

تین طلاقوں کا شرعی حکم

The Shariah Ruling Pertaining To

THREE TALAAQS

From The Writings of The Muslim Chief Justice of India,
Huzoor Sayyidi Taajush Shariah Hazrat Allama Mufti
Qadi Mohammed Akhtar Raza Khan Qadiri Azhari

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Translated by: Muhammad Afthab Cassim Qadiri Razvi Noori

A NOORI PUBLICATION

بِسْمِ اللّٰهِ الرَّحْمٰنِ الرَّحِیْمِ
نِسْ طَلّاقُوا كَا سَرْحِ حَلْمِ

THE SHARIAH RULING PERTAINING TO THREE TALAAQS

FROM THE WRITINGS OF
THE MUSLIM CHIEF JUSTICE OF INDIA, HUZOOR SAYYIDI TAAJUSH SHARIAH
ALLAMA MUFTI QADI MOHAMMED AKHTAR RAZA KHAN QAADIRI AZHARI

TRANSLATED THROUGH THE BLESSINGS OF
GHAUTH UL WAQT HUZOOR MUFTI-E-AZAM HIND 

By a HUMBLE SERVANT of Allah
MUHAMMAD AFTHAB CASSIM RAZVI NOORI

ON THE BLESSED REQUEST OF

THE QADI OF BAREILLY SHAREEF
JA-NASHEEN E HUZOOR TAAJUSH SHARIAH
HAZRAT ALLAMA MUFTI MOHAMMED ASJAD RAZA KHAN
QAADIRI AZHARI

FOR FREE DISTRIBUTION

PUBLISHED BY: IMAM MUSTAFA RAZA RESEARCH CENTRE
OVERPORT, DURBAN, SOUTH AFRICA

A NOORI PUBLICATION

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Name of Book: The Shariah Ruling Pertaining To Three Talaqs

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The Publishers

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Compiler's Note

All Praise is due to Almighty Allah, who sent the Beloved Rasool ﷺ as the perfect example to mankind. Peace, Blessings and Salutations upon the most knowledgeable in Allah's Creation, The Beloved Rasool ﷺ, and upon His ﷺ Noble Family who are the treasure troves of His Wisdom and Knowledge, and upon His Companions who are lamps of the light of Prophetic Knowledge, through which they guided the Believers in every era, by lawfully implementing the rulings of the Beloved Nabi ﷺ in their respective eras, in order to save the Muslims from destruction and devastation. Peace and Blessings upon the four righteously guided Imams, who preserved the light of wisdom and knowledge in their righteous teachings. Peace and blessings upon all those who are beacons of guidance on the path of righteousness, especially upon Shaykh Abdul Qadir Al Jilani Al Baghdadi, and his true representative Ash Shah Imam Ahmed Raza Khan and upon his true representatives, Sayyidi Haamid Raza Khan and Imam Mustafa Raza Khan, and upon their noble representative, The glowing lighthouse of knowledge in this era, the destroyer of the fabrications of the deviants and the non-conformists, Sayyidi Shaykh Akhtar Raza Khan Al Qadri Al Azhari, and upon his loyal confidant, Sayyidi Muhad'dith e Kabeer Allama Zia ul Mustafa Qadiri Amjadi, and upon all those who sincerely follow them on the path of righteousness, known today as Maslak e Aala Hazrat.

Alhamdu Lillah, before you is a book entitled, 'The Shariah Ruling Pertaining To Three Talaqs' which is the attempted English translation of the book, 'Teen Talaqo(n) Ka Shar'ee Hukm,' which was penned by Huzoor Sayyidi wa Murshidi Allama Mufti Qadi Mohammed Akhtar Raza Khan Qadri Azhari in 1410 Hijri, in response to a deceiving booklet written by a deceitful non-conformist deviant. Huzoor Sayyidi Taajush Shariah has done a post-mortem on the writings of the non-conformist and the general misconstrued view of the non-conformists.

After reading this book, the reader will better understand the wisdom, acumen and intellectual prowess of Huzoor Sayyidi Taajush Shariah. The issue concerning the ruling on whether three Talaqs given at once is counted as one Talaq, which is currently a burning issue, and this book of Huzoor Sayyidi Taajush Shariah is an intellectual response to the misconceptions surrounding this topic. He has presented evidence from the very books which the non-conformists reference, to dissect their flimsy arguments. He has further proven their treachery and their deceit, and in doing so, he has brought to light the real and the correct Shariah ruling on this issue.

Due to this being a current issue, especially in India, the beloved son of Sayyidi Taajush Shariah and the Qadi of Bareilly Shareef, Hazrat Allama Mufti Mohammed Asjad Raza Khan Qadri sent me this book of Sayyidi Taajush Shariah and requested that I translate it into English. With my humble knowledge I put my trust in the Mercy of Almighty Allah and the Blessings of Nabi Kareem ﷺ and taking spiritual support from my Masha'ikh, I have attempted this translation.

I pray that this translation will be as beneficial as the original Urdu document written by Sayyidi Taajush Shariah and that it may serve as a means to remove and clear misconceptions on this important issue. Any weakness or shortcoming in this book should be attributed to the translation and not to Huzoor Sayyidi Taajush Shariah.

I would like to thank Huzoor Asjad Raza Khan Qadri for affording me this honour, and for finding me worthy of attempting this noble task. I would also like to thank all those who have assisted in making this translation a success, especially Hazrat Maulana Mohammed Shakeel Qadiri Ridawi (London), Brother Rukhsar Hussain Qadiri Razvi Amjadi (Gloucester), Brother Ahmed Sabir Suleman Razvi (Durban), and my beloved daughter for proofreading and making valuable suggestions to the manuscript. May Allah bless them all with the best reward for their efforts. Aameen

I would like to request all the readers to make special Dua for the good health and long life of Huzoor Sayyidi Taajush Shariah and Huzoor Sayyidi Muhad'dith e Kabeer and all our Ulama and Masha'ikh. I would also like to request Dua for Hazrat Allama Mufti Shoaib Raza (the son in law of Huzoor Taajush Shariah) who has been very ill of late. Allah bless him with Shifa and speedy recovery. Aameen.

Sag e Mufti e Azam

Muhammad Athab Cassim Qadiri Razvi Moori

Imam Mustafa Raza Research Centre (IMRRC)

Durban, South Africa

Critical Appreciation

By HAZRAT MAULANA MOHAMMED SHAKEEL QADIRI RIDAWI (LONDON, U.K.)

All Praise is due to Almighty Allah, Peace and Salutations upon our Master Sayyiduna Rasoolullah Sall Allahu Alaihi wa Sallam and upon his noble companions and illustrious family, and upon all those who will follow them until the last day.

Alhamdu Lillah, I have had the opportunity of reading through the book 'The Shariah Ruling pertaining to three Talaqs' which Hazrat Maulana Afthab Cassim Sahib Qibla has translated from the writings of The Muslim Chief Justice of India, Sayyidi Huzur Taajush Shariah Hadrat Allama Mufti Akhtar Raza Khan Qibla.

The issue of three Talaqs is a current issue being discussed, and this has been made to look extremely complex and full of differences of opinions amongst the pious predecessors by certain deviant irreligious so called scholars.

Shaykh Hadrat Mufti Akhtar Raza Khan Qiblah is one of the great Giants of Knowledge and Learning, and surely amongst the most learned in this era. In this book Hadrat has left no stone unturned in proving that this is not a case of difference of opinion. Every argument the deviant scholars put forward have been dissected to prove that there is consensus of the Four Imams, and the pious predecessors who came before them, and those pious Scholars who came after them up until today, that when three Talaqs are given

at once, all three Talaqs apply upon the wife. Three means three and not one. After reading this book it becomes crystal clear what the deviants have tried and failed miserably to do. This book is a must read for all teachers as well as students of Deen.

My dear Beloved brother in Dīn Hadrat Molana Afthab Cassim sahib has made an essential contribution towards explaining the core definitions which undoubtedly are essential for all Muslims to know and understand. While this has traditionally been difficult to understand for students of deen, Hadrat Molana Afthab Cassim has explained this beautifully and made this extremely easy to understand. This is a common theme throughout all of the fantastic works translated and penned by Hadrat, his work is translated in such a way that even the most complex of concepts are made straightforward. Hadrat Molana Afthab Cassim Sahib must be commended for this blessed effort. Allah Almighty bless him with good health and long life.

May Allah Almighty also Grant health and a long life to Huzur Taajush Shariah Mufti Akhtar Raza Khan and to Huzur Muhadith e Kabir Allama Zia Al Mustafa Sahib Qiblah. Aameen

Faqeer Mohammed Shakeel Qadiri Ridawi

This Book is dedicated to the

A'ima e Arba

The Four Noble Imams

*And To All Those Who Sincerely Follow
The Path of Righteousness*

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

With regards to this matter (of three Talaafs), the consensus provided by the four Imams and majority of the scholars of the Ahle Sunnat (both past and present) is that in a situation in which three Talaafs are given all together (i.e. at once), all three Talaafs apply to the wife.

There is no Ikhtilaaf (difference of opinion) by any of the reliable and acknowledged scholars on this matter. However, the deviant irreligious Ghayr Muqallid sect (i.e. non-conformists) of today, whose difference holds no significance in the Shariah, are indeed in opposition (to this ruling), as they are peculiar to the consensus of the Muslims, and the cause of disunity amongst the Muslims, those who oppose the Deen, and reject the explicit commands of the Shariat. They are distant from the Siraat e Mustaqeem (The Righteous and Straight Path), and are completely intoxicated by their deviance.

I carefully examined the booklet of the Ghayr Muqallids. In it the non-conformists have blackened the pages of paper with irrelevant issues, and after examining it, it has become evident and definite, that the author did not establish any clear, concrete evidence to support his claim, that whenever three Talaafs are given, then always, in every era, only one Talaaf will apply, and this ruling, according to his view, is unavoidable, cannot vary or change, and is compulsory to act upon in every era. This is not derived from any Hadith, so it is merely conceived and innovated by the non-conformists.

The System During The Era of The Sahaba

It is indeed proven from the Hadith that during the miraculous era of Sarkaar Abd Qaraar عليه الصلوة والسلام and during the early era of the Khilaafat of Sayyiduna Farooq e Azam رضي الله عنه the norm and custom (i.e. The Urf) was that when three Talaqs were given together, they took it as one, and proclaiming the word Talaq for the second and third time, they would regard it as emphasis to the first statement (i.e. the first Talaq was emphasised when they said it two more times to highlight that they have actually given Talaq). Then, due to the changing of the times, when the norm and common law changed, and people began to deliberately and intentionally give three Talaqs together in a hasty manner, Sayyiduna Umar e Farooq e Azam رضي الله عنه gave credence to this new system, and gave the ruling that (in this matter) all three Talaqs will apply, and this was unanimously accepted without denying it or disagreeing with it in any way. Thus, it is obvious that this resolution was taken in the convention of the Sahaba (Companions of the Beloved Nabi ﷺ), and no objection from any Sahabi has been cited (in this matter), but rather this ruling remained the Legal Ruling Value (Hukm e Ahkam) in the era to of Taabi'een and then in the eras of the learned A'ima (Noble Imams). It is this which has been passed down as the traditional Madhab e Muhadhab (i.e. the Civil Doctrine) from one era to the next, from which it is clear that there was consensus of the A'ima e Mujtahideen of every era (in this matter), and it is this which is the Sawaad e Azam (Consensus of the Righteously Exalted), which we have been commanded to follow in the Hadith. Hence, to oppose this is to break the Ijma' e Ummah (consensus of the Ummah), to turn away from the Siraat e Mustaqeem, and to adopt the path to hell, which is manifest deviance and defiance.

Almighty Allah says

وَمَنْ يُشَاقِقِ الرَّسُولَ مِنْ بَعْدِ مَا تَبَيَّنَ لَهُ الْهُدَىٰ وَيَتَّبِعْ غَيْرَ سَبِيلِ
الْمُؤْمِنِينَ نُوَلِّهِ مَا تَوَلَّىٰ وَنُصَلِّهِ جَهَنَّمَ ۗ وَسَاءَتْ مَصِيرًا

In other words, whosoever behaves obstinately in contradiction of the Rasool عليه الصلوة والسلام, after the clear path has been made manifest upon him, and who takes a path different from the general Muslims, We shall turn him towards that, to which he has directed himself, and We shall thrust him into hell, and that is a desolate abode. [Surah An-Nisa (4), Verse 115]

The Ghayr Muqallid has reached the height of irrationality and foolishness. In his brief booklet, he quoted this Hadith of Nasa'i

سليمان بن داود عن ابن وهب قال اخبرنا مخزومة عن ابيه قال سمعت محمود بن لبيد قال اخبر رسول الله صلى الله تعالى عليه وسلم عن رجل طلق امراته ثلاث تطليقات جميعاً فقام غضباناً ثم قال أيلعب بكتاب الله وأنا بين أظهركم حتى قام رجل وقال يا رسول الله الا أقتله

In other words, Imam Nasa'i narrated a Hadith with his merit, that Huzoor عليه الصلوة والسلام was informed about a person who at once had given three Talaas to his wife, so Sarkaar عليه الصلوة والسلام stood up in displeasure (Jalaal). He ﷺ then said, do you play with the Book (of Allah) whereas I am present in your midst. So, a person stood up and said, Ya Rasool'Allah ﷺ! Should I not execute that person?

The Ghayr Muqallid has quoted this Hadith as authority and proof for his claim, whereas it does not prove his claim in any way, but rather the contrary is proven, i.e. the Ahle Sunnats legitimate defence (in this matter) is proven, that if a person deliberately and intentionally gives three Talaqs together, then three will apply, even though according to the Shariah it is Madhmum (undesirable and objectionable) and sinful to do so, and it is not mentioned anywhere in this Hadith, that only one Talaq applied, even though the one proclaiming it intended three.

Firstly: If this was the case, then why would Sarkaar عليه الصلوة والسلام become displeased, and why would He ﷺ declare it 'playing with the Holy Qur'an', as it is not disallowed to give one Talaq.

Secondly: It has now been determined that the said person had given three Talaqs, and to give three Talaqs altogether is a sin. It is for this reason that Huzoor عليه الصلوة والسلام was immensely displeased.

Thirdly: It has been proven clearly from the immense displeasure of Sarkaar عليه الصلوة والسلام that, when one deliberately gives three Talaqs, then three will apply.

Fourthly: During the era of Sarkaar Abd Qaraar عليه الصلوة والسلام and that of Sayyiduna Siddique e Akbar رضي الله عنه and in the early era of the Khilaafat e Farooqi, that which used to be counted as one Talaq, is proven from this Hadith Shareef that, it was only in the case when the one proclaiming it intended emphasis of the first (Talaq), by way of the uttering the second and third. Otherwise, in the case of it being proclaimed with established intent and aim of giving three (Talaqs), the ruling of three Talaqs being applicable, was given in the era of the Beloved Nabi ﷺ.

