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(Allah is the light of the heavens and the earth – Al-Qur'an, XXIV:35)

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THREE OR ONE TALĀQ?
AN ANALYSIS OF SOME FRESH FATWĀS ON THE LEGAL EFFECT OF THREE TALĀQŠS IN ONE SESSION IN PAKISTAN AND INDIA

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There is no consensus among the ahl al-Ḥadīth ‘ulamā’ regarding the issue that three talāq (divorces) in one session amount to one, because, there are two leading ahl al-Ḥadīth scholars who favour the view of the jamhūr i.e. three repudiations in one session amounts to three. Today, many Muslim states have explicitly adopted the position of Ibn Taymiyah on triple talāq. Several new fatwās regarding triple talāq given by some leading ‘ulamā’ in India are not so new but are the re-statement of the position of the Ḥanafī scholar Qāḍī Khān. The position taken by Tahir Maḥmūd on triple talāq against the Ḥanafī school is not supported by any evidence from the Ḥanafī sources.

Introduction

The juristic debate on whether three repudiations in one session amount to one or three repudiations had been one of the hottest topics between the jamhūr (the majority of Muslim jurists) and a small but vocal group of Muslim jurists, i.e., Shi‘ah, Zāhirites, Ibn Taymiyah, Ibn Qayyam,** and most of the ahl al-Ḥadīth in India and

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**Also spelled as ‘Ibn Qayyim’ (see Encyclopaedia of Islam under Ibn Taimiya) and ‘Ibn Qayyim’ (see al-Munjīd) – Ed.
Pakistan. The work gives an overview of the position of ahl al-Hadith in India and analysis of some new fatāwā (legal rulings) issued by some of the Ḥanafī scholars, especially in India; an overview of the opinion of Tāhir Maḥmūd of India on this issue; an analysis of the existing Pakistani law on ṭalāq, especially triple ṭalāqṣ; an analysis of the case law on ṭalāq in Pakistan; and, an analysis of the case law in India on ṭalāq.

The Position of the Ahl al-Hadith in India and Pakistan

Before elaborating the position of the ahl al-Hadith in India and Pakistan it would be appropriate to first cast a glance at the stance taken by the proponents and opponents of the idea that three repudiations amount to a single one. The jamhūr argue that if a divorce is pronounced thrice in one phrase, at once or repeated three times in one session or the divorce is uttered at three different times within one purity or menstruation without any revocation, this has the effect of the third and final repudiation. This opinion is attributed to the majority of jurists among the Ṣaḥābah (the Companions of the Holy Prophet Muḥammad [SAW]), Tābiʿīn (followers of the Ṣaḥābah), those who came after them, and the fiqhā (jurists) of the four Šunnī schools of thought including the four founders and their disciples. The majority of Muslim jurists, i.e., the Ḥanafītes, Mālikītes, Shāfiʿītes, and the Ḥanbalītes, agree that three pronouncements in one session are not permissible but when pronounced will be effective, valid, and binding in law. According to Ibn Taymiyah, Ibn Qayyam, the Žāhirītes, the Shīʿah Imāmiyah, and many ahl al-Hadith, three pronouncements even if intended by the husband to be three in one session will amount only to one repudiation. Both camps have given many arguments from the Qurʾān, the Sunnah of the Prophet Muḥammad (SAW) and the sayings of the Ṣaḥābah (the Companions) in support of their view but each is bitterly contested by the other. The arguments of the jamhūr are very strong whereas the arguments of their opponents lack strength.

The position of the ahl al-Hadith in India and especially in Pakistan concerning the issue of triple ṭalāqṣ has caused a rift between them and the rest of the Sunnīs, i.e., Deobandis as well as Barelwīs, both of which

