

**THREE
SIMULTANEOUS
DIVORCES:**

One or Three?

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THREE SIMULTANEOUS DIVORCES: ONE OR THREE

Sects

A formula to recognise sects which have deviated from the straight path is that deviants take a few rulings as their identity. You will find that they do not work towards Allah's command: Enter into Islam totally. Each deviant sect creates its own identity (with a few isolated rulings which differ with the majority) and then try their utmost to save their man-made identity. That is all they keep on their agenda. The funding they receive is spent on spreading their opinions as opposed to spreading deen.

Rulings which in the grand scheme of "complete Islam" were always seen as insignificant are taken by deviants and are made the criteria of working out the difference between Haqq and batil.

For example, some have deviated by creating their identity elevating specific Companions above their actual status' (Shia), while others deviated creating their own identity by equating major sin with kufr (Khawarij). Other examples:

- Raful yadain
- . Reciting fatihah behind Imam
- Aameen aloud
- Placing hands on the chest in salah
- Shaking hands with one hand

Ahl al-Sunnah do not create their own identity. They go by the identity given by Allah and his Messenger ﷺ.

Position of Nikah and Talaq in Islam

Nikah is a stage in life which has been emphasised and encouraged in the Sunnah:

1: Nikah- Half of deen (Mishkat 2/268)

وَعَنْ أَنَسٍ - رَضِيَ اللَّهُ عَنْهُ - قَالَ: قَالَ رَسُولُ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ -: «إِذَا تَزَوَّجَ الْعَبْدُ فَقَدْ اسْتَكْمَلَ نِصْفَ «الدِّينِ، فَلْيَتَّقِ اللَّهَ فِي الْبَاقِي

2: Turning away from nikah despite having the ability is tantamount to turning away from the Sunnah (Bukhari 2/758)

أَمَّا وَاللَّهِ إِنِّي لَأَخْشَاكُمْ بِرَبِّهِ وَأَنْفَاكُمْ لَهُ، لَكِنِّي أَصُومُ وَأُفْطِرُ، وَأُصَلِّي وَأَرْفُدُ، وَأَتَزَوَّجُ النِّسَاءَ، فَمَنْ رَغِبَ عَن سُنَّتِي فَلَيْسَ مِنِّي

3: Four things are common Sunnahs of the Prophets: Haya, applying perfume, nikah and siwak:

أربع من سنن المرسلين الحياء والتعطر والسواك والتكاح

الراوي: أبو أيوب الأنصاري المحدث: الترمذي - المصدر: سنن الترمذي

خلاصة حكم المحدث: حسن غريب

The husband-wife relationship formed through nikah is an excellent way of implementing a life of Sunnah.

Talaq

Severing nikah is as despised as nikah is admired. A hadith states: Talaq is the most despised of all permissible acts (From Ibn Umar رضي الله عنه in Al-Jami al-Sagheer of al-Suyuti, 2/142). This shows that talaq, despite being permissible, is strongly disliked by Allah.

Allah is displeased with the issuing of talaq without reason. A hadith states:

وما من امرأة تسأل زوجها الطلاق من غير بأس فنجد ريح الجنة ، أو قال : رائحة الجنة

Allah deprives a woman who demands a divorce from her husband without a reason of the fragrance of Jannah. (From Sayyiduna Thawban رضي الله عنه in Al-Jami al-Sagheer 1/137).

Talaq a last resort

Islam has permitted talaq in exceptional circumstances and has fixed limits and guidelines for issuing it. During the Jahiliyyah period people would issue hundreds of divorces, rescind, and continue the marriage as normal.

Islam made three the limit of talaq after which the wife is divorced and cannot return to this husband unless she marries someone else and their marriage is consummated and thereafter he coincidentally divorces her or he dies.

Allah says in the Quran (summary):

Divorce is twice; then either to retain in all fairness, or to release nicely. If a third divorce is issued then the woman no longer remains lawful for this man unless she marries a man other than him (who subsequently dies or willingly divorces her after which she observes the relevant iddah). All scholars agree on this so far. Sura Al-Baqarah 229-30

Difference of Opinion

Opinion 1:

Three talaqs issued simultaneously in one gathering are considered three. This is the opinion of all the Imams of the four famous madhaahib, majority of tabi'oon and most Companions رضي الله عنهم.

Opinion 2:

Three talaqs issued in one go are considered one raj'i (rescindable) talaq. This is the opinion of Ibn Taymiyah and Ibnul Qayyim and an insignificant minority (including the Zaydiyyah sect of shias)

Note: This opinion is attributed to Sayyiduna Abdullah Ibn Abbas رضي الله عنهما. However, the 3=1 opinion of Ibn Abbas رضي الله عنه is only proven regarding a woman whose marriage has not been consummated (غير مدخول بها). It is not established from Ibn Abbas رضي الله عنه with an authentic narration that he holds this same opinion regarding a woman whose marriage has been consummated (مدخول بها). Thus, attributing this opinion to him regarding all women is incorrect. Imam Abu Dawud has narrated this from him with a clear mention of this opinion being restricted to a woman whose marriage has not been consummated (see: Sunan Abi Dawud 1/299). This will be further explained later on.