The Treachery of the Ghayr Muqallids

Once again observe the treachery of the non-conformist, that in Nasa'i, linked to the same Hadith, Imam Nasa'i composes a section under the title, 'Ar Rukhsah Fi Dhaalika' (i.e. The Legal Concession in what has been mentioned), and quotes a Hadith regarding the legal concession of giving three Talaqs together at the time of necessity, which the Ghayr Muqallid did not mention at all. This is that Hadith,

حدثني ابن شهاب أن سهل بن سعد الساعدي أخبره أن عويبر بن العجلاني جاء إلى عاصم بن عدي فقال أريد أيت يا عاصم لو ان رجلا وجد مع امرأته رجلاً فقتله فتقتلونه أم كيف يفعل سل لي يا عاصم رسول الله صلى الله تعالى عليه وسلم عن ذلك فسأل رسول الله صلى الله تعالى عليه وسلم فكره رسول الله صلى الله تعالى عليه وسلم المسائل وعابها حتى كبر على عاصم ما سب من رسول الله صلى الله تعالى عليه وسلم فلما رجع عاصم إلى أهله جاءه عويبر فقال يا عاصم ما ذا قال لك رسول الله صلى الله تعالى عليه وسلم فقال عاصم لعويبر لم تاتني بخير قد كره رسول الله صلى الله تعالى عليه وسلم المسألة سألت عنه فقال عويبر والله لا تنتهي حتى أسأل عنها رسول الله صلى الله تعالى عليه وسلم فأقبل عويبر حتى أتى رسول الله صلى الله تعالى عليه وسلم وسط الناس فقال يا رسول الله أريد أيت رجلا وجد مع امرأته رجلاً فقتله فتقتلونه أم كيف يفعل فقال رسول الله صلى الله تعالى عليه وسلم قد نزل فيك وفي صاحبك فاذهب فأت بها قال سهل فتلا عنا وأنا مع الناس عند رسول الله صلى الله تعالى عليه وسلم فلما فرغ عويبر قال كذبت عليها يا رسول الله ان اسبكتها فطلقها ثلاثا قبل ان يأمره رسول الله صلى الله تعالى عليه وسلم

This is the gist (i.e. summary) of the Hadith; Uwaymir Al Ajlani رضي الله عنه asked through Hazrat ‘Aasim bin Adi, then he directly asked a question from Huzoor e Aqdas صلى الله تعالى عليه وآله وصحبه وسلم. If a person found a stranger with his wife and killed him, then the Muslims would kill him, so what should he do? Huzoor عليه السلام disliked (i.e. disapproved) this question coming from Hazrat ‘Aasim bin Adi رضي الله عنه. He informed Hazrat Uwaymir رضي الله عنه of the disapproval of Sarkaar عليه الصلاة والسلام then when Hazrat Uwaymir رضي الله عنه presented himself and asked the question, Sarkaar عليه الصلاة والسلام said, the Command of Allah (i.e. verses of the Qur’an) have been revealed regarding you and your wife, so go and bring your wife. Hazrat Sahl رضي الله عنه (the narrator) says, so Hazrat Uwaymir رضي الله عنه and his wife both did Li’aan, and I was present with the Sahaba in the Court of Rasoolullah صلى الله تعالى عليه وآله وسلم. If I keep her, it would mean I have falsely accused my wife. So before Rasoolullah صلى الله تعالى عليه وآله وسلم could give the ruling, he gave his wife three Talaqs.

From this Hadith, we clearly come to know that three Talaqs given together will indeed be regarded according to the Shariah as three Talaqs when the intention is not that of emphasis. Rather, if the intention is that of rectification and appeal, and this is in the condition (i.e. situation) of suitable expedience, then there is a legal concession to give three Talaqs together as well because Sarkaar e Abd Qaraar عليه الصلاة والسلام did not reject this for Hazrat Uwaymir رضي الله عنه. It has been mentioned under this Hadith in the marginal notes of Sanadi,

فيه أن الثلاث تجوز دفعة إذا كانت الحالة تقضيه وتناسبه ملتقطا والله تعالى اعلم

Then, the ruling that if emphasis was intended, it will be counted as one Talaq, and in the case of Istinaaf (i.e. a new Talaq each time, i.e. with each utterance of the word Talaq), it will be counted as three Talaqs is when three Talaqs are given in separate sentences, and if in one

sentence all three Talaqs are given, for example, if he says, I have given you three Talaqs, then this detail explanation which has passed, its indications and connotations are established, and in the sentence, there is really no leeway for one (i.e. for it to be regarded as one). It has been proven absolutely, that in the very early era, before the declaration (ruling) of Hazrat Umar رضي الله عنه, it was the habit of the people that they used to give three Talaqs in separate sentences.

Change in the Intention of The Norm

This is why after presenting this Hadith, Imam Nasa'i composed a section called باب طلاق الثلاث المتفرقة قبل الدخول بالزوج. In other words, the section discussing giving a wife three separate Talaqs before intimacy. After that he quoted the same Hadith of Abus Sahba, using which the Ghayr Muqallid based his reasoning. By this style, Imam Nasa'i has clearly shown that before (i.e. in the past) it was the rule (i.e. manner) that three Talaqs used to be given using separate sentences, and since it is the Madhab of the majority of the Madhab, that by giving three Talaqs together causes three Talaqs to apply, and this Hadith apparently seems to be in contrast to this Madhab, hence in this section he indicated its interpretation, that three Talaqs will only be regarded as one Talaq when the woman is Ghayr Madkhula (i.e. the husband has not been intimate with her, meaning there was no penetration), and the husband gives her three Talaqs in separate (sentences), because she has already come out of the Nikah by the first Talaq, and now there is no need for the second and the third. This interpretation is agreeable and accepted, so then now there is no difficulty in the (case of the) majority in this Hadith. Otherwise, it is ultimately interpreted as per the explanation which we have many times mentioned, and in it, there is clear proof from the very same Hadith, from which it becomes clearly known that the intended norm of the people has now changed. In other words (when they give three Talaqs), they regard

it as giving three Talaqs (i.e. they give it intending three Talaqs), thus three Talaqs will apply, and the clear and significant confirmation is this statement of Hazrat Umar Farooq e Azam رضي الله عنه that,

ان الناس قد استعجلوا امر كانت لهم فيه أناة

In other words, ‘The people became hasty in a matter, wherein they had a reprieve.’ From this phrase, it is clearly apparent that in the era of Sayyiduna Farooq e Azam رضي الله عنه that with every sentence the people intended a new Talaq and the issue of being hasty applied to them, otherwise why would (the words) قد استعجلوا be true for them?

Here, it has also been proven that Sayyiduna Umar رضي الله عنه did not change the rule (command) of Sarkaar e Abd Qaraar عليه الصلوة والسلام المدرار but due to the change in the norm of the people, that decision (ruling) of Sarkaar e Abd Qaraar عليه الصلوة والسلام المدرار automatically became applicable. This was what Sarkaar e Abd Qaraar عليه الصلوة والسلام المدرار himself ruled in regards to those who deliberately gave three Talaqs in different sentences at once (together) with the intention of Istinaaf. This was the order which Sarkaar عليه الصلوة والسلام المدرار gave (in such matters), i.e. the order of three Talaqs becoming applicable, just as we have already mentioned. So, when it is proven that Sayyiduna Umar e Farooq رضي الله عنه did not change the blessed ruling of Huzoor e Aqdas عليه الصلوة والسلام المدرار but rather he implemented an alternative ruling of Huzoor عليه الصلوة والسلام المدرار as was required in the said situation. Hence, to taunt Hazrat Umar رضي الله عنه and to charge him with changing the ruling of Huzoor عليه الصلوة والسلام المدرار and to recite (i.e. cite) the verse وما كان لهم الخيرة etc. is the impudence and audacity of the Ghayr Muqallid, and this is disregard for the dignity of Sayyiduna Umar e Farooq رضي الله عنه. This conduct of theirs is in keeping with the way of Ibn Taymiyyah (the deviant). Ibn Taymiyyah also openly

condemned Sayyiduna Umar e Farooq رضي الله عنه, and branded him as a wrongdoer, just as it has been cited in Fatawa Hadeethiya by Allama Ibn Hajr رحمته الله. The Ghayr Muqallids have inherited this (corrupt behaviour) from him (i.e. from Ibn Taymiyyah). والله تعالى هو الهادي الى سواء السبيل.

The Position of Majority of The Ummah

In short, the hand of the Ghayr Muqallid is empty, and the evidence which he presented is actually (and truly) proof on behalf of the majority of the Ummah, which is clearly in their defence (i.e. of the Ummah), and even though the Ghayr Muqallid is apparently holding to this, he is still miles away. و من لم يجعل الله له نورا فما له من نور. and by the Grace of Allah, our justification is also proven from the verse of the Holy Qur'an;

Almighty Allah says

وَمَنْ يَتَعَدَّ حُدُودَ اللَّهِ فَقَدْ ظَلَمَ نَفْسَهُ

In other words, whosoever transgresses the limits set by Allah, so he has surely done injustice to himself. [Surah Talaq (65), Verse 1]

This verse proves that to give three Talaqs at once (i.e. together) is sinful and disobedience, and to do injustice on to one's self. However, even though to take these steps is Haraam (forbidden), but if one gives three Talaqs at once (together), it will apply, because if only one Talaq applied, then neither would it have been a sinful act, and nor will it cause any regret to the one who proclaimed the Talaq.

Imam Nawawi رحمه الله تعالى states in the annotation (Sharah) of Muslim Shareef,

و احتج الجمهور بقوله تعالى ” و من يتعد حدود الله فقد ظلم نفسه “ لا تدري لعل الله يحدث بعد ذلك أمرا قالوا معناه ان يطلق قد يحدث له ندم فلا يمكنه تداركه لوقوع البينونة فلو كانت الثلاث لا تقع لم يقع طلاقه هذا الارجعيا فلا يندم و احتجوا ايضا بحديث ركانة انه طلق امرأته البتة فقال له النبي صلى الله عليه وسلم ما اردت الا واحدة فهذا دليل على انه لو ارد الثلاث لوقعن والا فلم يكن لتحليفه معنى -

In other words, the Jamhooor (i.e. rightly guided majority) have taken evidence from the word of Allah (in other words, ‘Whosoever transgresses the limits set by Allah, so he has surely done injustice to himself,’ for he does not know that after that Allah will cause something new to happen). The Jamhooor have said that the meaning of this verse is this, that if the one who proclaimed the Talaq ever feels any regret, he will not be able to make any amends for what he has done, because due to the three Talaqs, the relationship has been severed and separation has occurred, so if all three Talaqs are not applicable at once, then such a Talaq from a person will always cause Raj’ee (the revocable) to apply, and he will not regret this; and the Jamhooor have also taken evidence from the Hadith of Rukanah. Rukanah had given his wife three Talaqs, so Sarkaar عليه الصلوة والسلام المدار said to him, did you intend only for one Talaq? So, asking him this question, and getting him to take an oath, is evidence that if Rukanah had given three Talaqs deliberately (i.e. with the intent of giving three), then three would have applied. Otherwise, there was no reason to get him to take an oath.

The above mentioned venerable Imam states in the Sharah of Muslim regarding the Hadith of Abus Sahba;

الاصح أن معناه انه كان في اول الامر اذا قال لها أنت طالق أنت طالق أنت طالق ولم ينو تأكيد او لا اشتتنا فإيحكم بوقوع طلاق واحدة لقلة ارادتهم الاستئناف بذلك فحصل على الغالب الذي هو ارادة التأكيد فلما كان في زمن عمر رضى الله عنه وكثرا استعمال الناس لهذه الصيغة وغلب منهم ارادة الاستئناف بها حدثت عند الاطلاق على الثلاث عملا بالغالب السابق الى الفهم منها في ذلك العصر اه

The correct view in the Hadith of Abus Sahba is this, that in the past era when a man would say to his wife, upon you is Talaq (i.e. I give you Talaq), upon you is Talaq, upon you is Talaq, and if (in doing) so he did not have the intention of emphasis, Istinaaf (i.e. repetition), then in that era, the ruling of one Talaq being applicable was given, because the people seldom made the intention of Istinaaf (a new/fresh Talaq each time they said it), so this statement was the prevalent norm, that it used to be intentionally based on emphasis. Then, when people began to use this form (i.e. connotation) in the era of Hazrat Umar رضي الله عنه abundantly (i.e. freely) and the intent of Istinaaf became more prevalent. Thus, when applying it, three Talaqs were regarded as the implication of that form (connotation), by acting upon the meaning which took precedence in the mind in that time.

From the verse of the Holy Qur'an we have come to know, that to give three Talaqs at once (together) is a Bid'at (i.e. a malicious innovation) and a sinful act, but it being an immoral act does not obstruct it from applying. If someone thinks that three Talaqs given at once will not apply, then this understanding of his is clear opposition to the Qur'an and Hadith.

The Masnun and Decreed Talaaq

Imam Abu Bakr Jas-sas Razi, whose words the Ghayr Muqallid presented all over as a citation, has refuted this imperfect notion at the inception, and by presenting the verses فان طلقها and الطلاق مرتان he has gone with the rational that if given at once, three Talaaqs will apply. Hence, he states in ‘Ahkaam ul Qur’an,’

فان قيل معنى هذه الآية محمول على ما بينه بقوله (فطلقوهن لعدتهن) وقد بين الشارح الطلاق للعدة وهو أن يطلقها في ثلثة اطها ران اراد ايقاع الثلاث و متى خالف ذلك لم يقع طلاقه قيل له نستعمل الايتين على ما تقتضيانه من احكامهما فنقول ان البندوب اليه الباموربه هو الطلاق للعدة على ما بينه في هذه الآية وان طلق بغير العدة و جمع الثلاث و قعن لها اقتضت الآية الأخرى و هي قوله تعالى (الطلاق مرتان) وقوله تعالى (فان طلقها فلا تحل له من بعد) اذ ليس في قوله تعالى (فطلقوهن لعدتهن) نفى لما اقتضت الآية الاخرى ويدل عليه في قوله تعالى في نسق الخطاب و من يتق الله يجعل له مخرجا يعنى والله اعلم أنه اذا وقع الطلاق على ما امره الله كان له مخرجا مما اوقع ان لحقه ندم و هو الرجعة و على هذا المعنى تاولة ابن عباس حين قال للسائل الذى سأله وقد طلق امرأته ثلثا ان الله يقول و من يتق الله يجعل له مخرجا و انك لم تتق الله فلم اجد لك مخرجا عصيت ربك و بانك منك امرأتك الخ۔

The gist (summary) of the meaning (presented by him) is this, that if the opposition says that this verse فان طلقها فلا تحل له من بعد is attributed to the word of Allah where Allah says فطلقوهن لعدة هن in other words, give Talaaq to the women within their interval; and the annotator has mentioned this concerning Talaaq during the interval, that the woman should be given Talaaq in the three ‘Tuhur’ (i.e. during their interval of purification), if he wishes to give her Talaaq, and if he does contrary to this, then the Talaaq will not be applicable.

The reply to this is that we act upon both the verses, based on the rulings which are in following both verses, so our view is this, that the Masnun (Sunnah way) and Mamoor Bihi (commanded) Talaaq is that Talaaq which is given during the waiting period (i.e. the interval of purification), just as it has been mentioned in this verse, and if he does not give the Talaqs separately during the interval of purification, but rather he gives three altogether, then on the basis of following the second verse (of the Qur'an), it will become applicable.