*Both Ibn Taymiyah and Ibn Qayyim have been mentioned as Ḥanbalite scholars, see al-Manṣūrī, Beirut, 1996 - Ed.*
are the followers of the Ḥanafi school of thought. An overwhelming majority of the ahl al-Ḥadith in India and Pakistan vigorously support the view that three talāqs in one session in one or three phrases amount only to one. The social impact of this opinion, when applied to our society, is immense. In Pakistan the majority of talāq cases before reaching courts will take this course: A Ḥanafi husband pronounces triple talāqs mostly in anger; he regrets his action and asks the opinion of a Ḥanafi muftī (juris-consult) who tells the legal rule that ‘three talāqs in a single session’ amounts to three. The unhappy man wants a way out while the battered woman has no say in the matter. He is advised by his friends and in some cases by the Ḥanāfī muftī that he may ask the opinion of an ahl al-Ḥadith muftī to get the fatwā that he wants. The man asks the opinion of an ahl al-Ḥadith muftī or mawlānā (religious scholar) who says that ‘three talāqs in one session in one or three phrases are counted as one’. The muftī gives him a written and stamped fatwā (legal opinion); the man breathes a sigh of relief and resumes conjugal relations with his wife. In rare cases the wife may go to muftīs to confirm the ruling. When the couple starts their new life, all the relatives, who are Āhnāf, from both sides, i.e., from the wife and the man’s side, family friends, and friends at work place start taunting the man as well as the woman telling them that they must separate. If the woman wishes to remarry that man, she must first marry someone else (ḥalālah) and after that marriage is consummated, after which the new husband either divorces her voluntarily (without any external pressure) or he dies, then she may be able after the ‘iddat’ (waiting period) to marry her first husband.

*Both these sects came into being during the British rule. The Deobandis follow the Deoband Dar al-Ulum established in 1867 at Deoband (U.P. India) by Mawlānā Qāsim Nāsīrotwā while the Bareliwīs (of Bareilly in U.P. India) follow Ahmad Raza Khān (d. 1921) whose madrasah at Bareilly was active since 1890 — Ed.

**However, halālah, cannot be legal if the parties concerned, viz. the divorced woman marrying a new man, (they or she) intend to use it as a legal trick to re-wed her previous husband. This should be a simple marriage with no conditions attached. Otherwise it will be a temporary marriage which is not allowed.

The most famous case in the South Asian history is that of Shaykh Sadr al-Dīn bin Zakariyyā (d. 1286) of Multan. Prince Mūhammad s/o Sulṭān Balban (1346-1386), hākim of Multan, divorced his wife but regretted and wanted to marry her again.

It is said that the qādī of Multan suggested her marriage with Shaykh Sadr al-Dīn with the promise that he would persuade the Shaykh to divorce her so that she should be re-married to the prince. The Shaykh did marry her but refused to divorce her without any rhyme or reason. The prince was angry but he soon died in a Mongol invasion and so the confrontation was avoided. See Sīyar al-Arīfīn, p. 144, vide Moinul Haq, Ma’sūmat wa ‘Ilm Türfik, Karachi, 1965, p. 83 — Ed.
otherwise they would be considered to have led a sinful life. In the majority of cases the couple declares that they have adopted ahl al-Ḥadīth school of thought. The Āhnāf, in turn allege that the ahl al-Ḥadīth look for new followers in this way. This is the social reality of the opinion of ahl al-Ḥadīth. The author knows several couples who have followed the above procedure.

Unfortunately, some of the Ahl al-Ḥadīth in Pakistan, while writing about triple talāqs, allege that only the Āhnāf treat three talāqs in one session as three. This allegation is nothing but erroneous since all the Sunnī schools of thought are against the position of the ahl al-Ḥadīth on this issue. The arguments of ahl al-Ḥadīth will not be repeated here because they merely reiterate the arguments given by Ibn Taymiyah and Ibn Qaiyam using short-cuts. It is true that the overwhelming majority of ahl al-Ḥadīth treat ‘three talāqs in one session as one’. However, there are some exceptions to this rule as few important ahl al-Ḥadīth scholars who endorse the view of the jamhūr and severally criticize the position of the ahl al-Ḥadīth. Such scholars include: Mawlānā Muḥammad Ibrāhīm Mīr Siālkotī (d. 1375 A.H./1955 C.E.) and Abū Sa’eed Sharaφuddin Dehlvi. Mawlānā Muḥammad ‘Abudllah Ropri seems to be giving a description of the issue rather than giving his opinion. Thus, in the Indo-Pakistani context, it is wrong to suggest that the ahl al-Ḥadīth are unanimous on the issue and that this contention exists only between them and the Āhnāf. In fact, the issue is disputed not only between the jamhūr and ahl al-Ḥadīth but there are dissenting opinions among the ahl al-Ḥadīth themselves.