There are two more rare opinions:

Opinion 3:

3 Divorces issued in one go are void and do not take effect.

This opinion is of the Twelver Rafidha (Imamiyyah) and is similar to opinion 2 in that the man can continue his marriage with the woman he divorced thrice without her having to marry someone else first.

Opinion 4:

3 divorces issued in one go to a madkhood biha are considered 3. However, if 3 are issued to a ghair madkhood biha in one go only one divorce takes effect. This is the opinion of some students of Sayyiduna Ibn Abbas

. رضي الله عنهما

Evidences are going to be discussed later on.

Note: Claims made against Hanafi scholars of allowing pre-planned halalah are baseless. All Hanafi scholars unanimously agree that such a halalah is haram and the the muhallil and muhallal lahu (the one whom practices and the one for whom it is practiced) are cursed by Allah as is mentioned in a hadith

Shaykh Wahba Al-Zuhayli clarifies the aforementioned opinions:

فإذا خالف المطلق وجمع التطليقات الثلاث في لفظ واحد، فاختلف العلماء في ذلك

قال الجمهور منهم أئمة المذاهب الأربعة: يقع به ثلاث طلاقات، مع الكراهة عند الحنفية والمالكية، لأن طلاق السنة: هو أن يطلقها واحدة، ثم يتركها، حتى تنقضي عدتها

وقال الشيعة الإمامية: لا يقع به شيء

وقال الزيدية وابن تيمية وابن القيم: يقع به واحدة، ولا تأثير للفظ فيه

التفسير المنير ٣٤٠/٢

[More Clarity on opinions:](#)

Ibn Rushd Al-Maliki (رحمه الله . d. 595 AH) states:

جمهور فقهاء الأمصار على أن الطلاق بلفظ الثلاث حكمه حكم الطلقة الثالثة. وقال أهل الظاهر وجماعة: حكمه حكم الواحدة

The majority of jurists (jumhoor) opine that three talaqs issued in one go are considered three and the woman becomes unlawful for the man after the third talaq. He further states that the literalists (Ahl al-Zahir) and a group of others opine that only one talaq takes effect. (Bidayat al-mujtahid 3/84)

Imam Nawawi (d. 676) writes:

ثَلَاثًا فَقَالَ الشَّافِعِيُّ وَمَالِكٌ وَأَبُو حَنِيفَةَ وَأَحْمَدُ وَجَمَاهِيرُ الْعُلَمَاءِ وَقَدْ اختلف العلماء فيمن قال لامرأته أنتِ طالق من السلف والخلف يقع الثلاث وقال طاووس وبعض أهل الظاهر لا يقع بذلك إلا واحدة

When a man issues three talaqs to his wife in one go then three talaqs take effect according to all 4 Imams and jumhoor scholars past and present. Tawus رحمه الله and some literalists opine that only one talaq takes effect. (Sharh Sahih Muslim pg. 478).

Ijma' was formed in Sahaba's era

The grandfather of Shaykh Ibn Taymiyah, Abul Barakat Abdus Salam Ibn Taymiyah Al-Hanbali (رحمه الله d. 621) writes:

وَهَذَا كُلُّهُ يُدُلُّ عَلَى إِجْمَاعِهِمْ عَلَى صِحَّةِ وَفُوعِ الثَّلَاثِ بِالْكَلِمَةِ الْوَاحِدَةِ (منتقى الأخبار مع نيل الأوطار ٢/٢٧٢)

Shaykh Ibn Taymiyah states:

وَلَمَّا تَبَيَّنَتْ عِنْدَهُمْ عَنْ أَيْمَةِ الصَّحَابَةِ أَنَّهُمْ أَلْزَمُوا بِالثَّلَاثِ الْمَجْمُوعَةَ قَالُوا: لَا يُلْزَمُونَ بِذَلِكَ إِلَّا وَذَلِكَ مُفْتَضَى الشَّرْعِ؛ وَاعْتَقَدَ طَائِفَةٌ لُزُومَ هَذَا الطَّلَاقِ وَإِنَّ ذَلِكَ إِجْمَاعٌ؛ لَكُونِهِمْ لَمْ يَعْلَمُوا خِلَافًا ثَابِتًا؛ لَا سِيَّمَا وَصَارَ الْقَوْلُ بِذَلِكَ مَعْرُوفًا عَنِ الشَّيْبَعَةِ الَّذِينَ لَمْ يَنْفَرِدُوا عَنْ أَهْلِ السُّنَّةِ بِحَقِّ. (الفتاوي الكبرى ٣/٢٥٧)

In the above two texts it is clear that Shaykh Ibn Taymiyah and his grandfather both are of the opinion that there is Ijma' (consensus) upon three simultaneous divorces all taking effect.