Talaaq e Raj'ee is Twice

Another verse is الطلاق مرتان 'The revocable Talaaq is twice' (i.e. it can only be revoked twice); and the command of Allah, فان طلقها فلا تحل له من بعد in other words, if a woman is given three Talaqs, then the woman is now not Halaal upon him (until end of the ayah...) because in the words of Allah, فطلقوهن لعدّة هن there is no contradiction to this, to which the second verse is necessitating, and in the sequence of the Kalaam, the word of Allah ومن يتق الله يجعل له مخرجا in other words, 'Whosoever fears Allah, Allah provides for him a path to redemption' is evidence to this. The meaning of this is (Allah Knows best) that if he gives Talaaq as per the command of Allah, and he regrets what he has done, then he will be able to resolve the situation by way of revoking it, and Sayyiduna Ibn Ab'bas رضي الله عنهما has taken this verse in this context, when he replied to the person who questioned him about having given his wife three Talaqs. He replied Almighty Allah says, ومن يتق الله يجعل له مخرجا 'Whosoever fears Allah, Allah provides for him a path to redemption' (He then said to him) O person! You did not fear Allah, so I cannot find a path of redemption for you. You have disobeyed your Creator. Your wife has come out of your Nikah. Then he presented the objections in the other manner, and gives the answers to them as well, by way of evidence referring to few precedents;

وهذا نصه فان قيل لما كان عاصيا في ايقاع الطلاق الثلاث لم يقع اذ ليس هو الطلاق بالامور به كما لو وكل رجل بان يطلق امرأته ثلاثا في ثلثة اطهار لم يقع اذا جمعهن في طهر واحد قيل له أما كونه عاصيا في الطلاق فغير مانع صحه وقوعه لها دللنا فيما سلف عليه ومع ذلك فان الله جعل الظهار منكرأ من القول وزورا مع ذلك بصحة وقوعه فكونه عاصيا لا يمنع لزوم حكمه والانسان عاص الله في رده عن الاسلام ولم يمنع عصيانه من لزوم حكمه و فراق امرأته وقد نهاه الله عن مراجعتها ضرار القولہ تعالیٰ ولا تمسكوهن ضرارا لتعتدوا فلور اجعها وهو يريد ضرارا لثبت حكمها وصحت رجعتہ۔

In other words, if it is said that by the husband giving three Talaqs at once he is rendered sinful, thus three Talaqs will not apply because this is not the Talaq which has been commanded.

The precedent (i.e. example) for this is, that if someone was appointed as a Wakeel (i.e. a proxy) that he should give Talaq to his wife (i.e. to the wife of the one who appointed him as a proxy for this purpose), during her three Tuhur (intervals of purification), but he gave all three Talaqs in one Tuhur (interval of purification), then in this situation three Talaqs will not apply. It will be said to the one raising this objection that regardless of the husband being rendered sinful for giving three Talaqs at once, this does not hinder the application of the Talaqs from being valid, and this is evidence for that which we have explained, and this is despite the husband being sinful.

(Another precedent is this that) Almighty Allah has declared Zihar (in other words, when the husband says to his wife, you are to me like the stomach (womb) of my mother) to be contrary to the Shariah and a lie. Regardless of this, He commanded the validity of it being applicable. Thus, by the person being rendered sinful, does not mean that, the ruling regarding that which he has uttered does not become applicable.

(A further precedent is that) When a man turns away from Islam, he is rendered as one who has disobeyed Almighty Allah, and his sinful act does not hinder him from being declared an apostate, and from his wife coming out of his Nikah.

(A further precedent is that) Almighty Allah has disallowed that the husband should apply Raj'at (revocation) to cause harm to her. Hence, it has been commanded; do not hold back women with the intention to cause them harm, for you will transgress the limits. Now, if the husband does Raj'at with his wife, and his aim is to cause her harm, then the rule of Raj'at will surely still be proven (i.e. it will apply), and the Raj'at will certainly be valid.

The Difference between the Husband and The Wakeel

Then in the same Ahkaam ul Qur'an in response to the precedent mentioned by the one who has objected, he clarifies the difference between the position of the husband and the Wakeel (proxy). He does so with these words;

واما الفرق بينه وبين الوكيل فهو ان الوكيل انما يطلق لغيره وعنه لغيره وعنه يعبرو ليس يطلق لنفسه ولا يملك ما يوقعه الا ترى انه لا يتعلق به شئ من حقوق الطلاق و احكامه فلما لم يكن مالكا لبا يوقعه وانما يصح ايقاعه من جهة الامر اذ كانت احكامه تتعلق بالامر وانه لم يوقع متى خالف الامر واما الزوج فهو مالك الطلاق وبه تتعلق احكامه وليس يوقع لغيره فوجب ان يوقع من حيث كان مالكا للثلاث و ارتكاب النهي في طلاقه غير مانع وقوعه كما وصفنا في الظهار والرجعة والردة و سائر ما يكون به عاصيا الا ترى انه لو طئ امرأته بشبهة حرمت عليه امرأته وهذا المعنى الذى ذكرنا من حكم الزوج في ملكه للثلاث من الوجوه التى ذكرنا يدل على انه اذا وقعهن معا وقع اذ هو موقع لهما ملك۔

In other words, as for the difference between the Talaq issued by the husband and the Wakeel, then it is this, that the Wakeel gives the Talaq on behalf of someone else and he says the words of Talaq on behalf of that same other person, and he does not personally give the Talaq by himself, and that Talaq which he causes to apply, he is not the owner of it (i.e. he has no power over it), and nothing from the rights and the rules of Talaq are relevant to him. Therefore, when the Wakeel is not the Malik (owner) of that Talaq, which he causes to apply, and him causing it to become applicable on behalf of the husband is valid, in this sense that the rules of Talaq are relevant to the husband, who is the one who has commanded it, then the Talaq of the Wakeel will not become applicable if he acts in violation of that which he was commanded to do. As for the husband, then he is the Malik (owner) of the Talaq, and the rulings of Talaq are relevant to him, and he is not giving the Talaq for anyone else, but for himself, so in this capacity that he is the Malik of three Talaqs, the three Talaqs will apply, and in the husband giving the Talaq, being in contempt for acting contrary (to the correct way) does not hinder the Talaq e Mughallaza (the third and final irrevocable Talaq through which the wife is totally forbidden upon the husband) from becoming applicable, just as we have already mentioned in the examples of Zihar, Raj'at and Irtidaad (apostasy), and in the case of all such matters due to which a person is regarded sinful. Please see (observe), that if a husband is intimate (i.e. has intercourse) with his mother in law due to misperception (i.e. he mistakes her for his wife), his wife (still) becomes Haraam upon him.

He (Imam Abu Bakr Jas-sas Razi) then establishes evidence from the Sunnat of the Beloved Nabi ﷺ concerning the matter in question. Hence, he writes;

ويدل عليه من جهة السنة حديث ابن عمر الذي ذكرنا سنداً حين قال ارأيت لو طلقته ثلثاً أكان لي
أن أراجعها فقال النبي صلى الله تعالى عليه وسلم لا كانت بتين ويكون معصية

In this regard, from the perspective of Hadith, the Hadith of Ibn Umar serves as evidence; the merit of which we have mentioned, when he said to Huzoor عليه الصلوة والسلام that, advise me, if I had given three Talaqs to my wife, would I have been able to do Raj'at with her (i.e. revoke those Talaqs)? Sarkaar عليه الصلوة والسلام said, No! Then she would have come out of your Nikah, and it would have been a sinful act.

Connected to this, he presents his merit for the Hadith e Rukanah which the Ghayr Muqallid took his reasoning. He (Imam Abu Bakr Jas-sas Razi) then later quotes those words of the Hadith, which the Ghayr Muqallid quoted concerning the merit of Imam Ahmed, and he (Imam Abu Bakr Jas-sas Razi) answers this (as well).

The Ruling Regarding Talaaq e Baa'in & Three Talaaqs in a Single Session

These are the words of the Noble Allama Imam Abu Bakr Razi in Ahkaam ul Qur'an,

وحدثنا محمد بن بكر قال حدثنا ابو داؤد قال حدثنا سليمان بن داؤد قال حدثنا جبير بن حاز مر عن الزبير بن سعيّد عن عبد الله بن علي بن يزيد بن ركانة عن ابيه عن جدّه أنه طلق امرأته البتة فاتى رسول الله صلى الله تعالى عليه وسلم فقال ما اردت بالبتة قال واحدة قال والله قال والله قال هو على ما اردت فلو لم تقع الثلاث اذا ارادها لها استحلفه بالله ما اراد الا واحدة وقد تقدم ذكرها قواويل السلف فيه وأنه يقع وهو معصية فالكتاب والسنة واجماع السلف توجب ايقاع الثلاث معا وان كانت معصية و ذكر بشر بن الوليد عن ابن يوسف أنه قال كان الحجاج بن ارداة خشنا وكان يقول الطلاق الثلاث ليس بشى وقال محمد بن اسحق الطلاق الثلاث ترد الى الواحدة واحتج بهما رواه عن داود بن الحصين عن عكرمة عن ابن عباس قال طلق ركانة بن عبد يزيد امرأته ثلاثا فى مجلس واحدة فعزن عليها حزنا شديدا فسأله رسول الله صلى الله تعالى عليه وسلم كيف طلقتهما قال طلقتهما ثلاثا قال فى مجلس واحد قال نعم قال فانها تلك واحدة فارجعها ان شئت قال فرجعتهما و بها روى ابو عاصم عن ابن جريح عن ابن طاؤس عن ابيه ان ابا الصهباء قال لابن عباس الم تعلم ان الثلاث كانت على عهد رسول الله صلى الله تعالى عليه وسلم و ابى بكر وصدر ا من خلافة عمر ترد الى الواحدة قال نعم وقد قيل ان هذين الخبرين منكران

In other words, Muhammad Bakr reported a Hadith to us, he said, Abu Dawud reported a Hadith to us, he said, Sulaiman bin Dawud reported a Hadith to us, he said Jareer bin Haazim reported a Hadith to us, from Zubair bin Sa'eed, who narrates from Abdullah ibn Ali bin Yazid bin

Rukanah. He narrates from his father (Ali), who narrates from his grandfather Rukanah, that he had ‘Al-Battah’ ‘absolutely’ given Talaq to his wife, and then presented himself at the Blessed Court of Rasoolullah ﷺ. Sarkaar عليه الصلوة والسلام asked him, what did you mean by ‘Al-Battah’ ‘absolutely’? He said I had intended one Talaq. Sarkaar عليه الصلوة والسلام said, by Allah! (i.e. take an oath by Allah), he said, by Allah! The matter is as per what you intended (in other words, in this situation only one Talaq applied). Therefore, in the case of the motive of three Talaqs of Rukanah رضي الله عنه, if three Talaqs had not applied, then Rasoolullah ﷺ would not have taken an oath from Rukanah رضي الله عنه that he intended it as only one, and in this regard, the views of the predecessors have already been mentioned, that three Talaqs become applicable, even though it is sinful to give three Talaqs at once, so the position of the Kitaab (Qur’an), Sunnah, and the Ijma’ of the predecessors is that that if three Talaqs are given at once, they will be applicable (as three), even though it is sinful to do so.

Three Talaqs in a Single Session

Bishr ibn Al Waleed reported a narration from Abu Yusuf in which he said that Hajjaj bin Artat was ill-tempered and that he used to say that there was no such thing as three Talaqs. Muhammad bin Ishaq said that three Talaqs given at once will only be counted as one, and he took the support of this Hadith which he reported from Dawud ibn Al Haseen, which he reported from Ikrama, and Ikrama reported from Ibn Ab’bas that Rukanah bin Abd Yazeed had given three Talaqs to his wife, and he was saddened by this (i.e. he regretted it), so Rasoolullah ﷺ asked him, how did you give Talaq to your wife? He said that, I have given three Talaqs to her. Sarkaar عليه السلام asked, in one session? He said, yes! Sarkaar عليه السلام said, then only one has applied, so do Raj’at with her (i.e. revoke it), if you so wish. Rukanah says, so I did Raj’at with her.

He also took support from the Hadith which was reported by Abu Aasim from Ibn Jareeh. He reports from Ibn Ta-oos, he reports from his father, that Abus Sahba said to Ibn Ab'bas that, do you not know that in the era of Rasoolullah ﷺ and Abu Bakr, and at the beginning of the Khilaafat of Umar, three Talaqs were declared as one? He said, yes.

And indeed, the people have said that both these reports are Munkar (disapproved/overruled). Every reasonable observer (critic) is invited to present his unbiased observations and views. Study (i.e. observe) the phrase (i.e. extract) of Imam Abu Bakr Jas-sas Razi which I have written with detail, and observe with your own eyes, the splendour of the integrity and credibility of our learned Ulama. At first sight, every observer (critic) will realise that in proving our claim, our A'ima indeed fulfilled the right of research and analysis; and as evidence for their claim, they do not ignore those matters which adversely affects their claim, but they even mention these, and the present a compelling response to it.

Observe that in the matter of giving three Talaqs at once, Imam Jas-sas Razi showed and proved the stance of the Jamhoor e Muslimeen (the majority of the Righteous Muslims) from Qur'an and Sunnah, with detailed explanations, citing names and complete paraphrases. Then, when he began presenting Hadith, then with these Ahadith, he also presented those Hadith which are evidences of the Jamhoor. He also quoted the narrations which the opposition of the Muslims of the Ahle Sunnat present, and he responded with regards to both (those narrations) in this manner (i.e. by saying), قد قيل ان هذين الخبرين منكران, in other words, indeed it has been mentioned that both these narration are Ghayr Ma'ruf and Munkar (i.e. not commonly acceptable, and disapproved/overruled), both of them being regarded disapproved or overruled are itself reported from Huzoor عليه الصلوة والسلام.

It is evident from the other Ahadith which prove that Huzoor e Aqdas ﷺ himself ruled that when three Talaqs are given in one session, they will apply as three, this as well, that in that blessed era and the presence of Huzoor عليه الصلوة والسلام some Sahaba gave their wives three Talaqs at once, and Huzoor عليه الصلوة والسلام did not reject this (being applicable), just as we have already explained earlier, and we raised the veil from the treachery of the Ghayr Muqallid.

Furthermore, also testimony to the weakness of these two Hadith (i.e. the narrations) and it being not accepted (as authentic), both of which are reported from Ibn Ab'bas رضى الله عنهما is that he gave the Fatwa (verdict) against it just as it has already been mentioned, and the narration which is contrary to it, just as it is evident from the first chain of transmission of the Hadith of Rukanah, in which it is mentioned طلق امرأة البتة. This is evident, and when a narrator acts contrary to his narration, then it is evidence to the fact that the said narration is Da'eef (weak).

This is why after making note of both these accounts being Munkar, Imam Abu Bakr Jas-sas Razi عليه الرحمة as evidence says,

وقد روى سعيد بن جبيرة ومالك بن الحارث ومحمد بن اياس والنعيمان بن أبي عياش كلهم عن ابن عباس في من طلق امرأته ثلاثاً أنه عصى ربه وبيات منه امرأته

In other words, Sa'eed bin Jubair, Malik bin Haarith, Muhammad bin Ay'yas, and Nu'man bin Abi Ayyash have all reported from Ibn Ab'bas رضى الله عنهما that he said regarding it that, the one who gave his wife three Talaqs, then he has disobeyed his Rub, and his wife has come out of his Nikah. Let's comment in the words of the Ghayr Muqallid, in regards to this Fatwa of Sayyiduna Ibn Ab'bas رضى الله عنهما.

Even though this Hadith is verbally ‘Mawquf’, and it is the statement of a Sahabi; it is ‘Hukman Marfu’ (i.e. indirectly elevated), because in it Ijtihad, is not allowed and there is no intervention in it; because such a definite judgment is dependent on the Nabwi Judgment. [Page 19, Shar’ee Talaq]

The Ghayr Muqallid wrote these words after quoting a Hadith of Ibn Ab’bas رضي الله عنه concerning Sunan Abu Dawud. Even there, the Ghayr Muqallid used treachery and filled his belly with lies (i.e. his words are full of lies). He will be unveiled a bit later. Now, after having observed the rays of righteousness of our distinguished Imams, observe the fraudulent and obnoxious face of the Ghayr Muqallid.