Analyzing Some Fresh Fatāwā (legal rulings) and Opinions about Triple Talāqs

An account of the opinions of many ahl al-Ḥadīth and some Ḥanafī scholars of the subcontinent has already been given in the preceding section on the position of ahl al-Ḥadīth, however, there are some other fatāwā (legal rulings) issued by some Ḥanafī muṭḥaṣī and other scholars in India and Pakistan that will be discussed here. The position which is close to the position of Ibn Taymiyah and Ibn Qaiyam, whom the ahl al-Ḥadīth follow in this issue, is that of the Ḥanafī jurist Qāḍī Khān (Fakhr al-Dīn b. Manṣūr Qāḍī Khān, d. 592 A.H./1196 C.E.). According to Qāḍī Khān, if a man has divorced his wife thrice using explicit words
and said that I intended to divorce her by the first one and by the second and the third *talāq*, he wanted to make his wife understand that she is divorced. In such a situation only one *talāq* is effective as far as the matter between him and God is concerned (diyānātā) but judicially the qāḍī (judge) shall not accept his intention and should accept it as three *talāqās*.

The source for Qāḍī Khān seems to be the famous *ḥadīth* in which it is reported that Rukānāh b. ‘Abd Yazīd gave his wife *ṭalāq al-battah* in a single session, and was greatly saddened in his longing for her. The Messenger of Allah (ﷺ) asked him, how did he divorce her? Rukānāh said that he divorced her thrice in a single session but he intended one. The Prophet (ﷺ) asked him to swear on God that he intended only one, which he did. According to some jurists and commentators, if three *talāqās* in one session would not be effective, then why would the Prophet (ﷺ) ask Rukānāh to swear that he intended only one and not three (*talāqās*)? The question to be asked is whether the Prophet (ﷺ) acted as a judge in this case or as social or political leader? In the opinion of this author he acted as a judge and his decision has a precedent value. If this view is accepted then the statement of a husband who pronounces three *talāqās* and tells a court that he intended only one shall also be accepted by the court and he be allowed to revoke his divorce just as the Prophet (ﷺ) had ruled in the case of Rukānāh. This *ḥadīth* has a great potential for new legislation regarding the issue of *talāq*.

Qāḍī Khān has given some interesting opinions in the case of pronouncements by a husband in which he omits the last two or one Arabic alphabets. He argues that:

رجل قال لا مرأته أنت طال ونوى به الطلاق يوقع الطلاق ولع قال أنت طلاق لا يوقع شيء ولع أن نوى لأن حذف آخر الكلام معتاد في العرب

If a husband pronounced to his wife you are divorced (without uttering the Arabic alphabet َ (q) and intended to divorce her, *talāq* will be affected. And if he said you are ‘*ṭaq*’ (without uttering the alphabets ٌ (l) and َ (q) nothing will be affected even if he intended *talāq* because the last alphabet is usually omitted by the Arabs (in their conversation but they do not omit the last two alphabets).”
He further states that:

"وقال بكسر اللام وإن قال بكسر اللام يقع الطلاق وأن لم ين تو"

"This is the situation when he utters [you are șāl] without pronouncing the ‘i’ of the alphabet ل (l) but if he pronounced the ‘i’ of the ل (l) the șalāq will be affected even if he does not intend it."13

Mawlānā Muḥammad Abdul Ḥaye Lucknawi (of Lucknow in U.P., d. 1304 A.H./1886 C.E.) who was a great Ḥanafi scholar of his times is cited by the ahl al-Ḥadīth for justifying their standpoint on the issue of triple șalāqs since his opinion seems to be inclined in their favour.16 There are two fatāwā of Lucknawi (of Lucknow) in his Majmū‘ah-i Fatāwā: the first one was given in 1290/1873 and the second one was given in 1301/1883. The first one appears to be incorrect. The fatwā is given below:

A certain Mawlānā Muḥammad ‘Uthmān from Madras (India) asked Mawlānā Lucknawi, "What is the legal opinion in the issue in which Zaid told his wife in anger that you are divorced, you are divorced, you are divorced. Would three șalāqs be effective or not; and if [the three are] effective according to the Ḥanafi school of thought but not effective according to the Shāfi‘i school of thought, then can a Ḥanafi follow the Shāfi‘i school in this particular issue"? Lucknawi answered that in this situation three șalāqs will be effective according to the Ahnāf and they have to separate. However, "if the separation is difficult for the wife and it amounts to great hardship, it is allowed to follow another school of thought ... but it would be better for him to ask a Shāfi‘i scholar and follow his opinion."17

This fatwā is problematic: there is no evidence from the Qur’ān and the Sunnah in support of this view; secondly, Imām Shāfi‘ī himself considers three repudiations in one session as three; thirdly, it is against the position of the Ḥanafi school; finally, this view is against the detailed fatwā of Mawlānā Lucknawi discussed below and should be considered as revoked by him.
In the second and last fatwā a large group of people asked the opinion of Mawlānā Lucknawi regarding triple talaq in one session. The story is very interesting. In 1301/1883 a man in Bangalore (India) pronounced triple divorce in one session on his wife and the people split on whether it amounted to one or three talaq. They decided to ask the opinion of Mawlānā Lucknawi regarding the same. The questioner states that the man pronounced triple talaq in anger, without intention, and without understanding its meaning and legal consequences. The questioner asked the Mawlānā to mention the debate about triple talaq among the four schools of thought as it will be published as well. The Mawlānā responded:

Any man who pronounces three divorces and does not intend emphasis from the last two (of the three talaq), then in this situation three divorces will be effected according to the majority of the Ṣaḥābah (the Companions of the Prophet [ﷺ]), Tābi’īn (followers of the Ṣaḥāba), the four founders of the Sunnī schools of thought, most of the mujtahidin, Imām Buhārī, and the majority of muḥaddithin (experts of ahādith). However, he is considered to have committed a sin because of following the wrong procedure (of talaq).

Since it is the last fatwā of Mawlānā ‘Abdul Ḥaye on triple talaq, it should be taken to be his final view on this matter and should be considered his true position in this matter.

An important ruling in this regard is by Mawlānā Mujāhidul Islam Qāsimi who has remained the secretary of the Indian Fiqh Academy and a judge of the Sharī‘ah Court in Bihar. His fatwā is as follows:

If a man who has pronounced ‘triple talaq’ says that he did it either in ignorance of law or merely to put emphasis on his words, his marriage remains intact until the expiry of his wife’s ‘iddat – during this period he can unilaterally revoke the talaq. If he has not done so within that time, any time later he can remarry her with her consent.

The fatwā of Mawlānā Qāsimi has added one more thing, i.e., if a man
divorced in his ignorance of law. Unfortunately, no proof has been given by the Mawlānā in support of this opinion. What is very strange in this episode is the view of Tāhir Māhmūd. He asserts that in a personal meeting the Mawlānā told him that he had given this judgment in some cases in his capacity as the qāḍī of the Sharī‘ah Court of Bihar. It can only be said that Mawlānā Qāsīmi has gone one step ahead from the established position of Qādī Khān, i.e., he has accepted this position as a judge. This position has no support within the four Sunnī schools and it seems to be the position of Ibn Taymiyyah and Ibn Qayyim as discussed above because they accept three talaq in one sitting as amounting to one. The same position is endorsed by Mufti Zaferuddin of the Darul-ul-Uloom of Deoband. This fatwa is disturbing because it cannot be termed a restatement of the position of Qādī Khān discussed above. According to Qādī Khān, if a man pronounced three talaq; meant talaq by the first pronouncement and emphasis or making his wife to understand that she is divorced by the second and the third pronouncement, only one talaq will be effective. But this is so only diyyānatan (as far as the matter is between the man and God) and not qadā‘am (judicially) if the man swears. The judge will not accept the oath of the man in such a matter and judicially three talaq will be effective.

Mufti Mehdi Hasan Khan – former mufti at the Dar al-‘Ulūm-Deoband has also given a fatwa according to the opinion of Qādī Khān. The position of Ibn Ḥazm on this issue is the same. Qādī Khān’s stance is also re-stated by the All India Muslim Personal Law Board. “If a person pronouncing talaq says that he intended only a single talaq and repeated the words of talaq only to put emphasis and these were not meant to pronounce more than one talaq, his statement on oath will be accepted.”