The Sahaba must have had evidence when agreeing 3=3

Their Ijma' is sufficient for us regardless of whether or not their evidence reached us because Allah says:

وَعَدَ اللَّهُ الَّذِينَ آمَنُوا مِنْكُمْ وَعَمِلُوا الصَّالِحَاتِ لَيَسْتَخْلِفَنَّهُمْ فِي الْأَرْضِ كَمَا اسْتَخْلَفَ الَّذِينَ مِنْ قَبْلِهِمْ وَلَيُمَكِّنَنَّ لَهُمْ دِينَهُمُ الَّذِي ارْتَضَى لَهُمْ

Allah has promised to establish the deen for the Caliphs after Rasoolullah ﷺ. Deen includes creed and rulings. Hence, all rulings which were unanimously agreed upon by Sahaba are endorsed by Allah.

Imam Tahawi (d. 321) writes:

وَفِيهِمْ أَصْحَابُ رَسُولِ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ وَرَضِيَ , فَخَاطَبَ عُمَرُ رَضِيَ اللَّهُ تَعَالَى عَنْهُ بِذَلِكَ النَّاسَ جَمِيعًا فَلَمْ يُنْكِرْهُ عَلَيْهِ مِنْهُمْ , فِي ذَلِكَ , فِي زَمَنِ رَسُولِ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ , عَنْهُمْ , الَّذِينَ قَدْ عَلِمُوا مَا تَقَدَّمَ مِنْ ذَلِكَ مُنْكَرًا , وَلَمْ يَنْفَعَهُ دَافِعٌ , فَكَانَ ذَلِكَ أَكْبَرَ الْحُجَّةِ فِي نَسْخِ مَا تَقَدَّمَ مِنْ ذَلِكَ . لِأَنَّهُ لَمَّا كَانَ فِعْلُ أَصْحَابِ رَسُولِ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ جَمِيعًا فِعْلًا يَجِبُ بِهِ الْحُجَّةُ , كَانَ كَذَلِكَ أَيْضًا إِجْمَاعُهُمْ عَلَى الْقَوْلِ إِجْمَاعًا يَجِبُ بِهِ الْحُجَّةُ . وَكَمَا كَانَ إِجْمَاعُهُمْ عَلَى النَّقْلِ بَرِيئًا مِنَ الْوَهْمِ وَالرَّذْلِ , كَانَ كَذَلِكَ إِجْمَاعُهُمْ عَلَى الرَّأْيِ بَرِيئًا مِنَ الْوَهْمِ وَالرَّذْلِ ((شرح معاني الآثار ٥٥/٣

Sayyiduna Umar رضي الله عنه addressed all the people and among them were Companions of Allah's Messenger ﷺ who knew very well what the practice was during the era of Allah's Messenger ﷺ. None of them rejected it or declined it. This is the greatest of arguments proving the previous practice to be abrogated because when the agreement of the Companions of Allah's Messenger ﷺ upon one practice is an authoritative evidence. Similarly, the consensus of the Companions رضي الله عنهم is an

authoritative evidence. Moreover, just as their consensus upon transmission is free from error so is their consensus upon an opinion free from error.

Hafiz Ibn Hajar Asqalani رحمه الله d. 852 states:

هَذِهِ الْمَسْأَلَةُ نَظِيرُ مَا وَقَعَ فِي مَسْأَلَةِ الْمُنْعَةِ سِوَاءِ أَعْنِي قَوْلَ جَابِرٍ إِنَّهَا كَانَتْ تُفْعَلُ فِي عَهْدِ النَّبِيِّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ وَأَبِي بَكْرٍ وَصَدْرٍ مِنْ خِلَافَةِ عُمَرَ قَالَ ثُمَّ نَهَانَا عُمَرُ عَنْهَا فَأَنْتَهَيْنَا فَالرَّاجِحُ فِي الْمُؤْضِعِينَ تَحْرِيمُ الْمُنْعَةِ وَإِبْقَاغُ الثَّلَاثِ لِلْإِجْمَاعِ الَّذِي اتَّعَدَّ فِي عَهْدِ عُمَرَ عَلَى ذَلِكَ وَلَا يُحْفَظُ أَنَّ أَحَدًا فِي عَهْدِ عُمَرَ خَالَفَهُ فِي وَاجِدَةٍ مِنْهُمَا وَقَدْ دَلَّ إِجْمَاعُهُمْ عَلَى وُجُودِ نَاسِيخٍ وَإِنْ كَانَ خَفِيَ عَنْ بَعْضِهِمْ قَبْلَ ذَلِكَ حَتَّى ظَهَرَ لِجَمِيعِهِمْ فِي عَهْدِ عُمَرَ فَلِإِجْمَاعِهِمْ بَعْدَ هَذَا الْإِجْمَاعِ مُنَابِذٌ لَهُ وَالْجُمْهُورُ عَلَى عَدَمِ اعْتِبَارِ مَنْ أَخَذَ الْإِخْتِلَافَ بَعْدَ الْإِتِّفَاقِ وَاللَّهُ أَعْلَمُ