The Hadith Rukanah wherein it has been mentioned that he gave his wife three Talaqs, which Imam Abu Bakr Jas-as Razi رضي الله عنه reported afterwards, and before that he quoted that Hadith which is reported by Rukanah himself, in which it was mentioned that he gave his wife, Talaq ‘Al-Battah’. The Ghayr Muqallid quoted that same one which mentions Three Talaqs, giving reference to Musnad Imam Ahmed, because he regarded it beneficial to his claim, and the second Hadith which discusses the ‘Talaq Al-Battah’, which Abu Bakr Jas-sas Razi quoted in the very same Ahkaam ul Qur’an, (the book) from which he (the Ghayr Muqallid) repeatedly presented evidence, and which even Tirmizi and Abu Dawud have reported, he completely omitted, because it was harmful to his claim. Then he shamelessly also proclaimed this lie;

‘Imam Ahmed and Imam Tirmizi say this Hadith to be Sahih (Sound)’
[I’laam ul Mu’qi-een Ibn Al Qayyim Volume 4, Shar’ee Talaq Page 14]

I say, this Hadith is indeed in Musnad Imam Ahmed, but there is no sign of it being regarded on the merit of being Sahih (Sound), and the Fatwa and the narration of Ibn Ab'bas رضي الله عنهما is contrary to it, which is proof of it being unsound (i.e. weak), but it is also evidence of it not being accepted. Rather, even the Fatwa of Imam Ahmed رضي الله عنه is not based on this, but his Fatwa is the same which is the Fatwa of the Jamhooir Muslimeen, and he is even of this view that if in one Tuhur three Talaqs are given, then this too is in accordance with the Sunnah.

It is in Jaame' Tirmizi,

قال بعضهم ان طلقها ثلثا وهي طاهر فانه يكون للسنة ايضا وهو قول الشافعي واحمد وقال بعضهم لا يكون ثلثا للسنة الا ان يطلقها واحد

Imam Nawawi states in Sharah Sahih Muslim,

وقد اختلف العلماء فيمن قال لامرأته انت طالق ثلثا فقال الشافعي ومالك وابو حنيفة واحمد وجاهير العلماء من السلف والخلف يقع الثلاث وقال طاؤس وبعض اهل الظاهر لا يقع بذلك الا واحدة الخ

Then Imam Tirmizi did not even mention that Hadith in which it is mentioned that Rukanah had given three Talaqs to his wife, but he presented that Hadith of Rukanah which mentions the Talaq Al-Battah, and after presenting it, he stated, لانعرفه الا من هذا الوجه in other words, we do not know it (i.e. we do not recognise this Hadith) by any other Sanad (chain), except for this one. This then clearly proves that this Hadith which Tirmizi etc. mentioned is Ma'ruf, and from the other transmission it is 'Munkar', just as it has been quoted from Ahkaam ul Qur'an.

Then, for the Ghayr Muqallid to bring this Hadith regarding which Tirmizi said, لا نعرفه (We do not know it), and to then say that Imam Tirmizi classified it as Sahih (sound) is such an enormous allegation. ولا حول ولا قوة الا بالله العلي العظيم.

The series of the treachery of the Ghayr Muqallid is still on-going. In quoting as support for his Hadith Munkar, from Fathul Baari of Allama Ibn Hajr Asqalani قدس سره انوراني he (the Ghayr Muqallid) says,

وهذا الحديث نص في المسئلة لا يقبل التاويل

This Hadith is completely explicit in this matter. There is no leeway for any interpretation of it. [Shar'ee Talaah, page 16]

The Report of Hazrat Rukanah

We will now present for the perusal of the readers the words of Allama Ibn Hajr from Fathul Baari, from which it will be clearly evident, what the Ghayr Muqallid hid, and what he revealed.

The Noble Allama says in Fathul Baari

وهذا الحديث نص في المسئلة لا يقبل التاويل الذي في غيره من الروايات الا في ذكرها وقد اجابوا عنه
باربعة اشياء

In other words, this Hadith (which Muhammad bin Ishaah has reported and deduced from it), evidence in this matter, which does not accept the interpretation which is different from it, in the other narrations; the explanation of which is forthcoming, and the Ulama have given four answers to it. [Fathul Baari, Vol.9, Page 316]

Look at how Mr Ghayr Muqallid omitted that phrase from the text of Fathul Baari which was entirely associated and interconnected to the above-mentioned text, and he attributed it to Ibn Hajr, that he (Ibn Hajr) said that there is no leeway for any interpretation of it.

Nonetheless, it is apparent from the context that Ibn Hajr did not say this on his accord, but that which can be said in support of Ibn Ishaq is what he wrote. And he went on further to make this narration of Ibn Ishaq the Marjuh (i.e. weaker) view, and he explicitly mentioned the ‘Talaaq Al-Battah’ Hadith which is from Rukanah himself, to be Raajih (the predominant and preferred view).

He therefore says,

الثالث أن أباداؤ درجة ان ركانة انما طلق أمراة البتة كما أخرج هو من طريق آل بيت ركانة وهو
تعليل قوى لجواز أن يكون بعض رواة حمل البتة على الثالث فقال طلقها ثلثا فهذه الكنه يقف
الاستدلال بحديث ابن عباس -

In other words, the first answer is this, that Abu Dawud gave preference (i.e. distinction) to the narration that Rukanah did give Talaaq Al-Battah to his wife, just as he reported this Hadith from the family of Rukanah, and in this Hadith, the interpretation is strongly possible that some narrators of the Hadith must have understood ‘Al-Battah’ to mean three Talaaqs, so they mentioned it in this way, that Rukanah gave three Talaaqs to his wife, and with this point (i.e. opinion), the reasoning (i.e. deduction) from the Hadith of Ibn Ab’bas becomes suspended. In other words, that Hadith which Ibn Ishaq reported that Rukanah gave his wife three Talaaqs, is resolved to be Marjuh (the weaker non-preferred view), so it ceases to be regarded as rational evidence.

The probability which was shown in this narration of Ibn Ishaq that some narrators understood 'Al-Battah' as three Talaqs and narrated it as three Talaqs, exactly the same probability is found in the reliable second narration of Ibn Ishaq, in which it was mentioned that three Talaqs in the era of Rasoolullah ﷺ and Siddique ﷺ and during the early days of the Khilaafat e Farooqi were regarded as one. He quoted it and corroborated it as fixed, whereas in the same Fathul Baari at the beginning, this narration was presented, and this phrase was written, which Mr Ghayr Muqallid has written in his booklet, and before writing this text, the Ghayr Muqallid Saaheb said, that then when those objections were raised, then Hafiz Saaheb then gave the answers and said,

ويقوى حديث ابن اسحق المذكور ما أخرجه مسليباخ

In other words, the Hadith of Sahih Muslim, the first Hadith strengthens this narration. [Booklet of the Ghayr Muqallid, as mentioned on page 15]

The Interpretation of The Word 'Al-Battah'

Now, what Hafiz Ibn Hajr states in response to this (matter), the Ghayr Muqallid omitted. Listen to it from us, and be appalled by the treachery of the opponent.

الجواب الشامن حمل قوله ثلثا على ان المراد به البتة كما تقدم في حديث ركانة سواء وهو من روايته ابن عباس ايضا وهو قوى ويؤيد اذ ادخال البخارى في هذا الباب الآثار التي فيها البتة والأحاديث التي فيها التصريح بالثلاث كأنه يشير الى عدم الفرق بينهما وان البتة اطلقت حمل على الثلاث الا ان اراد المطلق واحدة فيقبل فكان بعض رواته حمل لفظ البتة على الثلاث لاشتتار التسوية بينهما فراها بلفظ الثلاث وانما المراد البتة وكانوا في العصر الأول يقبلون ممن قال اردت بالبتة الواحدة فلما كان عهداً مضى

الثلاث في ظاهر الحكم

In other words, the eighth answer is this, that the narration regarding the Three Talaqs should be should be interpreted in this manner, that it means Talaq Al-Battah, just as in the Hadith of Rukanah it is this which was first mentioned, and this is from the narration of Ibn Ab'bas رضى الله عنهما as well, and this answer is the strong view. This is supported in this manner, that Bukhari has included it in the chapter (section) in which he mentions the Talaq Al-Battah, and he also listed those Ahadith which the three Talaqs are specified, as though Imam Bukhari is pointing out that there is no difference in the word Al-Battah and three Talaqs, and that when the word Al-Battah is said in an absolute sense, then by doing this, three Talaqs become applicable, except if the husband intended it as one Talaq, then his word will be accepted. Therefore, probably some of the narrators interpreted the word Al-Battah to mean three Talaqs, (and) due to the well-known similarity of both words, they narrated the Hadith using the word 'Thalatha' in other words 'three Talaq', whereas the meaning is this, that the people used to give Talaq Al-Battah, and in the early era when someone would say that, my intention of Al-Battah was one Talaq, then his word used to be accepted. Then, when the era of Sayyiduna Umar رضى الله عنه came, then he gave the command regarding three Talaqs (becoming applicable) based on the apparent sense (i.e. three meant three). [Fathul Baari, Vol.9, Page 318]

You should remember that the interpretation which Imam Ibn Hajr رضى الله عنه has done here, he has already given the same explanation concerning Abu Dawud about the Hadith of Rukanah, and he kept this definite. The result (gist) of this interpretation that some of the narrators interpreted this literally; this is why instead of the word Al-Battah they reported it as three Talaqs. Therefore, the result is this, that like the Hadith of Rukanah, some narrators made certain adjustments, due to which there was disagreement with the narrations of the Hadith of other 'Thiqah'

(reliable and trustworthy) narrators, and when a narrator narrates with a differing from the Thiqah narrators, then the Hadith is not regarded as Sahih (sound), but it is classified as being Shaadh (i.e. a narration which is contrary to the reliable narrations). This is why despite this, Allama Ibn Hajr while giving support to Muhammad bin Ishaq, he mentions the Hadith of Muslim, but still does not keep his words definite, but rather he quotes the claim of irregularity in this Hadith (i.e. narration) from Baihaqi, and he kept this definite.

The Narration of Ta'oos

Hence in the same Fathul Baari the Noble Allama writes

الجواب الثاني دعوى شدو ذروا بة طاؤس وهى طريقة البهيتى فانه ساق الروايات عن ابن عباس بنزوم
 الثلاث ثم نقل عن ابن البندر أنه لا يظن با بن عباس انه يحفظ شيئاً عن النبي صلى الله تعالى عليه
 وسلم ثم ويفتى بخلافه فيتعين المصير الى الرجيم والأخذ بقول الاكثر اولى من الاخذ بقول الواحد اذا
 خالفهم وقال ابن العزالى هذا حديث مختلف فى صحته فكيف يقدم على الاجماع

In other words, another answer is that the narration of Ta'oos (in which it is said that in the early era three Talaqs used only, allow one to apply) is a Shaadh (narration); and this is the manner of Imam Baihaqi. This is because Imam Baihaqi first listed those narrations of Ibn Ab'bas, in which there is a specification that the three Talaqs become necessary. He then reported from Ibn Mundhir that he said that it cannot be assumed concerning Ibn Ab'bas رضى الله عنهما that he would remember one thing from Nabi ﷺ, and then himself give a Fatwa contrary to it. Finally, the priority is determined (i.e. set) and to act based on the statement of many (of the vast majority of the righteous scholars) is better than acting upon the word of just one person, in the case when the view of one individual is

contrary to the majority (of the vast majority of the righteous scholars); and Ibn Arabi said that this is such a Hadith regarding which there is a difference in its authenticity, so how then can it take priority over the Ijma'! Few points have come to light from the discussion of Allama Ibn Hajr رحمته الله:

1. The Riwayah (narration) of Ta'oos from which Mohammed bin Ishaq took his reasoning (i.e. from which the said view was deduced) is Shaadh (i.e. a Shaadh Narration). The same has been expressed as being Munkar (disapproved/overruled) in Ahkaam ul Qur'an, just as it has been aforementioned.
2. This narration is contrary to the second (other) narration of Ibn Ab'bas, in which the necessity of three Talaqs (applying) is clarified.
3. In proving this Hadith to be from Ibn Ab'bas رضي الله عنهما he has brought about a concern and doubt, that this view cannot be related to Ibn Ab'bas, whereby he would remember any Hadith from Huzoor عليه السلام and then give a Fatwa (Decree) conflicting with it, whereas as he did give a Fatwa contrary to it, so this narration being proven from Ibn Ab'bas is by itself in a doubtful position, and the result (gist) of the answer is the same, which has been mentioned in response to the Hadith of Rukanah, that the Ulama disagreed based on the Fatwa of Ibn Ab'bas, and to hold fixed here the style of the disagreement, is the proof that according to him it is reliable and authentic, and there, when he said that;

واجب بان الاعتبار برواية الرواى لبرائه لها بطرق رأيه من احتمال النسيان وغير ذلك

In other words, the answer to the disagreement was given, that the credibility is based on the narration of the narrator and not based on his opinion, because there is the risk of forgetfulness, etc. in their views.

Regarding this, his concluding statement has clarified the issue that it is not (actually) his statement, and neither is it his choice nor preferred (by him) and from this, the answer has become clear that there is doubt about it being the Riwayah (narration) of Ibn Ab'bas.

4. Even if it is accepted that this is the narration of Ibn Ab'bas, then this second narration of Ibn Ab'bas is conflicting, so in the case of a conflict (the principal is that) when Tatbeeq and Tawfeeq cannot be applied (i.e. when the narrations cannot be made compatible in meaning), so Tarjeeh (i.e. prevalence based on the measure of the Hadith) must be applied, and Tarjeeh (prevalence) will be afforded to the statement (i.e. view) of the Jamhoor, who (in this case) acknowledge the necessity of three Talaqs (applying), that in contrast to (the view) of one, it is mandatory to act in accordance with the Madhab of the Jamhoor (i.e. the doctrine of the vast majority of the righteous scholars).
5. There is a conflict (i.e. conflicting views) in the correctness of the Hadith, so this cannot be given precedence over the Ijma' (consensus).

From here we also deduce that it is the Ijma' of the Ummah (consensus of the Ummah) that to give three Talaqs at once becomes applicable (as three), and there is no credibility to the opposing views of those who oppose it. This is why even after giving the narrative of the opposite view, he still explained the Ijma' and did not allow the difference of an

individual to primarily interfere with the Ijma', but rather he interpreted it on the basis of irregularities, as it is to be separate from the Sawaad e Azam and an opposing (view) to the Ijma', and it is said to be the view of the Shia, etc.

It is mentioned in the same Fathul Baari,

وهو قول التشيعية وبعض اهل الظاهر وهو شذوذ وذهب كثير منهم (أى السلف) الى وقوعه مع منع جواز

In other words, the view of the non-applicability of three Talaqs is the view of the Shia and of some of the Ahle Zaahir (those who go with the literal interpretation), and this view is contrary to the Ijma, and it is the Madhab of many Ulama (predecessors) that the three Talaqs apply, but to do so is not Halaal (i.e. impermissible / not legitimate).

