

CHAPTER 5

Exploring the Islamic Legal Issues



AT THE OUTSET OF HIS SEMINAL *Sharh Aqa'id al-Nasafiyya*, Taftazani expounds the sources of knowledge as being three-fold: empirical data derived from sense perceptions, rational truths derived from definitions and *a priori* axioms, and external information from reliable sources.⁸⁷ Having clarified the definitions of twilight and dawn, then explored their empirical causative factors, attention will now be turned to the third and most important source of knowledge: revelation from the Lord of Creation to the utterly trustworthy Messenger ﷺ.

This chapter will address the transmitted guidance of the religion regarding twilight prayer times in the following manner: firstly, the scriptural evidence will be examined, including the perspectives of the earliest Muslims. Thereafter, a detailed overview will be given of the ways in which these traditions were systematized by the legal schools of Islam, with a special emphasis on the Hanafi school (being the school of the majority of Muslims in the West). Lastly, specific issues will be touched upon, including persistent twilight, the *fiqh* of long fasts and questions of hardship and facilitation.

The modern scholar, Abdullah Judai, in his paper on performance of *isha* in the absence of its time, gives an excellent overview of prayer times. *Inter alia*, he states that the central Quranic verse relating to the actual timings of prayer is, 'establish prayer with the declining of the Sun till the dark reaches of the night, and [recite] Quran at dawn...'⁸⁸

⁸⁷ *Sharh Aqa'id al-Nasafiyya* 33

⁸⁸ *Isra* 17:78

This establishes three basic prayer times: afternoon (for zuhr and asr), night (for maghrib and isha) and dawn (for fajr). He notes that the former two are also the only periods in which the respective prayers can be joined.⁸⁹

The Sunna further specifies these into the times for the five obligatory prayers, but one can approach these times in terms of those which are definitive and those about which there is ambiguity. The former (definitive) boundaries are: midday for the onset of zuhr, sunset for maghrib, and sunrise for the end of fajr. The latter, which are non-definitive, are: the boundary between zuhr and asr, that between maghrib and isha, and the onset of fajr – which is the most difficult of all the prayer boundaries to glean through a survey of the hadiths. In an appendix, he usefully summarizes most of the major *turuq* of the hadiths relating to prayer times, thus rather neatly making the above points.⁹⁰ With this broad overview, we will now address the relevant topics, with a focus on the onset of fajr, given how well known the other differences of opinion are.

5.1. The Entry of al-Subh al-Sadiq

The reader is reminded at the outset that the phases of dawn given chronological consideration in sharia are as follows:

- » The end of night (*layl*) – the time of isha prayer for Hanafis
- » False dawn (*al-subh al-kadhib*) – of no legal significance, but important to avoid confusing with al-subh al-sadiq because of a Prophetic admonition.
- » Early twilight (*ghalas*) – this encompasses first light (*tulu' al-fajr*), spreading (*istitara*) and widespread-ness (*intishar*), whose relation to al-subh al-sadiq will be the primary investigation in this section.
- » Brightness (*isfar*) – which it is recommended to delay fajr until in the Hanafi school but disliked to do so without good reason in the other schools
- » Sunrise (*tulu al-shams*).

⁸⁹ Bayan Hukm Salat al-Isha fi Sayf Britaniya hina Yuftaqadu Waqtuha 325-327

⁹⁰ ibid 331-340

5.1.1 Scripture and Traditions Relating to al-Subh al-Sadiq

The central Quranic verse in relation al-subh al-sadiq has been cited several times already in this work: ‘eat and drink until the white thread becomes clearly distinct to you from the black thread at fajr, then keep the fast until night.’⁹¹ This verse fragment, with its corresponding contextual traditions, is particularly fecund with legal principles and understandings, which were explicated in legally-focussed works of tafsir such as those of Jassas and Qurtubi. Some of these include:

- » The use of the command tense following a related prohibition is understood to mean permissibility rather than obligation (ie: ‘it is permissible to eat and drink,’ rather than ‘one must eat and drink’).
- » The necessity of understanding when words are used in metaphorical rather than literal senses, such as the use of ‘thread’ to mean ‘spread out dawn-light’ rather than an actual piece of string.⁹² This relates to the importance of understanding words in their immediate and cultural context.
- » The importance of consulting with experts – in this case ‘Adi ibn Hatim seeking the counsel of the Prophet ﷺ to clarify a misconception about the meaning of the verse.⁹³

The central point of discussion in this verse, for our purposes, is the meaning of ‘becoming distinct’ (*tabayyun*).⁹⁴ Raghib al-Isfahani states, ‘it is to become clearly separate, and for that which was hidden to become apparent (*infasala wa zahara*).’⁹⁵ Qurtubi states, ‘it is not

⁹¹ Baqara 2:187

⁹² As narrated in Bukhari 1917 and Muslim 2533, upon hearing the verse, ‘Adi had placed black and white threads under his pillow, which he would take out during the night to see if he could distinguish them from each other.

⁹³ ‘Adi then informed the Prophet ﷺ about this, who laughed, saying, ‘your pillow must be wide indeed, if you have the black and white threads beneath them! It refers to the darkness of night and the brightness of dawn.’

⁹⁴ On a personal note, the linguistic construction of the word ‘tabayyun’ implies attaining clarity with difficulty and only after making a concerted effort. Though this does not relate directly to the definitions that are to follow, I can personally testify to both the effort required to systematically and optimally observe dawn, as well as to the difficulty of determining its entry!