Consensus upon the unlawfulness of mut'a (temporary marriage) and three talaqs being three was established during the caliphate of Sayyiduna Umar رضي الله عنه. Their consensus indicated towards the fact that they had knowledge of the abrogator (nasikh), even though some of them were unaware of the abrogator. Now, whoever opposes this after a consensus has been established he is a rejector of Ijma', and the majority (jumhoor) are unanimous that creating a difference after a consensus is unacceptable. (Fath al-Bari 9/365)

Ibnul Humam Al-Hanafi رحمه الله d. 861 states:

وَذَهَبَ جُمْهُورُ الصَّحَابَةِ وَالتَّابِعِينَ وَمَنْ بَعْدَهُمْ مِنْ أَيْمَةِ الْمُسْلِمِينَ إِلَى أَنَّهُ يَقَعُ ثَلَاثًا

The opinion of the majority of Sahaba رضي الله عنهم, Tabi'oon and Imams of the Muslims is that three issued talaqs are considered three. He further relates the consensus of the Companions of Allah's Messenger ﷺ (Fath al-Qadeer 3/469).

Ibnul Qayyim states:

فَلَمَّا رَكِبَ النَّاسُ الْأُخْمُوقَةَ، وَتَرَكَوا تَقْوَى اللَّهِ، وَلَبَسُوا عَلَى أَنْفُسِهِمْ، وَطَلَّقُوا عَلَى غَيْرِ مَا شَرَعَهُ اللَّهُ لَهُمْ، أَجْرَى اللَّهُ عَلَى لِسَانِ الْخَلِيفَةِ الرَّاشِدِ وَالصَّحَابَةِ مَعَهُ شَرْعًا وَقَدَرَ الْإِزَامَهُ بِذَلِكَ، وَإِنْفَادَهُ عَلَيْهِمْ، وَإِبْقَاءَهُ الْإِصْرَ الَّذِي جَعَلُوهُ هُمْ فِي أَعْنَاقِهِمْ كَمَا جَعَلُوهُ، وَهَذِهِ أَسْرَارٌ مِنْ أَسْرَارِ الشَّرْعِ وَالْقَدَرِ لَا تَنَاسِبُ عُقُولَ أَبْنَاءِ الزَّمَنِ، فَجَاءَ أَيْمَةُ الْإِسْلَامِ، فَمَضَوْا عَلَى آثَارِ الصَّحَابَةِ سَالِكِينَ مَسْلِكُهُمْ، فَاصْطَدِينِ رِضَاءَ اللَّهِ وَرَسُولِهِ وَإِنْفَادَ دِينِهِ

When people started acting foolishly with regards to issuing three talaqs in one go, Allah enforced the rule through the rightly guided Khalifa and his Companions that their issued talaqs will all take effect. (I'laam al-muwaqqi'een 3/36)

Hafiz Badruddeen Al-'Ayni رحمه الله d. 855AH states (Umdatul Qari):

وَمَذْهَبُ جَمَاهِيرِ الْعُلَمَاءِ مِنَ التَّابِعِينَ وَمَنْ بَعْدَهُمْ مِنْهُمْ الْأَوْزَاعِيُّ وَالنَّخَعِيُّ وَالتَّوْرِيُّ وَأَبُو حَنِيفَةَ وَأَصْحَابَهُ وَمَالِكٌ وَأَصْحَابُهُ وَمَالِكٌ وَأَصْحَابُهُ وَالتَّشَافِعِيُّ وَأَصْحَابُهُ وَأَحْمَدٌ وَأَصْحَابُهُ، وَإِسْحَاقُ وَأَبُو ثَوْرٍ وَأَبُو عُبَيْدٍ وَآخَرُونَ كَثِيرُونَ، عَلَ أَنْ مِنْ طَلِقَ امْرَأَتَهُ ثَلَاثًا وَقَعْنَ، وَلَكِنَّهُ يَأْتِمُّ، وَقَالُوا: مَنْ خَالَفَ فِيهِ فَهُوَ شَاذٌ مُخَالَفٌ لِأَهْلِ السُّنَّةِ، وَإِنَّمَا تَعْلُقُ بِهِ أَهْلُ الْبِدْعِ وَمَنْ لَا يَلْتَفِتُ إِلَيْهِ لِشِدُوذِهِ عَنِ الْجَمَاعَةِ الَّتِي لَا يَجُوزُ عَلَيْهِمُ التَّوَاتُؤُ عَلَى تَحْرِيفِ الْكِتَابِ وَالسُّنَّةِ

Shaykh has made it clear that the opinion of the majority of scholars including tabi'oon, atbaa' tabi'een and their students, is that three talaqs are considered three. In particular,

this is the stance of Imam Awzaa'i, Imam Nakha'ee, Sufyan Thawri, Iman Abu Haneefa, Imam Maalik, Imam Shafi'ee and Iman Ahmad رَحْمَهُمُ اللهُ. Whoever opposes in this issue he is in opposition to Ahlus Sunnah. The people of bid'ah have accepted the opposing opinion along with those people to whom attention is not paid to because they are isolated from the majority who cannot agree on interpolation of Quran and Sunnah. (Umdatul Qari 20/233)