The Ruling Regarding Nikah Mut'ah

More clear and well-defined than that, is this which is mentioned in the appendix of this discussion, in the same Fathul Baari,

وفي الجملة فالذى وقع في هذه المسئلة نظير ما وقع في مسئلة البتعة سواء أعنى قول جابر انها كانت تفعل في عهد النبى صلى الله تعالى عليه وسلم وأبى بكر و صدر من خلافة عمر قال ثم نهانا عبر عنها فاتتهينا فالراجح في الموضوعين تحريم البتعة و ايقاع الثلاث للاجماع الذى انعقد في عهد عمر على ذلك ولا يحفظ أن أحد افى عهد عمر خالفه في واحدة منها فدل اجماعهم و على وجود ناسخ وان كان خفى عن بعضهم قبل ذلك حتى ظهر لجبيعهم في عهد عمر فالخالف بعد هذا الاجماع منا بذله والجهور على عدم اعتبار من احدث الاختلاف بعد الاتفاق

In other words, the gist is that this which has happened in this matter is the example (i.e. the precedent) of that disagreement which happened in the matter regarding Mut'ah. I mean, it is the view (statement) of Hazrat Jabir رضي الله عنه that Nikah Mut'ah (temporary marriage) was common in the era of Huzoor عليه السلام and Hazrat Abu Bakr رضي الله عنه, and in the early days of the Khilaafat of Hazrat Umar رضي الله عنه, then Hazrat Umar رضي الله عنه stopped us from this (i.e. from practicing Mut'ah), so we abstained from it. Thus, the correct and predominant view in both matters is that Mu'tah is outlawed, and the three Talaqs is applicable (even if given at once). This is because there was already Ijma' (consensus) regarding this in the era of Hazrat Umar رضي الله عنه, and there is no record of anyone having any Ikhtilaaf (difference) with Hazrat Umar رضي الله عنه in these two matters, so his Ijma' is proof of existence of abrogation (I {Sayyidi Taajush} say, this is based on the circumstance, when it is a proven (confirmed) report, and it is not a (mere) interpretation, and in the case of it having irregularities and undetermined, the evidence of the report is doubtful and the analysis of the above mentioned Hadith as per the overview from the Hadith in Fathul Baari, is probable, so by this, the claim of the opposition is not proven). If before the era of Hazrat Umar Farooq, it being abrogated was unknown to some, then in the era of Hazrat Umar, all were made aware of the abrogation. Hence those who disagree (i.e. oppose it) after the Ijma' (consensus) they are those who disregard the Ijma', and the Jamhoor (i.e. the Ahle Sunnat) are of this view, that one who has Ikhtilaaf (difference) after the Ijma' (consensus), he is not credible. والله تعالى اعلم [Fathul Baari Volume 9, Page 319]

From this alone, the answer to the text of Ibn Hajar has been answered, which the Ghayr Muqallid quoted in his booklet, and on his strength, he was himself already against the Ijma, and he counted in Allama Ibn Hajar رحمته الله as well with him, in being contrary to the Ijma.'

Hence, the Ghayr Muqallid Saaheb writes, in short, the decision which was made to implement the three (Talaqs) in the era of Ameerul Momineen, even though it was political (i.e. a political decision), and not Shar'ee (i.e. a Shariah-based decision), just as we have mentioned earlier. Nevertheless, at that time, there was no Ijma' (consensus) of the Sahaba, and that was because it was in disagreement to Ibn Ab'bas, except there are much more Sahaba who acknowledged this. It is in Fathul Baari, Page 363 Volume 9;

نقل عن علي وابن مسعود وعبد الرحمن بن عوف وزبير مثله

In other words, it is cited from these four celebrated Sahaba e Kiraam in this manner as well. Thus, the claim of Ijma is incorrect. [Page 20]

Then on page 22 he says, and it is in Fathul Baari

و نقل الغنوي عن جماعة من مشائخ قرطبة محمد بن تقى بن مخلد و محمد بن عبد السلام الخشنى وغيرهما ونقله ابن البندر عن اصحاب ابن عباس كعطاء و طاؤس وعبرين دينار

Allama Ghanawi also quoted the same decision from the renowned Ulama of Qurtaba (such as) Muhammad bin Taqi bin Mukhal-lad and Muhammad bin Abdus Salaam Khashani etc., and he also quoted it from the Tabi'een, (i.e.) the student of Ibn Ab'bas رضي الله عنهما 'Ata bin Abi Rabah Ta'oos and Umar bin Dinar. Hence, the claim that it is based on Ijma' to count three Talaqs at once as three is proven to be incorrect but remained a matter which had disagreements.

Ijma' During The Era of The Sahaba

Read those texts of Fathul Baari which the Ghayr Muqallid has mentioned, together with the texts of Allama Ibn Hajr رحمته الله which I have initially quoted from Fathul Baari, then it will be revealed that Ibn Hajr is clearly stating that in regards to the matter of three Talaqs, there was already Ijma' of the Sahaba in the era of Farooq e Azam رحمته الله. Therefore, in before this, in Fathul Baari where the differences of few Sahaba were quoted; from the very same Fathul Baari, it is proven, that the said quotation is not proven, and that which is the proven and a fixed principle, is that which was written in Fathul Baari by Allama Ibn Hajr in the very beginning (i.e. before mentioning the quotation about the disagreements), and that which was mentioned right at the end, in other words, there is Ijma of all the Sahaba and the Jamhooir in this matter, and there is no credibility to those who disagree. Hence, if three Talaqs are given at once, they will apply, even though to do so is a sin.

Imam Ibn Hajr رحمته الله presenting the narrative (i.e. account) of the differences, is proof of his utmost trustworthiness, and the Ghayr Muqallid hiding this, is based on his immense treachery (i.e. dishonesty); and it is defamation (i.e. slander) by this Ghayr Muqallid and his predecessor Ibn Qayyim, that in the era of Siddique e Akbar, three Talaqs were counted as one, and that there is Ijma' in this regard. They used this slander to charge the rule commanded by Ibn Umar رحمته الله as Ghayr Shar'ee (contrary to the Shariah, i.e. illegal), and they made a futile effort to prove that he was not supportive of the Ijma and one who changed the Ruling of the Shariah; and this is the audacity of the Ghayr Muqallids, in which their predecessors and forefathers are Ibn Taymiyyah and Ibn Qayyim.

Allama Ibn Hajar Hashmi mentioned a quote from Ibn Taymiyyah in Fatawa Hadeethiya that he says that ‘Umar made errors’ and says what kind of errors he made; and in his entire booklet (this) Ghayr Muqallid Saaheb also used a malicious and ridiculing tone regarding Hazrat Umar رضي الله عنه, which becomes apparent by examining it (i.e. his booklet).

The Ghayr Muqallid Saaheb writes,

‘So, the claim of Ijma’ is incorrect. Rather contrary to this, the judgement of three being regarded as one was already unanimously agreed upon from before, just as it is deduced from the first Hadith, and it was this which was the decision in the era of Abu Bakr Siddique رضي الله عنه, and the decision implementing it as three, is from later and is new. Before this, there was agreement on it being regarded as one. Allama Ibn Qayyim says,

واما اقول الصحابه فيكونى كون ذلك على عهد الصديق و معه جميع الصحابة لم يختلف عليه منهم احد ولا حتى في زمانه القولان حتى قال بعض اهل العلم ان ذلك اجماع قديم و انما حدث الاختلاف في زمن عمر رضى الله تعالى عنه واستمر الخلاف في البسالة الى وقتنا هذا كما سنذكره اغاثة اللفهان

In one session to give three Talaqs will be counted as just one, for proof of this is from the Sahaba, just this is sufficient, that this ruling was implemented in the era of Siddique e Akbar رضي الله عنه, and all the Sahaba were with him. No one had any disagreement, and neither is there any other view cited from anyone else to the extent that some Ulama say that this is an old Ijma, (and that) the Ikhtilaaf (difference) was created later on. In other words, in the era of the second Khalifa, and that Ikhtilaaf is present till today, just as we will mention later.’

Analysis and Response

I say, and Divine Guidance is from Allah: The claim of the Ghayr Muqallid Saaheb and his predecessor Ibn Taymiyyah is entirely incorrect.

Firstly: That Hadith on which they claim has Ijma has repeatedly been mentioned that it is Shaadh and Munkar.

Secondly: That Hadith has numerous credible interpretations, and we have already mentioned earlier some of the interpretations. From those, this interpretation was already referred to in the very beginning by Imam Nawawi, which initially people intended it as emphasis. After that the norm was changed, and the people began to make the intention of Istinaaf (i.e. a new Talaq each time, i.e. with each utterance of the word Talaq) and giving a new (fresh) Talaq. Therefore, giving consideration to the common custom (then) and the predominant pattern (then), he ruled that the three Talaqs be implemented as being applicable, and there is also apparent indication towards this present in the Hadith, and even the Ghayr Muqallid himself has acknowledged it. Thus, in the said booklet the Ghayr Muqallid Saaheb writes;

‘People began to take unlawful advantage of this political expediency, and they became hasty in giving Talaq, so Ameer ul Momineen implemented three, and himself presents the legal reason, that ان الناس قد استعجلوا في الامراءخ ‘The people became hasty in a matter, wherein they had a reprieve.’

Thirdly: To say that the judgement regarding implementation of the three (Talaqs) is a later concept and something new, clearly means (i.e. according to him) that Hazrat Umar رضي الله عنه changed the Shariah Law, and that he violated the longstanding consensus. This is a massive slander

(defamation against him), the refutation of which is evident itself from the from the prior Hadith, from which the Ghayr Muqallid has taken his reasoning, but it is even evident from his earlier acknowledgement; but the lust to fulfil his futile claim caused him to become so oblivious that he lost the ability to differentiate between changing of the norm and changing the law, and either he did not see it in Fathul Baari which he (too) regards authentic, or he deliberately hid this text in which it is clearly explained, that this Hadith had come in a particular circumstance, and that was because if the sentence of Talaq was repeated, then in the early era, the intention of emphasis by the people, was accepted based on their uprightness (i.e. honesty), and the ruling of one Talaq used to be given. Then, when people started being deceitful (in this regard), and they began to utter sentences with three Talaqs excessively, then considering their habit (custom), Hazrat Umar implemented all three (Talaqs). This is one reason which I have presented from Fathul Baari. Then, it is proven from the same Hadith that the people used to initially pronounce the three Talaqs (i.e. at once) very rarely, and it was the habit of the people to either pronounce one Talaq, or they used to pronounce the (words of) Al-Battah.

This is why in the same Fathul Baari one interpretation of this Hadith which is mentioned is that in the past people used to give only one Talaq, and at that time this was the habit (manner) of the people in most instances, and they very rarely gave three Talaqs at once; or they did not primarily pronounce (the words) of three Talaqs in one go (i.e. at once). The meaning (i.e. the sense) of this Hadith is this, that people now give three Talaqs and in the era of the Rasool ﷺ the people used to give one Talaq, and that which has been mentioned in the Hadith, that Umar رضي الله عنه implemented the three Talaqs, means in this matter (circumstance), he gave the same ruling which was given in the era of the Prophet ﷺ. In

other words, if someone gave three Talaqs at once, or if he intended three Talaqs by way of 'Al-Battah' then three (Talaqs) would apply, which is obvious from the Hadith of Rukanah etc. and this interpretation is reported from Abu Dhar'a رضي الله عنه and even in this way, in the aforementioned report there is the account of the habit (norm) of the people changing, and not the report of the changing of the Rule.

The Ruling (Law) During The Farooqi Era

This is another interpretation which has been given precedence in Fathul Baari. The text reads,

الجواب الخامس دعوى انه و ردفي صورة خاصة فقال ابن شريح وغيره يشه أن يكون ورد في تكبير اللفظ كان يقول انت طالق وانت طالق وكانوا اولاً على سلطنة صدورهم يقبل منهم أنهم أرادوا التأكيد فلما كثرت الناس في زمن عمرو وكثرت فيهم الخداء ونحوه مما يمنع قبول من ادعى التأكيد حصل عبر اللفظ على ظاهر التكرار فامضاه عليهم وهذا الجواب ارتضاه القرطبي وقوا يقول عمران الناس استعجلوا في أمر كانت لهم فيه اناة وكذا قال النووي ان هذا اصح الاجوبه السادس تاويل قوله واحدة وهو أن معنى قوله كان الثلاث واحدة أن الناس في زمن النبي صلى الله تعالى عليه وسلم كانوا يطلقون واحدة فلما كان زمن عمر كانوا يطلقون ثلاثاً لأنهم كانوا لا يستعملون الثلاث اصلاً أو كانوا يستعملونها نادراً و أما في عصر عمر فكثرت استعمالهم لها ومعنى قوله فامضاه عليهم واجازة وغير ذلك انه صنع فيه من الحكم يا ييقاع الثلاث ما كان يصنع قبله ورجح هذا التاويل العربي ونسبه إلى ابن زرععة الرازي وكذا وردة البيهقي باسناد صحيح إلى ابن زرععة قال معنى هذا الحديث عندي أن ما تطلقون ثلاثاً كانوا يطلقون واحدة قال النووي وعلى هذا فيكون الخبر وقع عن اختلاف عادة الناس خاصة لانهن تعتبر الحكم في الواحدة فالله اعلم في الجمله -

From these statements and also from the acknowledgement of the Ghayr Muqallid himself proves that there was no new law in the Farooqi Era, but the very same law was implemented (i.e. brought into effect), which was already in effect from before. Indeed, the habit (norm) of the people changed. In other words, the people began to increasingly give three Talaqs, whereas as in the past this happened very rarely.

Fourthly: When it is not even proved that before the Farooqi Era, three Talaqs were declared as one, but rather absolutely it is proven from the Hadith of Rukanah, etc. that in the Blessed Era of Beloved Prophet ﷺ and the Era of Siddique ؓ as well, three Talaqs were counted as three and that Umar ؓ did not change any prior law, but he did that which used to be done in the past. Therefore, how can the three Talaqs counting as one, be regarded as Ijma' before the era of Hazrat Umar ؓ? Hence, the claim of Ijma' regarding three Talaqs being counted as one, does not even reach the criterion (which is needed to establish) evidence, and the narrative of this Ijma' (consensus) is not found in any book from the books which the Ghayr Muqallid cited, yet we have in the very beginning quoted from Ahkaam ul Qur'an and Fathul Baari etc showing that Ijma' from the era of Hazrat Umar ؓ regarding the three Talaqs necessary applying, whereas the Ghayr Muqallid Saaheb has primarily not even given the location of those texts, and in doing so, he gave another proof of his treachery, and no matter how much he attempts to hide it, his treachery still cannot be hidden.

The Critics Have Extremely Sharp Vision

Ultimately, why is it that the names of the Books which the Ghayr Muqallid Saaheb has cited show no sign at all, that in the past there was Ijma' in the matter of three Talaqs being regarded as one. After everything the Ghayr Muqallid Saaheb merely found 'Ighaathatu Lahfaan' the Book of his accomplice Ibn Qayyim the non-conformist, and even in that book his accomplice acted with impudence, just like the non-conformist, by making this forceful claim, 'but contrary to it, the judgement of three being regarded as one, is unanimously agreed upon from before.' [Page 120] And this is how it was considered to be a mutual decision. Leave alone the Ghayr Muqallid; his accomplice said as follows; حتى قال بعضهم ان ذلك اجماع قديم; the Ghayr Muqallid Saaheb himself translated this text as, 'To the extent that some Ulama have said, that this is a long-standing (old) consensus.'

Ibn Qayyim's Unknown Narration

From this style of Ibn Qayyim's narrative, it is obvious that this claim is that of some and not that of the majority. Also, Ibn Qayyim reported this narrative from few unknown ones, whose uprightness is not known, so this is the narration of some and is not proven as sound at all, but it is absolutely not credible, and on the basis of this for Ibn Qayyim to claim that, 'This ruling (judgement) was implemented in the era of Siddique e Akbar رضي الله عنه, and all the Sahaba were with him. No one had any disagreement, and neither is there any other view cited from anyone else to the extent that some Ulama say.... Until the end of the text.'

