors to view and decide on are:

- (1) When sighting with a telescope does the observer see *ainul hilaal* or *aksul hilaal*?
- (2) Is it permissible to give *shahaadat* (testimony) on the basis of having seen the reflection in a mirror of persons committing a crime?

This is all that is required to clinch this puerile dispute.