In Saudi Arabia the issue of triple talaq has been thoroughly discussed by the official body of ‘ulamā‘ and a special issue of the academic journal Mushallah al-Buḥūth al-Islāmiyyah is dedicated to the issue. The top Saudi ‘ulamā‘ have put together the arguments of the majority of Sunnī scholars and the arguments of the minority ‘ulamā‘ such as Ibn Taymiyyah and Ibn Qayyim and others and ruled that three repudiations in one sitting amount to three. Thus the official position in the Kingdom which follows the Hanbali school of thought is that three pronouncements in one session amount to three. However, minority members of the Ḥiyat follow the opinions of Ibn Taymiyyah and Ibn
Qa‘iyam regarding this issue but their opinion does not prevail. A complete analysis of the arguments given in the very lengthy issue of the journal is beyond the scope of this work. In fact the best arguments are already given and analyzed above.

There is a small note on the issue of triple ṭalāq as by Mawlānā Iftikhar Tabassum Nu‘mānī. The mawlānā has reproduced those excerpts from the books of classical or medieval Muslim jurists in which they merely mention that there are two opinions regarding the effectiveness of triple ṭalāq as pronounced in one session. He has tried to generalize those opinions in such a way so that the readers get the impression as if all those scholars consider three ṭalāq as in one session to be amounting to one. The Mawlānā should have given the opinion of the scholars whose works were cited on the issue as well because in some cases the truth cannot be discovered from such an abstract presentation. The Mawlānā’s opinion is strange. He concludes that:

These references prove that a great majority of scholars treat three ṭalāq as [in one session] to be amounting to one. According to the principles of fatwā, a fatwā can be given according to an opinion if it is better because of public interest and necessity even if it be against the opinions of the four Ā‘immah (founding jurists of the four Sunnī schools).

However, the mere mentioning statement by a scholar that there are two opinions in the matter does not mean that the scholar necessarily agrees with the opinion of Ibn Taymiyah.

The last opinion that needs discussion in this section is that of Professor Tāhir Mahmūd of India. Writing in 1992 he opines that in the pre-Islamic era a husband would divorce his wife and revoke the divorce and he would do so as many times as he pleased. The Prophet (ﷺ) reformed this by prescribing only three ṭalāq as by a man; that is once a husband has pronounced ṭalāq for the third time, the marriage would be instantly and perpetually dissolved. He further says,

This simple but meaningful reform introduced by the Prophet (ﷺ) got corrupted in the course of time. In fits of anger husbands began pronouncing on their wives “three divorces at a time.” And married women sick of their tyrant husbands, in a bid to get rid of them,
insisted that “three divorces at a time” should be given the effect of a third-time divorce so as to instantly dissolve the marriage. To help (such) wives in distress, most jurists of the time agreed. An exception, then, gradually became the rule. It was accepted as an ‘established law’ that if a man told his wife “I divorce you thrice”, or thrice repeated the expression “I divorce you”, it would have the effect of a third-time divorce and dissolve the marriage instantly and finally. This was called ‘triple *talāq*’ – *talāq-i thalāthah*. At its inception it was a pro-women law, a legal device to help distressed women out of their marriage.30

The above statement does not give legal arguments and does not describe the long legal history of one or three *talāq* in one session. Moreover, it does not give arguments and reasons about the legal consequences of triple *talāq*. The statement lacks legal basis. Even Ibn Taymiyah and Ibn Qaiyam would not have accepted this speech about triple *talāq*. Tāhir Maḥmūd calls the opinion of *jamhūr* about three *talāq*, “a mockery – an oppressive custom having the force of law for the Muslims”,31 “One of the worst tragedies of the Muslims from the very beginning of Islam has been, and remains, their failure to distinguish between ‘Arab’ and ‘Islamic’ – between pre-Islamic local custom and the Islamic reform. This has resulted into, *inter alia*, the emergence of a divorce law which, despite its open conflict with clear Qur’anic injunctions, the Muslims treat as part of their religion”;32 he opines. However, it is incorrect to consider the opinion of *jamhūr* a pre-Islamic custom; there is no juristic analysis and/or legal argument on such an important and tricky issue. In fact his position is neither supported by any jurist nor does he follow the position or arguments of any jurist. These are novel and capricious views, not legal arguments!