Why then is the translation from the above-mentioned booklet of the Ghayr Muqallid be worthy of listening to, and the testimony of his words is sufficient to regard it unreliable, because this Ijma' is cited from few

unknown ones, so it is by itself regarded as being not acceptable. Except this, in making the claims, the words of Ibn Qayyim are itself clear evidence of him being a liar and a slanderer. He has openly said that ‘the Ikhtilaaf (difference) was created later on. In other words, in the era of the second Khalifa, and that Ikhtilaaf is present till today, just as we will mention later.’ But later when he did mention the Ikhtilaaf, then whose (did mention)? He mentioned the Ikhtilaaf of those who have no standing; and who were long after Hazrat Umar رضي الله عنه.

The Consensus of the Noble Imams

Hence, the Ghayr Muqallid Saaheb writes;

‘That, then later the said Hafiz while explaining the nature of the Ikhtilaaf states that, Imam Dawud and his companions adopted this, that three in this way is only one Talaq.’ [Page 21]

From this phrase (i.e. extract) it is clearly apparent that those who have disagreement with Hazrat Umar رضي الله عنه are those who were not his contemporaries, but they are those who were very much later, and if there was even such a single person from the contemporaries of Hazrat Umar رضي الله عنه who disagreed with him on this matter, then Ibn Qayyim would have definitely mentioned it, but here Ibn Qayyim was unable to take the name of any of the contemporaries of Hazrat Umar رضي الله عنه who (he claims) disagreed with Hazrat Umar رضي الله عنه in this matter.

So, the big crowing claim of there being Ijma’ of the three Talaqs counting as one before the Farooqi Era, and the issue of the Ikhtilaaf being created in the Era of Hazrat Umar رضي الله عنه is entirely a lie, which the non-conformists of this era are saying in following the non-conformist of the past.

However, it is true that after the era of Sayyiduna Umar رضي الله عنه many people violated the initial consensus, and the former agreement and they caused disagreement, which the Jamhooir then rejected with a single writing, and they clarified it to be unreliable (i.e. unauthentic), just as it has already been cited from Fathul Baari.

Further, Imam Badrud-deen Aini indicated in Umdatul Qaari,

مذهب جماهير العلماء من التابعين و من بعدهم منهم الاوزاعي والنخعي و النورى و ابوحنيفه و اصحابه و مالك و اصحابه و الشافعى و اصحابه و احمد و اصحابه و اسحق و أبو ثور و أبو عبيد و آخرون كثيرون على ان من طلق امراته ثلاثا و قعن ولكنه يأتهم وقالوا من مخالف فيه فهو شاذ مخالف لأهلا السنة و انما تعلق به أهل البدع و من لا يلتفت اليه لشذوذه عن الجماعة التي لا يجوز عليهم التواطؤ على تحريف الكتاب و السنة

In other words, this is the Madhab of the majority of the Ulama amongst the Taabi'een and Tabe' Tabi'een, amongst whom are Awza'i, Nakh'i, Thawri, Abu Hanifa and his companions, Malik and his companions, Shafi'i and his companions, and Ahmed and his companions, and Ishaaq and Abu Thawr and Abu Ubaid and many other Ulama except them, that if someone gives his wife three Talaqs, his Talaqs will be applicable (i.e. valid), but he will be regarded sinful. And all of them have mentioned that whomsoever is in disagreement in this matter is Shaadh, and separate from the Ahle Sunnat; and from the Ikhtilaaf, only the Ahle Bid'at (innovators) and those people have scampered, towards whom there is not turning, because these people are detached from the Ahle Sunnat wa Jama'at, for whom to agree to the distortion and alteration in the (commands of the) Qur'an and the Sunnah is absolutely impossible.

From this, it is evident that the Ghayr Muqallid who with reference to Ibn Qayyim attributed that Shaadh view to some of the Hanafis, Maalikus and Hambalis is not proven and unauthentic, and if you observe with the eyes of justice, even that extract from Jaami ur Ramooz which the Ghayr Muqallid quoted, the translation which is just as the Ghayr Muqallid Saaheb himself has done in this way. 'From the Blessed Era of the Rasool (ﷺ) up to the beginning of the era of the Khilaafat of Ameerul Momineen Umar Radi (we Sunnis says Radi Allahu Anhu), when anyone gave three Talaqs, then only one used to apply. Then, because of the increase in people giving Talaq, three Talaqs were implemented for political (i.e. diplomatic) and punitive reasons.'

It is in support of us, the Ahle Sunnat wa Jama'ats erudite doctrine, and completely harmful to the Ghayr Muqallid Saaheb. This is because even from this phrase it is clearly apparent that there was already Ijma in the Farooqi Era regarding the three Talaqs being implemented and necessary, as the author of Jaami' ur Ramooz did not mention the Ikhtilaaf of anyone in the Farooqi Era. So the point is the same as has been referred to in Fathul Baari, that in the Farooqi Era no Ikhtilaaf is known or recorded, and if there was anyone who was in disagreement in that time, then the Ulama would have certainly quoted (i.e. recorded it).

As for the issue of there being Ijma of three Talaqs being counted as one in the early era, then the argument in this regard has already passed earlier, and one response to it was cited from Fathul Baari, based on conditions of approval, this order had become abrogated, and some people were unaware of the abrogation of this issue, then in the Farooqi Era, it became known to all. This is why not a single Sahabi had any disagreement with Hazrat Umar Farooq e Azam (رضي الله عنه) regarding the changing of an injunction from the early era, so who dares to have any disagreement after this! Rather, acceptance and compliance are

necessary, and to give Fatwa (decree) and to implement judgment is Haraam, and the judgment of the Qadi will not be implemented at all. It is, for this reason, the text from Jaami ur Ramooz was written in Tahtawi Alad Durr ul Mukhtar and it was then said that,

وفي البحر من أنكر وقوع الثلاث فقد خالف الاجماع ولو حكم حاكم بانا الثلاث تقع واحدة لم ينفذ حكمه
لانه لا يسوغ فيه الاجتهاد لانه خلاف لاختلاف اه

In other words, one who is contrary to the (ruling) of the three Talaas applying, he is indeed opposing the Ijma', and if any Ruler rules that three Talaas will only cause one Talaq to apply, then his ruling will not be implemented. This is because he does not have the authority to do Ijtihaad. This is why this statement is against the actual ruling of the Deen, and not that it is based on the original. [Volume 2, Page 105]

Together with Jaami ur Ramooz, the disparity of the Ghayr Muqallid also mentioned the name of Tahtawi, but he hid this text of Tahtawi from which the correct meaning of Jaami ur Ramooz is revealed, and he misconstrued the text of Jaami ur Ramooz which he fabricated from his mind, and he claimed that 'Hence, this step taken by Ameerul Momineen was administrative and political. It was not for Shariah reasons.'

Whereas there is no mention anywhere in the text by Qahisatani, the author of Jaami ur Ramooz, that these steps taken by Sayyiduna Umar Farooq رضي الله عنه were in any way not based on the Shariah. Rather, from his text, it is becoming even more clear that this ruling of Sayyiduna Umar رضي الله عنه was implemented on the basis of the Ijma' of the Sahaba, and none refuted it nor disagreed with it. To say such an Ijma'i ruling (i.e. such a strong ruling of consensus) to be not based on Shariah, can only be the

work of a Ghayr Muqallid (i.e. non-conformist), and for him to hold responsible (i.e. lay the blame) on a Sunni Muqallid Aalim, is the non-conformist audacity, (and proves) their expertise in laying false blame, and using deceit. Also, this is an incorrect proof which has been presented to try and prove that Hazrat Umar Farooq e Azam رضي الله عنه took steps which were not Shariah based. Observe what the ‘brave’ (i.e. crafty) Ghayr Muqallid Saaheb writes connected to the previously mentioned text:

‘Since Ameer Umar, was not one who would oppose the command of Rasoolullah ﷺ, nor did he have such right to do so, and the greatest evidence for this is that himself he complied with the Prophetic Ruling during his Khilaafat, and he used to judge (make decisions) according to it alone. [Aforementioned Booklet of the Ghayr Muqallid Page 11]

The truth of the matter is that the said Ghayr Muqallid Saaheb in presenting this contrasting evidence ended up supporting and confirming the Madhab of the Ahle Sunnat. Now, when the Ghayr Muqallid Saaheb is acknowledging that Ameerul Momineen Umar (we Sunnis say Radi Allahu Anhu) was not someone who opposed the decision of Rasoolullah ﷺ, and himself he complied with the Prophetic Ruling during his Khilaafat and he used to implement rulings based on this, so by his (the Ghayr Muqallids) very own acknowledgement it has been proven that this decision of Sayyiduna Umar رضي الله عنه is not in contrast with the ruling of Sayyiduna Rasoolullah ﷺ, but it is the exact (i.e. original) Prophet Ruling. Then, the Ghayr Muqallid Saaheb again did a flip and deviated from the Madhab of Sayyiduna Umar رضي الله عنه, and not only did he deviate from the Madhab of Sayyiduna Umar رضي الله عنه, but he deviated from the Ijma’ of all the Sahaba, and based on his acknowledgement, he even turned away from the judgement of Sayyiduna Rasoolullah ﷺ. He acknowledges this evidence, but then does a U-turn, by saying; ‘

‘This is why to make his administrative step proof of ones Madhab is malpractice, but rather it is an improper use of authority in the Shariah.’

Subhaan’Allah! And the evidence to prove the (so-called) claim of improper use of authority is that which the Ghayr Muqallid Saaheb already said; ‘Since Ameer Umar, was not one who would oppose the command of Rasoolullah ﷺ.’

Now, we have to question the Ghayr Muqallid Saaheb, and he should answer in light of his acknowledgement.

Questions to the Ghayr Muqallid

1. Why is it regarded as improper use of authority in the Shariah, to make the steps taken by Hazrat Umar ﷺ the evidence of our Madhab, whereas Ameer ﷺ ‘was not one who would oppose the command of Rasoolullah ﷺ.’

2. And when it is your statement (view) that during his Khilaafat, ‘Hazrat Umar ﷺ himself was compliant with the Prophetic Ruling, and he made decisions based on this’. So, were these steps which were taken by Hazrat Umar ﷺ in compliance with the Prophetic way, or was it opposed?

3. It is in accordance with the Prophetic, just as it is evident from the acknowledgement of the Ghayr Muqallid Saaheb, so is not accepting it, not disobedience to the Prophetic Ruling, and deviance from the Ijma’ of the Muslim or not? Indeed it is!

4. If it is contrary, then from which Sahih Hadith that has no leeway for interpretation, have you shown this?

5. If these steps taken by Sayyiduna Umar رضي الله عنه were in contrast with the Hukm of The Beloved Rasool عليه الصلوة والسلام, why did the Sahaba not refute it?

6. In this sense, are Hazrat Umar رضي الله عنه and all the Sahaba not being charged with the accusation of opposing the ruling of Nabi عليه الصلوة والسلام. Indeed, they have been charged with this accusation, and the Ghayr Muqallid Saaheb has charged all the Sahaba with making an Ijma against the Ruling of Nabi عليه الصلوة والسلام.

7. Mut'ah was also Halaal (legal) in the Prophetic Era, and during the Siddiqui Era of Khilaafat, then Sayyiduna Umar رضي الله عنه forbade it, and all the Sahaba accepted it, as it is reported in Fathul Baari. So, this measure also apparently seems like a ruling in contrast with the Prophetic Ruling, but the Ghayr Muqallids use this measure of his (Hazrat Umar's رضي الله عنه) as evidence in their 'Madhab'.

They too say that Mu'tah is Haraam (forbidden) and they regard the permissibility of Mut'ah in the early era to be abrogated. The issue of the three Talaqs is the example (justification) of the same Mut'ah (ruling), so what is the reason for Ikhtilaaf (disagreement) in it? What is the cause for the difference in both these cases according to the Ghayr Muqallids? If they are not able to show cause (i.e. a reason) for the difference, and we say that In'sha Allah until Qiyaamat they will not be able to show this, then as per the statement of Allama Ibn Hajr رحمته الله this issue is the example of Mut'ah, and the Ijma' has already been established and implemented in the Farooqi era, just as the Ijma' was established regarding Mut'ah being forbidden in that era. Thus, one who is against that is a one who rejects the Ijma' and in contempt of the exact thing in this case, just as we have shown many examples of their deceit in the previous pages. The observers (i.e. readers) will see further examples. وأنه الحبد وله الحجة السامية

And to label, the Sunnis as being in contempt and accusing them of making illegal modifications, are false accusations of the Ghayr Muqallid. After the Ghayr Muqallid Saaheb accuses the Sunnis of contempt and of making illegal modifications in the Shariah, immediately thereafter he writes, 'Rather, Ameer Umar even retracted from this decision of his in the end.'

The (odd thing) is that except the Ghayr Muqallids, no one else is aware of this 'retraction'. However, none of the books which the Ghayr Muqallid has referenced has any mention of his 'retraction'. Inevitably, after being forced, he took the support of Ibn Qayyim's 'Ighaathatu Lahfaan', and he quoted one narration in this regard from this book. Here we will quote the words of the Ghayr Muqallid Saaheb;

'Ameer ul Momineen Umar رضي الله عنه said that I was never so remorseful about anything, except for three things, I wish I had not made Talaq Haraam, and I had not allowed the Nikah of bondwomen, and I had not commanded the execution of women who lamented.'

Allah only knows the condition of the strength and the merit of this narration, but apart from this, there is also doubt in the text of this Hadith, because Hazrat Umar رضي الله عنه had not stopped the people from giving Talaq, and the narration which they Ghayr Muqallid himself presented is proof that during the Farooqi Era people abundantly gave three Talaqs at once, so Hazrat Umar رضي الله عنه implemented all being applicable, and did not suspend it so that even one does not apply, nor did he rule that it is one Talaq, but if someone came to him who had given his wife three Talaqs, he would beat him so much that his back would be sore. [Ref: Fathul Baari and Tahawi]

Furthermore, it does not prove the claim of the Ghayr Muqallid, because it is not mentioned in this narration that, 'I wish I had not implemented three Talaqs.' So, to attribute retraction from Hazrat Umar رضي الله عنه with regards to this narration is a slur against Hazrat Umar رضي الله عنه, which is the work of the Ghayr Muqallids. (The below situation applies to the Ghayr Muqallids).

اذالم تستحي فاصنع ما شئت

When you have no shame, then do as you please

بے حیا باش و ہرچہ خواہی کن

Become shameless then do as you please

Error in Translation

While translating this narration, at one place the Ghayr Muqallid Saaheb displayed his 'competence' in Arabic. He translates the Arabic text,

وعلى أن لا أكون أنكحت الموالى

And he did not marry the bondwomen
(i.e. allow them to be married)

Whereas the word موالى is mentioned in the text, which in the Arabic language is the plural of the word مولى and the meaning of this word is 'freed slaves' so the correct translation would read, 'I would not have allowed the marriages of freed slaves', and even this is another thing being attributed to Hazrat Umar رضي الله عنه which is a doubtful and suspicious

point. The reason for this is because Nikah is something associated to Khayr ul Anaam عليه الصلاة والسلام and to practice in accordance with the Sunnah and to encourage it is a virtuous action. Concerning the slaves and bondwomen, Almighty Allah says,

وَأَنْكِحُوا الْأَيْمَىٰ مِنْكُمْ وَالصَّالِحِينَ مِنْ عِبَادِكُمْ وَإِمَائِكُمْ

‘And arrange the Nikah of those among you who are unmarried, and your eligible slaves and bondwomen.’ [Surah An-Noor (24), Verse 32]

To get them married is also a virtuous deed and that which is has been commanded by Almighty Allah. Therefore, the Ayah (Qur’anic verse) commands that marriage of unmarried bondwomen should be arranged. Further, the Qur’an encourages the marriages of Muslim bondwomen in this manner;

وَلَا مَظْهَرَ لِمُؤْمِنَةٍ خَيْرٌ مِّنْ مُّشْرِكَةٍ وَلَوْ أَعْجَبَتْكُمْ

‘And a Muslim bondwoman is better than a female polytheist, even though you may prefer her (the female polytheist).’