⁹⁵ Mufradat al-Quran 156-7

valid that ‘distinctness’ is established for someone, such that food becomes impermissible for them, until a period following the dawn of fajr has elapsed. The extent of light whose becoming distinct necessitates abstinence [from the invalidators of the fast] is differed over. The majority of scholars stated, ‘it is the horizontal dawn light that spreads across the horizon both to the right and the left. It is about this that traditions have been related and which has become the practice in different lands (*madat alayhi al-amsar*).’⁹⁶

There are a number of Prophetic narrations found in the hadith works relating to this verse. The most important of these is narrated by Aisha, who reported that the Messenger of God ﷺ said, ‘let not the adhan of Bilal prevent you from your predawn meal, because he calls it during the night. Rather, eat and drink until you hear the adhan of Ibn Umm Maktum, because he does not call it until dawn has occurred.’⁹⁷

Abdullah Ibn Umm Maktum was a blind man, one of the early Muhajirs, whom the Prophet ﷺ used to deputize when he left Madina on expeditions. He would only call the adhan once several people had come to him indicating that the time had entered,⁹⁸ whilst Bilal would call it during the night, before the onset of dawn, in order to wake people so that they could have a predawn meal.⁹⁹ These hadiths, along with supporting athar,¹⁰⁰ explicate the meaning of ‘becoming clearly distinct (*tabayyun*),’ which Jassas in his commentary defines as ‘the acquisition of certain knowledge.’¹⁰¹ Variant narrations indicate eating ‘till the dawn bursts forth,’¹⁰² the spreading of the light across

⁹⁶ Al-Jami’ li-Ahkam al-Quran 1:690

⁹⁷ Bukhari 1918, Muslim 2538 – these are the words of Bukhari

⁹⁸ Umdat al-Qari 10:424. ‘He was a man of poor eyesight, and would not call the adhan until people could see the dawn and said to him, ‘call the adhan!’ In another narration, ‘the dawn has broken! The dawn has broken!’

⁹⁹ Muslim 2540, though Tahawi in Sharh Ma’ani al-Athar [1:139] also narrates that Bilal had a problem with his vision, so would mistake the false dawn for true dawn (*la yaghurrannakum nida Bilal, fa inna fi basarihi la shay*).

¹⁰⁰ In accordance with the technical usage of the scholars of hadith, ‘athar’ is taken to mean a non-Prophetic narration, whether from a companion (sahabi) or follower (tabi’).

¹⁰¹ Tafsir Ayat al-Ahkam 1:316

¹⁰² Muslim 2538, Sharh Ma’ani al-Athar 1:137: *hatta yanfajir al-fajr* (literally, until the dawn splits the night)

the horizon,¹⁰³ the agreement of witnesses about the presence of the light,¹⁰⁴ and the permissibility of eating until one is certain about the onset of dawn.¹⁰⁵ All of these would seem to indicate that tabayyun implies a clearly apparent light whose onset is indubitable, rather than a dim glimmer that is differed over.

The second central narration is from Talq ibn Ali, who narrates the Messenger of God ﷺ said, ‘dawn is not that which rises vertically in the sky (*al-sati’ al-mus’ad*), but rather that which is reddish and widely horizontal (*al-humra*).’¹⁰⁶ Khattabi states that the meaning of ‘spread widely’ is when the dawn light has spread across the horizon and illuminates it.¹⁰⁷ A variant states, ‘eat and drink; don’t worry about the clear vertical dawn (*al-fajr al-mustatil*), but rather continue until you see the horizontal dawn light reaching the horizons (*al-fajr al-mustatir fi al-ufuq*).’¹⁰⁸ This set of hadiths serves primarily to clarify the difference between false and true dawn, indicating that the former is a white/clear, vertical phenomenon, whilst the latter has a reddish tinge and spreads horizontally across the horizon. This is supported by a narration from Thawban that states, ‘there are two dawn-lights: the first appears like a wolf’s tail; it does not permit or prevent anything – rather, the widely-spread light [does this].’¹⁰⁹

Supporting narrations with similar wording describe the dawn light as being ‘red’ in colour. Jassas understood this to mean that the dawn light has a tinge of redness to it and that this grows as the light increases.¹¹⁰ Khattabi states, ‘the meaning of ‘red’ here is when the white dawn light spreads widely and there are the beginnings of

¹⁰³ Fath al-Bari 4:160

¹⁰⁴ ibid 4:161

¹⁰⁵ Ibid 4:160 – the narration of Ibn Abbas, ‘eat if you are doubtful until you no longer doubt.’

¹⁰⁶ Jami’ al-Tirmidhi 705, hasan gharib, further stating that ‘this is what the generality of the people of knowledge act upon: they do not prohibit eating and drinking until the reddish light has spread widely.’ [3:45]. This is particularly relevant given the *ijma’* that *al-fajr al-kadhib* has no legal significance. Tirmidhi is thus appearing to indicate that, rather than ceasing eating at the very first appearance of the light, one waits until it has spread widely according to the general practice of the scholars.

¹⁰⁷ Ma’alim al-Sunan 2:90, al-Muhalla 289

¹⁰⁸ Jami’ al-Tirmidhi 706

¹⁰⁹ Fath al-Mulhim 5:209

¹¹⁰ Tafsir Ayat al-Ahkam 1:317