Ibnul Qayyim states that the majority have related the same stance (3=3) from the following Companions رضي الله عنهم:

فهذا عمر بن الخطاب، وعلي بن أبي طالب وعبد الله بن مسعود، وعبد الله ابن عمر، وعبد الله بن عمرو، قالوا
وعبد الله بن عباس، وعبد الله بن الزبير، وعمران بن حصين، والمغيرة بن شعبة، والحسن بن علي رضوان الله
تعالى عليهم أجمعين

وأما التابعون فأكثر من أن ينكروا والإجماع يثبت بدون هذا، ولهذا حكاه غير واحد، منهم أبو بكر بن العربي،
إغاثة اللهفان (٣٢٢/١) وأبو بكر الرازي، وهو ظاهر كلام الإمام أحمد

Sayyiduna Umar رضي الله عنه

Sayyiduna Ali رضي الله عنه

Sayyiduna Abdullah Ibn Mas'ud رضي الله عنه

Sayyiduna Ibn Umar رضي الله عنه

Sayyiduna Abdullah Ibn Amr رضي الله عنه

Sayyiduna Ibn Abbas رضي الله عنه

Sayyiduna Abdullah Ibn Zubayr رضي الله عنه

Sayyiduna Imran Ibn Husayn رضي الله عنه

Sayyiduna Mugheera Ibn Shu'bah رضي الله عنه

Sayyiduna Hasan Ibn Ali رضي الله عنه Sayyiduna Abu Hurayrah رضي الله عنه

Sayyida Aa'isha رضي الله عنها

Sayyiduna Zayd Ibn Thabit رضي الله عنه

He further writes:

Imam Abu Bakr Ibnul Arabi رحمه الله and Imam Abu Bakr Al-Razi رحمه الله have mentioned that there is a consensus upon the validity of three talaqs issued in one go. Imam Ahmad رحمه الله seems to consider it an Ijma' too.

Allama Alusi Al-Hanafi رحمه الله (d.1270AH) states in his Tafseer Ruhul Ma'ani:

والأحسن عندي أن يجاب بأن عمر رضي الله تعالى عنه لما استشار الناس علم فيه ناسخا لما وقع قبل فعله بقضيته وذلك الناسخ إما خبر بلغه أو إجماع وهو لا يكون إلا عن نص، ومن ثم أطبق علماء الأمة عليه، وأخبار ابن عباس لبيان أن الناسخ إنما عرف بعد مضي مدة من وفاته صلى الله عليه وسلم انتهى (٥٣٢/١)

Allusi رحمه الله States that Sayyiduna Umar رضي الله عنه consulted the people and learnt of an abrogating evidence in this issue. Hence, the scholars of this Ummah agreed upon it. The statements of Sayyiduna Ibn Abbas رضي الله عنه are aimed at explaining how the abrogator was only known after a period of time had passed after Rasoolullah ﷺ.

Qadhi Muhammad Ibn Ali Al-Shawkani رحمه الله d. 1250 states:

وَأَعْلَمُ أَنَّهُ قَدْ وَقَعَ الْخِلَافُ فِي الطَّلَاقِ إِذَا أُوقِعَتْ فِي وَقْتٍ وَاحِدٍ، هَلْ يَفْعَلُ جَمِيعُهَا وَيَنْبَغُ الطَّلَاقُ أَمْ لَا؟ . فَذَهَبَ جُمْهُورُ التَّابِعِينَ وَكَثِيرٌ مِنَ الصَّحَابَةِ وَأَيْمَةَ الْمَدَائِبِ الْأَرْبَعَةِ وَطَائِفَةٌ مِنْ أَهْلِ النَّبَيْتِ مِنْهُمْ أَمِيرُ الْمُؤْمِنِينَ عَلِيُّ إِلَى أَنَّ الطَّلَاقَ يَنْبَغُ الطَّلَاقُ.....- رَضِيَ اللَّهُ عَنْهُ

The majority of Tabi'oon and Companions رضي الله عنهم, the Imams of all four Madhhabs, and a group from among Ahlul Bayt including Sayyiduna Ali رضي الله عنه, all opine three talaqs to be three. (Nayl al-awtar 6/274)

The prominent literalist hadith-scholar Imam Abu Muhammad Ibn Hazm (d. 456 AH) also holds this opinion. (Al-Muhallaa 1/206) Ibnul Qayyim states:

وخالفهم أبو محمد بن حزم في ذلك، فأباح جمع الثلاث وأوقعها. (إغاثة اللهفان ٣٢٩/١)

This shows not even all literalist scholars held the opinion of three talaqs issued in one go being invalid.