[Surah Baqarah (2), Verse 221]

Hence, it is not at all acceptable and possible that Sayyiduna Umar رضي الله عنه would display remorse concerning some virtuous act, and the story of killing those women who lamented is also not proven. The excellence of Hazrat Umar رضي الله عنه is very exalted and distinguished, to attribute sin towards any Muslim without and evidence which is in the light of Shariah, is impermissible and Haraam.

The Treachery of the Ghayr Muqallid

Imam Ghazali رحمه الله states in Ihya;

لا يجوز نسبة مسلم الى كبيرة من غير تحقيق

‘To attribute a Muslim towards any major sin without investigation (i.e. valid evidence) is forbidden.’

And the protest against the Ghayr Muqallids (non-conformists) is that neither do they have any fear of Allah, nor shame before the Beloved Rasool ﷺ. ‘And It is Almighty Allah who is the True Guide and The True Helper.’

Now, look again at the treachery of the Ghayr Muqallid Saaheb. The Hadith of Abu Sahba which the Ghayr Muqallid used to deduce the reasoning to resolve three Talaqs as one has also been reported in Abu Dawud Shareef with slight changes in words. For his purpose the Ghayr Muqallid Saaheb quoted two Hadith from Abu Dawud Shareef, and that Hadith with the other narrations which adversely affects the claimant, he openly concealed. First, take note of those Hadith which the Ghayr Muqallid Saaheb presented;

He wrote the first Hadith concerning Musannaf Abdur Raz’zaq and Abu Dawud which is as follows:

عن ابن جريح قال اخبرني بعض بني رافع عن عكرمة ان ابن عباس طلق رجل على عهد النبي صلى الله تعالى عليه وسلم امرأته ثلاثا فقال النبي صلى الله تعالى عليه وسلم (قال ابن يراجعها)

This is what is mentioned in the booklet, and probably something is amiss in it.

ان يراجعها قال انى طلقتهاشثا قال قد علمت و قرء النبي صلى الله تعالى عليه وسلم يايها النبي اذا
طلقتم النساء فطلقوهن لعدتهن قال فارجعها

It is reported from Ibn Ab'bas رضي الله عنهما that in the time of Rasoolullah ﷺ a person gave his wife three Talaafs. He ﷺ asked him to retract it. He said I have given three Talaafs. He ﷺ said, I know and He ﷺ then recited this verse that O Nabi (ﷺ) If you intend to divorce women, then do so during their waiting period (i.e. the interval of purification). So, he took his wife back.

I say citation from this Hadith is not proper because Abu Dawud did not remain silent on this, but after presenting it he presented such a discussion which proves that the Hadith is Marjuh. He states,

وحديث نافع بن عجيرو عبد الله بن علي بن يزيد بن ركانة عن ابيه عن جده ان ركانة طلق امراته فرد
ها اليه النبي صلى الله تعالى عليه وسلم اصح لانهم ولد الرجل و أهله اعلم به أن ركانة انما طلق امرأته
البتة فجعلها النبي صلى الله تعالى عليه وسلم واحدة

In other words, The Hadith of Naafi' bin Ujair and Abdullah bin Ali bin Yazid bin Rukanah which he narrated from his father, Ali, and his father reported from his grandfather Rukanah that, Rukanah had given his wife Talaaf, so Nabi ﷺ returned his wife to him, is more accurate because these people are the children (descendants) of Rukanah, and his family is well aware that Rukanah had given his wife Talaaf Al-Battah, so Nabi ﷺ decreed it as one Talaaf.

In other words, it means that it was enquired from Rukanah and (only) after Rukanah took an oath (Qasm) did Sarkaar ﷺ decree that only one Talaq had applied, just as it has already passed in the earlier narration. From this Hadith, it is proven that Rukanah did not give three Talaqs, but he gave Talaq Al-Battah, and it is this which is Raajih according to Abu Dawud, and the first narration and the one in the same context is Marjuh, and Munkar, just as it was been mentioned from Ahkaam ul Qur'an.

Now take note of the second Hadith which the Ghayr Muqallid Saaheb quoted from Abu Dawud Shareef;

عن ابن عباس اذا قال انت طلق ثلثا بفم واحدة

The Ghayr Muqallid Saaheb translates is as follows, 'Ibn Ab'bas said when someone gives three Talaqs audibly once, then it will be only one Talaq, in other words in one go if he gave three Talaqs, it will be one.'

Hadith Ibn Ab'bas

Now, take note of the discussion of Abu Dawud regarding it.

قال ابوداؤد روى حماد بن زيد عن ايوب عن عكرمة هذا قوله لم يذكر ابن عباس وجعله قول عكرمة

In other words, Abu Dawud said that Hammad bin Zaid reported from Ayub, who reported this statement from 'Ikramah. He did not mention Ibn Ab'bas, and he (Hammad bin Zaid) mentioned it as the statement of 'Ikramah. Further, in Abu Dawud the statement of Hazrat Sayyiduna Ibn Ab'bas رضي الله عنهما is mentioned.

Hence it is referred to in the same that,

وصار قول ابن عباس فيما حدثنا احمد بن صالح و محمد بن يحيى وهذا حديث احمد قالا حدثنا عبد الرزاق عن معمر عن الزهري عن ابى سلمة بن عبد الرحمن و محمد بن عبد الرحمن بن ثوبان عن محمد بن أياس أن ابن عباس و اباهيريرة و عبد الله بن عمرو بن العاص سئلوا عن البكر يطلقها زوجها ثلثا وكلهم قال لا تحل له حتى تنكح زوجا غيره و روى مالك عن يحيى بن سعيد عن بكير بن الأشج عن معاوية بن ابى عياش أنه شهد هذه القصة حين جاء محمد بن اياس ابن البكير الى ابن الزبير و عاصم بن عمر فسالهما عن ذلك فقالا اذهب الى ابن عباس و ابى هريرة فاني تركتهما عند عائشة رضى الله تعالى عنها ثم ساق هذا الخبر

In other words, the statement of Ibn Ab'bas is by that Hadith which Ahmed bin Saleh and Muhammad bin Yahya mentioned to us, and this Hadith of Ahmed. Both said that Abdur Raz'zaq reported a Hadith to us. He narrated from Mu'ammār, he narrated from Zuhri, He narrated from Abu Salama bin Abdur Rahmaan and Muhammad bin Abdur Rahmaan bin Thaubaan, reporting from Muhammad bin Ay'yas that when Ibn Ab'bas and Abu Hurairah and Abdullah ibn Amr ibn Al A'as were asked about a virgin (i.e. one who has not been penetrated) whose husband gave her three Talaqs, then all replied that she is not Halaal upon the husband, until she does not marry another man; and Malik reported from Yahya bin Sa'eed. He reports from Bukair ibn Al Ashaj, he reports from Mu'awiyah ibn Abi Ayyash, that he said that he was a witness to this incident when Muhammad bin Ay'yas bin Bukair came to Ibn Zubair and Aasim bin Umar, and he queried about his Mas'ala (issue/ruling) from both of them, so they both said, go to Ibn Ab'bas and Abu Hurairah. I left them with A'isha رضى الله تعالى عنها. He then quoted this same report.

From it is evident that this is not the statement of Hazrat Sayyiduna Ibn Ab'bas رضى الله عنهما 'When someone gives three Talaqs audibly once, then it will be only one Talaq.' Rather, his statement is this, that if three Talaqs are given at once, then three will apply, and this is also the Madhab of Abu Hurairah رضي الله عنه and Abdullah ibn 'Amr bin A's رضي الله عنه, and this is the Madhab of all the Sahaba e Kiraam, and Hazrat Umar رضي الله عنه is not alone in this, but there is Ijma of the Sahaba in this, just as it will become evident from the next Hadith, and this has already been ascertained.

It is mentioned in the same Abu Dawud Shareef along with (i.e. connected) to the previous narration;

حدثنا محمد بن عبد البالك بن مروان حدثنا ابو النعمان حدثنا حماد بن زيد عن ايوب عن غيره واحد
 عن طاؤس ان رجلا يقال له أبو الصهباء كان كثير السؤال لابن عباس قال اما علمت ان الرجل كان اذا
 طلق امرأته ثلاثا قبل ان يدخل بها جعلوها واحدة على عهد رسول الله صلى الله تعالى عليه وسلم و ابى
 بكر و صدراً من اماراة عمر قال ابن عباس بلى كان الرجل اذا طلق امرأته ثلاثاً قبل أن يدخل بها
 جعلوها واحدة على عهد رسول الله تعالى عليه وسلم و ابى بكر و صدراً من اماراة عمر فلما رأى الناس
 قد تتابعوا فيها قال اجيزوهن عليهم

In other words, Abdul Malik bin Marwan reported a Hadith to us, (that) Abu Nu'man reported a Hadith to us, (that) Hammad bin Zaid reported to us, (and) he reports from Ayub, (and) he reported from many people, and those many narrators reported from Ta'oos that there was a person called Ibn Sahba who used to ask many questions from Ibn Ab'bas. He said to Ibn Ab'bas, Do you not know that in the era of Rasoolullah ﷺ and Abu Bakr, and at the beginning of the Khilaafat of Umar, when before being intimate with his wife, if a man gave three Talaqs to her, then it would be

declared as one Talaq. He said, Yes! When a man would give three Talaqs to his wife without having been intimate with her, then in the era of the Beloved Rasool ﷺ and the era of Siddique ؓ and in the early days of the Khilaafat of Hazrat Umar ؓ it would be regarded as one, but then when Umar ؓ saw that people were giving three Talaqs in abundance, he commanded the Sahaba to implement the rule of Three Talaqs upon the people.

Recommendation From The Sahaba

It is apparent from the Sanad (chain of narrators) of this Hadith that this narration was reported by many people from Ta'oos the companion of Ibn Ab'bas رضى الله عنهما, from which it is clear that Hazrat Umar ؓ took recommendations (i.e. advice) from the Sahaba e Kiraam in this matter, and he then said to them that they should implement the application of three Talaqs upon the people. By saying اجزوهن and implementing the application of three Talaqs upon the people, is the indicated meaning of the word, and the implicit indication is that the Sahaba were present in the gathering (assembly) of Hazrat Umar ؓ, and as a means of attaining their recommendation he said to the Sahaba e Kiraam, اجيزوهن.

Also, no other narrator actually mentioned the disagreement of anyone in contrast to Hazrat Umar ؓ, and this is open proof of Ijma' of the Sahaba, and for the Ghayr Muqallid Saaheb to only bring forth two Hadith and contrary to the claim to hide the other narrations, especially the last one is serious treachery. Still the aim of the Ghayr Muqallid Saaheb gets nowhere with the Hadith of Abu Sahba, and if we had nothing, then just this Hadith of Abu Sahba alone is a sufficient argument for us, because there is clear evidence present in this Hadith that, the ruling of the early era, as per the aforementioned evidence, was not the case in the era of

Umar رضي الله عنه, because its cause (which was derived from Fathul Baari, in other words, that the objective of the people of the past was emphasis and their chests were pure and untainted, and they were pure from deceit and deception) and this did not exist any longer, and people started to be malicious, just as it is evident from the tone of the narration. Hence, this ruling is abrogated, or it is suspended due to extreme reasons.

The Evidence of Imam Tahawi

It is mentioned in Tahawi Shareef

وفي حديث ابن عباس رضي الله عنهما مالوا كتنفينا به كانت حجة قاطعة و ذلك انه قال فلما كان زمن عمر قال يا ايها الناس قد كانت لكم في الطلاق اناة و انه من تعجل اناة الله في الطلاق الزمناه اياه -

In other words, 'If we suffice with the Hadith of Ibn Ab'bas رضي الله عنهما then in it is the definitive proof which is per our claim, and that is this, that Ibn Ab'bas رضي الله عنهما said that, then when then in the era of Hazrat Umar رضي الله عنه he said, O People! You were given respite in Shariah regarding the matters of Talaq, and whosoever is hasty and gives Talaq before this respite (i.e. interval), we will make it necessary for him.'

The Ghayr Muqallid Saaheb also mentioned the name of Imam Tahawi with the others who mentioned difference (i.e. disagreement) on this issue, and in this way he tried to reject this Ijma and he tried to make this Mas'ala one which is Mukhtalif Fih (i.e. disagreed upon), and in his treacherous manner he said, does this difference have any standing or not? Whereas Imam Tahawi has mentioned that the necessary application of the three Talaqs is the view of the Ijma.

وهذا الصه فخاطب عبر رضى الله عنه بذلك الناس جميعاً وفيهم اصحاب رسول الله صلى الله تعالى عليه وسلم و اله و رضى الله عنهم الذين علموا من ذلك ما تقدم في زمن رسول الله صلى الله تعالى عليه وعلى آله وسلم فلم ينكره عليه منهم منكر ولا دفعه دافع فكان ذلك اكبر الحجة في نسخ ما تقدم من ذلك لانه لما كان فعل اصحاب رسول الله صلى الله تعالى عليه وسلم جميعاً فعلا يجب به الحجة كان كذلك ايضاً اجماعهم على القول اجماعاً يجب به الحجة -

Further, Imam Tahawi with numerous narrations of Ibn Ab'bas رضى الله عنهما he also mentioned those narrations from which it becomes evident that this was also the Maslak (way) of Abu Hurairah, Abdullah ibn 'Amr, Abdullah bin Amr ibn Al 'Aas and Abdullah ibn Mas'ud رضى الله عنهم, which is the unanimous view of the entire Ahle Sunnat, and this is also supports the fact that there was Ijma in this issue during the Farooqi Era.

The Statements of the Muhad'ditheen

It is written in the footnotes of Abu Dawud in Fathul Qadeer by Allama Kamaalud-deen Ibn Humaam;

لم ينقل عن احد انه خالف عبر حين امضى الثلاث وهو يكفى في الاجماع الا انه يرد انهم خالفوا ما تركهم عليه النبي و الجواب انه لا يتأتى منهم الا وقد اطلعوا في الزمان المتأخر على وجود ناسخ او لعلمهم علموا بما تنهوا الحكم باتتهاء علة -

In other words, there is no proof of anyone disagreeing with Hazrat Umar رضى الله عنه in that time, when he implemented the three Talaqs, and this is sufficient in Ijma. However, here the objection arises that the Sahaba left that way on which Rasoolullah عليه الصلوة والسلام had left them, and the answer to that is this, that this can only be considered from the Sahaba in such a

situation, when in the era of the latter, when they are informed of the abrogation of the earlier ruling, or they realised (understood) that due to the extreme causes (i.e. reasons) the ruling has been suspended (i.e. reached its final stage). Then, all of this is only in the case when the text of the Hadith is fixed (i.e. proven), but by joining (i.e. integrating) other narrations, it is realised that this Hadith according to the text, is disturbed (i.e. uncertain).