Writing in 2002, Tāhir Maḥmūd only singled out the Ḥanafi School for treating three pronouncements as three. He says,

The Ḥanafi rule recognizing and giving effect to improper *talāq* [*talāq al-bid’at*] is not a part of the original Islamic law; it was adopted at a later stage in order to help men and women – especially the latter – out of broken marriages. In other words, a *talāq al-bid’at* could be given effect if the wife wanted to take
advantage of it in order to get rid of an unwanted marital tie, or if the man insisted that he intentionally and knowingly used it to put an immediate and final end to the marriage. In the later period of history it was somehow believed, rather misbelieved, that a *talāq al-bid‘at* was to be given effect invariably in every case— even against the wishes of a repentant husband and an aggrieved wife both of whom may be wanting [sic] to continue their marital relationship. As this was never the intention of the jurists of the past, a large number of Muslim countries have now enacted laws to outlaw all forms of *talāq al-bid‘at.*

The points to note in this speech are as follows: 1), that the Ḥanafi position was not part of the original Islamic law; 2), that *talāq al-bid‘at* was introduced by the Ḥanafi scholars to be effective only if the man or the woman did not want to remain in the marriage contract; 3), that in the later part of the history [Ḥanafi] jurists believed that every *talāq al-bid‘at* shall have the legal effect of three pronouncements even against the husband and wife who now want to reconcile [after the man has pronounced three divorces in one sitting]; and, 4), some Muslim countries have enacted legislation to abolish triple *talāqs* because this was never the intention of the jurists in the past.

These points are simply unacceptable because the speech of the author does not make any reference to the historical legal debate from the classical treatises. He has raised allegations against the *Ahmāf* that are not even raised by the *ahl al-Ḥadīth* scholars who are the strongest supporters of the view that three pronouncements of *talāq* in one session amount to one and who challenge the *Ahmāf* on this issue. As stated above the four Sunni schools are unanimous on the issue of *talāq al-bid‘at* that three pronouncements in one session amount to three and that Ibn Taymiyyah and Ibn Qayyam are the two leading Ḥanbali jurists who, at the end of the 7th century *hijrah* went against the consensus (*ijmā‘*) among the four schools, even within the Ḥanbali school. The assertion that the Ḥanafi jurists introduced *talāq al-bid‘at* if the man and the woman did not want to remain in the marriage tie is incorrect because as mentioned above, *talāq al-bid‘at* happened in the life time of the Prophet (*sa‘*) and his decisions on the matter are recorded. Tāhir Mahmūd is the first scholar to make this allegation. However, he has forwarded no
arguments to prove it. The fourth allegation is equally unfounded and without any legal authority. No one from among the legal fraternity has gone this far to suggest that the latter Ḥanafi scholars engineered the rule that three ṭalāqṣ in one session shall be counted as one. As stated above Qāḍī Khān of the Ḥanafi school of thought has given a fatwā which proves this allegation incorrect. As stated above there was no disagreement among the four Sunnī schools till the end of the 7th century when Ibn Taymiyah challenged the rule. In fact it was Ibn Taymiyah – a Ḥanbali (and NOT a Ḥanafi) who did the opposite of what Tāhir Maḥmūd is saying. The enactment of legislation by many Muslim countries to endorse Ibn Taymiyah’s view, i.e., that three or even more ṭalāqṣ in one session shall be counted as one, is not a legal proof. There are thousands of laws in the same Muslim countries that are totally against Islam, but it is by no means a proof that such laws shall be considered as Islamic. The legislation by many Muslim states that three or more ṭalāqṣ in one session is binding because this is a fresh legislation but it cannot undermine the historic debate about three or one ṭalāq in one session. It is very unfortunate that a scholar of his caliber would make such accusations against the great Ḥanafi scholars of any period in the past. To sum it up, Tāhir Maḥmūd has raised very serious yet unfounded allegations against the Ḥanafi school, i.e., the earlier Ḥanafi jurists introduced ṭalāq al-bid’at if the man and the woman did not want to reconcile and their later jurists made it applicable even to a husband and wife who wanted to reconcile, are against the basic tenets of Islamic jurisprudence, Islamic legal history, and the legal principles of the Ḥanafi school of thought. Tāhir Maḥmūd has not only made allegations against Ahmād regarding the issue of triple ṭalāqṣ but has also formulated a novel opinion about triple ṭalāqṣ which is not supported even by a single Muslim jurist.