3=1 A Minority and Isolated Opinion

The 3=1 opinion was not held by any significant personality within the four madhhabs. Some have attributed this opinion to Imam Malik رحمه الله as "one of his opinions". However, this feeble attribution is refuted by his stated opinion in his own Muwatta (pg.510) leaving no further room for discussion:

وَحَدَّثَنِي عَنْ مَالِكٍ، عَنْ ابْنِ شِهَابٍ، أَنَّ مَرْوَانَ بْنَ الْحَكَمِ كَانَ «يَقْضِي فِي الَّذِي يُطَلَّقُ امْرَأَتَهُ الْبَيْتَةَ أَنَّهَا ثَلَاثٌ قَالَ مَالِكٌ: «وَهَذَا أَحَبُّ مَا سَمِعْتُ إِلَيَّ فِي ذَلِكَ» تَطْلِيقَاتٍ

The grandfather of Ibn Taymiyah would secretly issue fatwa of 3=1:

الوجه السابع عشر: أن شيخنا حكي عن جده أبي البركات: أنه كان يفتى بذلك أحيانا سرا، وقال في بعض (إغاثة اللفهان ٣٢٧/١). مصنفاته: هذا قول بعض أصحاب مالك، وأبي حنيفة، وأحمد

What is interesting is that the text from منتقي has passed wherein Ibn Taymiyah's grandfather himself states there is Ijma' upon 3=3:

وَهَذَا كُلُّهُ يُدُلُّ عَلَى إِجْمَاعِهِمْ عَلَى صِحَّةِ وَقُوعِ الثَّلَاثِ بِالْكَلِمَةِ الْوَاحِدَةِ (منتقي الأخبار مع نيل الأوطار ٢٧٢/٢)

Ibn Taymiyah states in his Fatawa (3/252):

حَكَاهُ عَنِ الْمَازِنِيِّ . وَقَدْ ذَكَرَهُ التِّلْمِسَانِيُّ رَوَايَةً عَنْ مَالِكٍ، وَهُوَ قَوْلُ مُحَمَّدِ بْنِ مُقَاتِلِ الرَّازِيِّ مِنْ أَيْمَةِ الْحَنْفِيَّةِ: قُلْتُ وَغَيْرِهِ

He relates from Al-Tilmisani who related the 3=1 from Imam Malik, and Muhammad Ibn Muqatil from the Hanafi scholars.

Ibnul Qayyim states that he failed to locate the 3=1 opinion from any of the Hanbali scholars:

وأما بعض أصحاب أحمد، فإن كان أراد إفتاء جده بذلك أحيانا، وإلا فلم أقف على نقل لأحد منهم. (إغاثة ٣٢٧/١)

In the Hanafi Madhhab, one name is mentioned for the 3=1 opinion. That is Muhammad Ibn Muqatil. It is not known whether this was his preferred opinion or not. Even if it was his preferred opinion then what weight does his opinion carry against the rest of the Hanafis, and of course the great Imam Abu Haneefa رحمه الله himself?

Not only is there a consensus on 3=3 among the four Imams, further, the majority of the Companions رضي الله عنهم and Tabi'oon and jurists all unanimously agree upon this opinion. This is also the opinion of Sayyiduna Umar, Uthman and Ali رضي الله عنهم. The ironic thing is that this is also the opinion of Ibn Abbas رضي الله عنه. Why then do people turn to isolated feeble opinions?

Ijma' (Consensus) of Sahaba رضي الله عنهم is an evidence in itself

Hafidh Ibn Hajar رحمه الله states:

إِجْمَاعُ الْأُمَّةِ حُجَّةٌ

'Ijma' of the Ummah is an authoritative evidence. (Fathul Bari 13/407)

Shaykh Ibn Taymiyah states:

وَمَذْهَبُ أَهْلِ السُّنَّةِ وَالْجَمَاعَةِ مَذْهَبٌ قَدِيمٌ [مَعْرُوفٌ] قَبْلَ أَنْ يَخْلُقَ اللَّهُ أَبَا حَنِيفَةَ وَمَالِكًا وَالشَّافِعِيَّ وَأَحْمَدَ، فَإِنَّهُ مَذْهَبُ الصَّحَابَةِ الَّذِينَ تَلَفَّوهُ عَنْ نَبِيِّهِمْ، وَمَنْ خَالَفَ ذَلِكَ كَانَ مُبْتَدِعًا عِنْدَ أَهْلِ السُّنَّةِ وَالْجَمَاعَةِ، فَإِنَّهُمْ مُتَّفِقُونَ عَلَى أَنَّ إِجْمَاعَ الصَّحَابَةِ حُجَّةٌ، وَمُتَنَازِعُونَ فِي إِجْمَاعِ مَنْ بَعْدَهُمْ. (منهاج السنة ٦٠١/٢)

Shaykh clearly states that Ahlus Sunnah has been around long before the four Imams and that Ahlus Sunnah is the madhhab of Sahaba, who received it from their Prophet ﷺ. Whoever opposes that then he is an innovator according to Ahlus Sunnah because they all agree that the Ijma' of Sahaba is an authority, although they do differ with regards to the Ijma' of those after the Sahaba.