Notice that in some of the chains of this narration it says *قبل ان يدخل بها* i.e. before being intimate with her (i.e. before penetrating her), from which it is evident that in the early era this was only particular in the case of a female who was Ghayr Madkhula (i.e. one who was not penetrated), and this ruling was not for the Madkhula (one who has already been penetrated). This is why Imam Nawawi included this under the ‘Ahadith e Mushkilah’, i.e. challenging narrations. Hence, it is in Nawawi’s *Sharah Muslim*;

وهذا الحديث هو معدود من الاحاديث المشككة

‘And this Hadith is counted from among the Ahadith e Mushkilah’

It is in *Fathul Baari*

الجواب الرابع دعوى الاضطراب قال القرطبي في المفهم وقع فيه مع الاختلاف عن ابن عباس الاضطراب في لفظه و ظاهر سياقة يقتضى النقل عن جميعهم ان معظمهم كانوا يردن ذلك والعادة في مثل هذا ان يفتشوا الحكم وينتشر فكيف ينفر دبه واحد عن واحد فهذا الوجه يقتضى التوقف عن العمل بظاهرة ان لم يقتضى القطع بطلانه۔

In other words, the fourth answer to the narration of Abu Sahba is this, that the claim should be made about the three Hadith being Mudtarib (uncertain). Allama Qurtabi has mentioned in the gist (of the meaning of Sharah Muslim) that, In the narration, the quotation from Ibn Ab'bas, with the exception of the difference (Ikhtilaaf), there is also uncertainty in the words of the Hadith, and the apparent context of the Hadith requires that this should be the view of all the Sahaba, that before this, it was the view of Sahaba (i.e. that three Talaqs should be decreed as one), and on such issues, generally the ruling is well-known and widespread (i.e. common knowledge). Therefore, how did one narrator become alone (separated) from the other, hence this is a cause of demands that practising in accordance with this Hadith should be kept suspended, if this cause (reason) does not require this report to be termed baseless, but when due to being challenges in the context of the report, and it has uncertainty, and contrasting narrations, and due to other reasons, there is irregularity and unacceptability, then this fact also necessitates weakness in the chain. And some Muhad'itheen by the terms of the chain, have claimed that this Hadith is Da'eef (weak), and they have said that Ayub reported it from unknown narrators (i.e. Majhuleen), just as it has been mentioned in the marginal notes of Sunan Abu Dawud. And even though the annotators of Abu Dawud have refuted the claim of its weakness, and due to the Hadith being narrated from other chains, they have mentioned that the unfamiliarity of the narrators is not harmful. However, by this, it does not necessarily mean that the hadith in itself is established (i.e. recognised). Rather, its evidence due to numerous reasons is cause for caution, just as the details have already been mentioned earlier. Hence, due to this reason, it is regarded as extremely Da'eef (weak) because uncertainty in the text is much more severe compared to weakness in the chain.

In brief, the Ghayr Muqallid presented Five (5) Hadith to support his baseless claim. The first and second are the same narrations from Muslim and Daraqutni, the subject of which is this, that during the era of Rasoolullah ﷺ and the era of Abu Bakr Siddique ؓ three Talaqs were regarded as one. That which is the situation in this regard we already are aware of it, and as for the issue of the evidence, the proof in it is for us, the Ahle Sunnat wa Jama'at, just as it has been mentioned many times, and the other three Hadith he quoted from Musnad Imam Ahmed, Musannaf Abdur Raz'zaq and Sunan Abu Dawud. Even the condition of this we have understood in detail, and many times the veil was raised from the treachery of the Ghayr Muqallid, and it has been proven that this is not a valid protest for the Ghayr Muqallid. فله الحصد وله الحجة الشامية.

A Warning

With praise to Allah, even those Hadith are testimony to our defence, in which it has been mentioned that the wife will not be Halaal upon the husband after three Talaqs, until she is not intimate with a second husband (i.e. after she remarries and consummates that marriage), just as in the Hadith Rafa'a. This is why Imam Bukhari recorded it in the chapter called من اجاز الثلاث 'One who regards three Talaqs Implemented', and Imam Tahawi also narrated it from Ibn Ab'bas, Abu Hurairah and Abdullah ibn 'Amr bin A'as رضى الله عنهم in which not only is it mentioned that the three Talaqs are applicable, but it also mentions with this, that the wife is Haraam upon him, and he also mentioned the only way to bring to an end this forbiddance, is through Nikah Halaala (i.e. whereby the women remarries after her Iddat, and after consummation of that marriage and after being given Talaq and completing her Iddat, she may remarry the first husband), just as it has been mentioned in the verse of the Qur'an,

فَإِنْ طَلَّقَهَا فَلَا تَحِلُّ لَهُ مِنْ بَعْدُ حَتَّى تَنْكِحَ زَوْجًا غَيْرَهُ ط

‘If three Talaqs are given, then the wife will not be Halaal thereafter, until such time she does not be intimate with the second husband.’

[Surah Baqarah (2), Verse 230]

From here, it is evident that after the three Talaqs, and after a proper Nikah with someone else, and the husband is intimate with his wife, then that which was set after the three Talaqs, comes to an end. Hence, if by any way after the second Nikah is ended, she may fulfil the Iddat and then marry the first husband, and the permissibility of this (form of) Nikah which is known as Nikah Halaala is proven from Qur’anic injunction, and from numerous Ahadith, and it being legal (Halaal) is a definite and unequivocal command (of the Qur’an), and to regard it absolutely Haraam (forbidden), is to reject the definite categorical orders of the Qur’an and Hadith, which is Kufr.

Nikah Halaala

In his booklet, the Ghayr Muqallid time and over again referred to Nikah Halaala as being absolutely forbidden, and giving reference to Ibn Qayyim he mentioned it to be worse than Mut'ah, and in doing this, neither did he care about the categorical orders of the Qur'an nor did he give any thought to the explicitly mentioned Ahadith, and he quoted some Ahadith, which do not explicitly prove it being forbidden.

On the contrary, the Hadith of Tirmizi (which he quoted) proves the permissibility of Halaala, because Sarkaar عليه الصلوة والسلام said,

لعن الله البحلل والبحلل له

'The curse of Allah is upon him, who makes a woman Halaal for someone else, and upon him, for whom she was made Halaal.'

After carefully considering the words of the Hadith one realises that even in the context of this Hadith, Nikah Halaala is correct (i.e. legal and valid), so this Hadith is not in contrast to the Qur'anic verse and the other Ahadith, because Sarkaar عليه الصلوة والسلام referred to the second husband as the محلل (Muhal-lil) i.e. the one who makes her Halaal (lawful), and this proves that the Nikah with the second husband is valid. Otherwise he would not have been referred to as the محلل (Muhal-lil). The extreme (level) is that to make Nikah simply with the intention of making her Halaal is disapproved, so in this Hadith, the weakness and defect being referred to it is this, and it does not refer to an actual curse. It happens at times like this that in the light of Shariat something is regarded as permissible, but it is intensified to show it being harmful, such as in the case when after giving charity and gifting something, to buy the sold or gifted item back, as this has been cautioned against in the Hadith, and it has been

mentioned that the one who takes back what he has gifted or given in charity, is like one who puts his face in his vomit. (Just as it has been mentioned in Bukhari).

The Ulama have mentioned that here نهى is said in a precautionary sense (to keep one away from sin), and not in the sense of it being forbidden, thus it is not necessary that everything which is criticised, may be regarded as Haraam in the Shariah, because the thing being immoral (i.e. criticised) does not negate that thing from being legitimate (Halaal). Did you not see that it is mentioned in the Hadith, ابغض الحلال الى الله الطلاق. ‘The most disliked thing by Allah, from amongst all the Halaal things is Talaq.’

In brief, this Hadith is a testimony to Nikah Halaala, just as other Hadith are categorical regarding it, and to take this to mean that Nikah Halaala is forbidden, is utter ignorance and deviance. The most that we ascertain from it is that even though it is Halaal, it is something which is not preferred in the Shariah, or that it can be interpreted to mean, if the condition of making (her) Halaal is uttered by mouth (i.e. when it is said conditionally that this is being done to make her Halaal).

Thus, with reference to Lam’aat, it is in the marginal notes of Tirmizi that,

وانها لعن الاول لانه نكح على قصد الفراق والنكاح شرح للدوام وما ركاب ليس البستعار على ما وقع في الحديث و لعن الثاني لانه صار سببا لبطلان هذا النكاح والبراد اظهر رخساستها لان الطبع السليم يتنفر عن فعلها الاحقيقة لعن وقيد البكروا اشتراط الزوج بالتحليل في القول لاني التبية بل قد قيل انه ما حور بالتبية بقصد الاصلاح-

In other words, in the Hadith the first person (being referred to), this means the Muhal-lil (which in syntax is Ism e Faa'il). So, he was cursed because he did this intending to cause separation in the Nikah, whereas Nikah was made legitimate for a permanent relationship, and he has become like a hired goat, just as it has been mentioned in the Hadith. (In other words, such a person is the example of a goat which is hired to impregnate a female goat. The second person being mentioned in the Hadith, in other words, the Muhal-lal Lahu (which in Arabic syntax is Ism e Ma'ful, i.e. the passive participle) was cursed because he was the means of such a Nikah, meaning that both their humiliation is apparent, because common sense hates the action of both of them. In reality, the meaning is not that of curse (i.e. they are not being actually cursed), and it has been mentioned that it is disapproved that the husband stipulates the condition of Halaala by saying it, and this is not in the sense of intending it, but indeed it has been said that on the basis of him intending to make (her) Halaal with the objective of rectifying (the situation), he will be rewarded.

I say that which has just passed from Lam'aat is supported from the Hadith itself. Hence, it is mentioned in Tafseer Ibn Katheer, which is reliable to the non-conformists;

عن ابن عباس قال سئل رسول الله صلى الله تعالى عليه وسلم عن نكاح المحلل قال لا الا نكاح رغبة لا نكاح دلسة ولا استهزاء بكتاب الله ثم يذوق عسيلتها۔

In other words, It is reported from Ibn Ab'bas رضى الله عنهما. He says that Rasoolullah ﷺ was asked about the Nikah of a Muhal-lil. He said, No, unless when such a Nikah happens through will (i.e. choice), and this Nikah is not by way of deceit, and not by abusing the Book of Allah (i.e.

the command of The Qur'an), and then the second husband should be intimate with the wife. From this, it is ascertained that Nikah Halaala with a good intention and with the objective of rectification, is not only permissible, but it is virtuous.

Nikah Halaala with a Good Intention

It is mentioned in the same (Tafseer Ibn Katheer)

عن عبرين نافع عن ابيه ان رجلا جاء الى ابن عمر فسأله عن رجل طلق أمراة ثلاثا فزوجها الخ له من غير مؤامرة منه ليحلها لاخيه هل تحل لاول فقال لا الا نكاح رغبة كنا نعد هذا سفاحاً على عهد رسول الله صلى الله تعالى عليه وسلم فأما اذا كان الثاني انما قصده ليحلها لاول فهذا هو المحلل الذي وردت الأحاديث بدمه ولعنه ومتى مرح بقصودة بطل النكاح عند جمهور الأئمة-

In other words, It is reported from 'Amr bin Naafi'. He narrates from his father that a person came to Ibn Umar and he asked him about that person who had already given his wife three Talaqs, so the brother of her husband married that woman with taking his advice (on this matter), so that he may make her Halaal for his brother. Is she (now) Halaal upon the first husband? He replied, No, except for Nikah at will. We regarded it (i.e. if such a Nikah is without a pure intention and merely for the sake of lust), during the time of Rasoolullah ﷺ as Zinna (adultery).

(Ibn Katheer said), so if the second husbands intention is merely to make her Halaal for the former husband, then this is that Muhal-lil, who has been criticised and who has been cursed in the Hadith, and when he clearly stipulates this objective (in other words if he puts the condition), then according to the Jamhooor the Nikah is Baatil (invalid).

From here it is evident that Nikah Halaala with the intention of goodness and with the objective of rectification is not Haraam, but rather it is a permissible and upright action, and the censure attributed in this Hadith is that, if the objective is to leave her after taking pleasure (from her) merely, and it being Haraam is in the case when the condition of making (her) lawful is mentioned in the Nikah. The Ghayr Muqallid Saaheb himself said, to make the second Nikah with this view that after the marriage he will give her Talaaq, and make such a condition with him, which is called Halaala, is a Haraam and cursed condition, and even the Hanafis do not acknowledge (i.e. accept) this; whom the Ghayr Muqallids and Ahle Zaahir (those who go with the literal interpretation) regard as Ahlur Raai (i.e. People of opinion). Then why is this view just worth to be thrown out, whereas it is in accordance with the verse of the Qur'an and Hadith, and this is even verified from the words of Ibn Katheer who is the reliable and authentic person to the Ghayr Muqallid. Here too the Ghayr Muqallid displayed his treachery; in this sense that, those Ahadith from which the permissibility of Halaala is evident, he clearly hid them. Now, look at how he alters the meaning (gist) of what is mentioned in the verse. He writes, 'After giving the third Talaaq, it now cannot be retracted, because it has become irrevocable Talaaq (Mughalaza). There is only one circumstance, that being, the woman after her Iddat should marry someone else, and if he coincidentally dies, or due to some helplessness/compulsion (Majburi), he gives her Talaaq, and she becomes Mughalaza, and she there can be no retraction, then only after the Iddat, she may marry the first husband.'

The gist from which word of the Holy Qur'an was used by the Ghayr Muqallid Saaheb in the words, 'or due to some helplessness' or which word of the Hadith is the meaning taken from, and if he cannot show this, and he will never be able to show this, so this is indeed alteration of the meaning. ولا حول ولا قوة الا بالله العلي العظيم.

The Conclusion

With praise to Allah, the refutation of the Ghayr Muqallid Saaheb has been completed, and the Madhab of the Ahle Sunnat Wa Jama'at is by itself proven, and to oppose it is deviance, irreligiousness, destruction and loss in this world and the hereafter.

By the Grace of Allah, The Ahle Sunnat wa Jama'at is confined to the four Madhabs. The one who is out of them (i.e. separated from them) will be left alone in hell.

Take heed to the words of advice from Imam Tahawi at the end;

قال الطحاوى قدس سره من شذعن جمهور اهل الفقه والعلم والسواد الاعظم فقد شذف فيما يدخله في النار فعليكم معاشي المؤمنين باتباع الفرقة الناجية البسابة باهل السنة والجماعة فان نصره الله تعالى وحفظه وتوفيجه في موافقتهم وخذلانه وسخطه ومقتته في مخالفتهم وهذه الطائفة الناجية قد اجتمعت اليوم في مذاهب اربعة وهم الحنفيون والبالكيون والشافعيون والحنبليون رحمهم الله تعالى ومن كان خارجا عن هذه الاربعة في هذا الزمان فهو من اهل البدعة والنار - والله تعالى اعلم

'That person who is separate from the majority of the people of knowledge and the Fiqh (Jurisprudence) of the Sawaad e Azam; he has become alone in such a thing, which will take to hell. So O Muslims! To follow the Group which has been promised salvation, which is the Ahle Sunnat wa Jama'at is essential upon you, since the Help of Allah, and His Protection and for Him to always be your Protector, is in remaining in accordance with the Ahle Sunnat, and Him leaving it, Him and sending down His Wrath upon you, and making you the enemy, is in opposing the Sunnis. And this group which gives Salvation is now gathered in four

Madhabs, Hanafi, Maliki, Shafi'i and Hambali. (May) Allah have mercy upon all of them. In this time, the one who comes out from these four is a Bid'ati destined for hell.'

Faqeer Mohammed Akhtar Raza Qadri Azhari غفرلہ

23 Muharram ul Haraam 1410 Hijri