Conclusion

The majority of ahl al-Ḥadīth ‘ulamā’ consider three ṭalāqṣ in one session as amounting to one, however, there are two leading ahl al-Ḥadīth scholars who favour the view of the jāmīhūr, i.e. three repudiations in one session amounts to three. Today, many Muslim states have explicitly adopted the position of Ibn Taymiyah on triple ṭalāqṣ.
There are some new fatāwā regarding triple ṭalāqṣ given by some leading ‘ilmār in India, however, some of them are based on the position of Ḥanafī scholar Qāḍī Khān. The position taken by Ṭāhir Māhmūd on triple ṭalāqṣ, is totally unacceptable since he has levelled baseless allegations against the Ḥanafī jurists.

Notes and References

1. For a comprehensive treatment of the issue of triple ṭalāqṣ, see, Muḥammad Munir, Triple ṭalāqṣ in one Session: an analysis of the opinions of Classical and Medieval Muslim Jurists under Islamic Law, Arab Law Quarterly, No. 27, 2013, pp. 29-49.

2. For a comprehensive view of this discussion, see ibid.

3. See for example, Three ṭalāqṣ in one Session, Ṯāhir Māhmūd, Lahore, March 1980, pp. 23-34.


8. Muḥammad ʿAbdulrahim Ropri, Fatāwā ahl al-Ḥadīth, vol. 2, pp. 495, 496-497, 506. Mawlānā Ropri’s view can be considered as descriptive of the problem of triple ṭalāqṣ as he carefully avoids giving his own opinion on the issue. According to Mawlānā Ropri, ṭalāq in anger is valid and effective. See, his, Fatāwā, vol. 2, pp. 498.


11. Literally, it means ṭalāq that severs relations between a husband and a wife. The jurists differed on the meaning of ‘batta’ ṭalāq. Some argue that it means either one or three ṭalāqṣ. Others bring in two ṭalāqṣ into it. See, Muḥammad Safrūz

12. See Abū Dāwūd, Sunan ḥadīth no. 2206; al-Mustadrak no. 2808, 2:199; Al-Dārāqūṭī, Ḥadīth no. 3978, 79, 2:39. [This ḥadīth has been reported by Imām Shāfi‘ī, Imām Tirmīzī and Imām Ibn Mājah as well – Ed.]


15. Ibid.


18. Ibid., Majmū‘ah-i Fatāwā, vol. 1, pp. 493-495. The Muwānā has produced a ḥadīth in support of his view and have commented on the ḥadīth of Taw‘us but these are omitted in this discussion.


20. Ibid., n. 10.

21. Ibid., and n. 11.


23. See Mufti Mehdi Hasan Khan, Ijā’ār fi al-qiyāmah, p. 75.


28. Ibid., p. 29.


30. Ibid., at p. 2.

31. Ibid.

32. Ibid., p. 1.


34. He has given the laws of seven Muslim countries to support his view. These are Egypt, Iraq, Jordan, Morocco, Yemen, Sudan, and Syria. See, his, “No more, Talaq, Talaq, Talaq …”, pp. 9-10.
35. Ālamgir Serajuddin also attributes the invention of the rule that three repudiations in one session amounts to three to Caliph ‘Umar bin al-Khattāb “as an administrative measure to meet an emergency situation and prevent misuse of the religion by unscrupulous husbands”. See Ālamgir Muhammad Serajuddin, *Muslim Family Law, Secular Courts and Muslim Women of South Asia: A Study in Judicial Activism*, Karachi, Oxford University Press, 2011, pp. 77, 78, and f.n. 73 at p. 106. Serajuddin has completely relied on secondary sources to reach his conclusions.
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