Emphasis on following the manhaj of Sahaba رضي الله عنهم is found throughout books of Ahlus Sunnah.

Ijma' of the imams of this Ummah also carries weight of authority in religion

Ibn Taymiyah states that when the learned scholars and Imams of religion endorse a ruling by way of Ijma' then their Ijma' is a decisive and definite proof in religion because they (scholars of the Ummah) cannot agree upon deviance:

العلماء ورثة الأنبياء

ومن سوى الأنبياء - من مشايخ العلم والدين - فمن أثبتهم وسائط بين الرسول وأمتهم، ويعلمونهم، وهؤلاء إذا أجمعوا فإجماعهم حجة قاطعة، لا يجتمعون على . ويؤدبونهم، ويقنونون بهم، فقد أصاب في ذلك (ضلالة) الواسطة ١/٢٤

Shaykh Ibn Taymiyah also states the authority of Ijma' in another place:

ومن قال من العلماء: "إن قول الصحابي حجة" فإنما قاله إذا لم يخالفه غيره من الصحابة ولا عرف نص يخالفه، ثم إذا اشتهر ولم ينكره كان إقراراً على القول، قد يقال: "هذا إجماع إقراري"، إذا عرف أنهم أقره لم ينكره أحد منهم، هم لا يقرون على باطل. (قاعدة جلية في التوسل والوسيلة ١/٢٢٨)

Shaykh also states in his fatawa:

وَأَمَّا إِجْمَاعُ الْأُمَّةِ فَهُوَ حَقٌّ لَا تَجْتَمِعُ الْأُمَّةُ - وَبِاللَّهِ الْحَمْدُ - عَلَى ضَلَالَةٍ كَمَا وَصَفَهَا اللَّهُ بِذَلِكَ فِي الْكِتَابِ وَالسُّنَّةِ فَقَالَ تَعَالَى: {كُنْتُمْ خَيْرَ أُمَّةٍ أُخْرِجَتْ لِلنَّاسِ تَأْمُرُونَ بِالْمَعْرُوفِ وَيَنْهَوْنَ عَنِ الْمُنْكَرِ وَتُؤْمِنُونَ بِاللَّهِ} وَهَذَا وَصَفُ لَهُمْ بِأَنَّهُمْ يَأْمُرُونَ بِكُلِّ مَعْرُوفٍ وَيَنْهَوْنَ عَنِ كُلِّ مُنْكَرٍ كَمَا وَصَفَ نَبِيِّهُمْ بِذَلِكَ فِي قَوْلِهِ الَّذِينَ جِئْتُمُوهُمْ فَاتَّخَذُوا عَلَيْهَا خَيْرًا فَقَالَ: وَبِذَلِكَ وَصَفَ الْمُؤْمِنِينَ { وَالْمُؤْمِنُونَ وَالْمُؤْمِنَاتُ بَعْضُهُمْ أَوْلِيَاءُ بَعْضٍ يَأْمُرُونَ بِالْمَعْرُوفِ وَيَنْهَوْنَ عَنِ الْمُنْكَرِ } فَلَوْ قَالَتِ الْأُمَّةُ { فِي قَوْلِهِ فِي الدِّينِ بِمَا هُوَ ضَلَالٌ لَكَانَتْ لَمْ تَأْمُرْ بِالْمَعْرُوفِ فِي ذَلِكَ وَلَمْ تَنْهَ عَنِ الْمُنْكَرِ فِيهِ وَقَالَ تَعَالَى: { وَكَذَلِكَ جَعَلْنَاكُمْ وَالْوَسْطَ الْعَدْلَ الْخِيَارَ وَقَدْ جَعَلَهُمُ اللَّهُ شُهَدَاءَ } أُمَّةً وَسَطًا لِيَكُونُوا شُهَدَاءَ عَلَى النَّاسِ وَيَكُونَ الرَّسُولُ عَلَيْكُمْ شَهِيدًا وَقَدْ تَبَيَّنَ فِي الصَّحِيحِ { أَنَّ النَّبِيَّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ مَرَّ عَلَيْهِ . عَلَى النَّاسِ وَأَقَامَ شَهَادَتَهُمْ مَقَامَ شَهَادَةِ الرَّسُولِ بِجَنَازَةٍ فَأَتَتْهَا عَلَيْهِ خَيْرًا فَقَالَ: وَجَبَتْ ثُمَّ مَرَّ عَلَيْهِ بِجَنَازَةٍ فَأَتَتْهَا عَلَيْهِ شَرًّا فَقَالَ: وَجَبَتْ وَقَبِلَتْ قَالُوا: يَا رَسُولَ اللَّهِ مَا قَوْلُكَ وَجَبَتْ وَجَبَتْ؟ قَالَ: هَذِهِ الْجَنَازَةُ أَتَيْتُمْ عَلَيْهَا خَيْرًا فَقُلْتُمْ: وَجَبَتْ لَهَا الْجَنَّةُ وَهَذِهِ الْجَنَازَةُ أَتَيْتُمْ عَلَيْهَا شَرًّا فَقُلْتُمْ: وَجَبَتْ لَهَا النَّارُ أَنْتُمْ شُهَدَاءُ اللَّهِ فِي الْأَرْضِ } . فَإِذَا كَانَ الرَّبُّ قَدْ جَعَلَهُمْ شُهَدَاءَ لَمْ يَسْهَوْا بِبَاطِلٍ فَإِذَا شَهِدُوا أَنَّ اللَّهَ أَمَرَ بِشَيْءٍ فَقَدْ أَمَرَ بِهِ وَإِذَا شَهِدُوا أَنَّ اللَّهَ نَهَى عَنْ شَيْءٍ فَقَدْ نَهَى عَنْهُ وَلَوْ كَانُوا يَسْهَوْنَ بِبَاطِلٍ أَوْ خَطِئًا لَمْ يَكُونُوا شُهَدَاءَ اللَّهِ فِي الْأَرْضِ بَلْ رَكَاهُمْ اللَّهُ فِي شَهَادَتِهِمْ كَمَا رَكَى الْأَنْبِيَاءَ فِيمَا يُبَلِّغُونَ عَنْهُ أُمَّةً لَا يَقُولُونَ عَلَيْهِ إِلَّا الْحَقَّ وَكَذَلِكَ الْأُمَّةُ لَا تَشْهَدُ عَلَى اللَّهِ إِلَّا بِالْحَقِّ وَقَالَ تَعَالَى: { وَاتَّبِعْ سَبِيلَ مَنْ أَنَابَ إِلَيَّ } وَالْأُمَّةُ مُنْيَبَةٌ إِلَى اللَّهِ فَيَجِبُ اتِّبَاعُ سَبِيلِهَا وَقَالَ تَعَالَى: { وَالسَّابِقُونَ السَّابِقُونَ الْأُولُونَ مِنَ الْمُهَاجِرِينَ وَالْأَنْصَارِ وَالَّذِينَ اتَّبَعُوهُمْ بِإِحْسَانٍ رَضِيَ اللَّهُ عَنْهُمْ وَرَضُوا عَنْهُ } فَرَضِيَ عَمَّنْ اتَّبَعَ السَّابِقِينَ إِلَى يَوْمِ الْقِيَامَةِ قَدْ عَلِيَ أَنَّ مُتَابِعَهُمْ عَامِلٌ بِمَا يَرْضَى اللَّهُ وَاللَّهُ لَا يَرْضَى إِلَّا بِالْحَقِّ لَا بِالْبَاطِلِ

وَقَالَ تَعَالَى: {وَمَنْ يُشَاقِقِ الرَّسُولَ مِنْ بَعْدِ مَا تَبَيَّنَ لَهُ الْهُدَىٰ وَيَتَّبِعْ غَيْرَ سَبِيلِ الْمُؤْمِنِينَ نُوَلِّهِ مَا تَوَلَّىٰ وَنُصَلِّهِ جَهَنَّمَ وَسَاءَتْ مَصِيرًا} . وَكَانَ عُمَرُ بْنُ عَبْدِ الْعَزِيزِ يَقُولُ كَلِمَاتٍ كَانَ مَالِكٌ يَأْتُرُهَا عَنْهُ كَثِيرًا قَالَ: سَنَّ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ وَوَلَاةُ الْأَمْرِ مِنْ بَعْدِهِ سُنُّنَا الْأَخْذُ بِهَا تَصْدِيقٌ لِكِتَابِ اللَّهِ وَاسْتِعْمَالٌ لِطَاعَةِ اللَّهِ وَمَعُونَةٌ عَلَى دِينِ اللَّهِ لَيْسَ لِأَحَدٍ تَغْيِيرُهَا وَلَا النَّظَرُ فِي رَأْيٍ مَنْ خَالَفَهَا فَمَنْ خَالَفَهَا وَاتَّبَعَ غَيْرَ سَبِيلِ الْمُؤْمِنِينَ وَلَاهُ اللَّهُ تَعَالَى مَا تَوَلَّى وَالشَّافِعِيُّ رَضِيَ اللَّهُ عَنْهُ لَمَّا جَرَّدَ الْكَلَامَ فِي أَصُولِ الْفِقْهِ اخْتَجَّ بِهَذِهِ الْآيَةِ عَلَى . وَأَصْلَاهُ جَهَنَّمَ وَسَاءَتْ مَصِيرًا الْأَجْمَاعِ كَمَا كَانَ هُوَ وَعِزُّهُ وَمَالِكٌ ذَكَرَ عَنْ عُمَرَ بْنِ عَبْدِ الْعَزِيزِ وَالْآيَةَ دَلَّتْ عَلَى أَنَّ مُتَّبِعَ غَيْرِ سَبِيلِ الْمُؤْمِنِينَ مُسْتَحَقٌّ لِلْوَعِيدِ كَمَا أَنَّ مُشَاقِقَ الرَّسُولِ مِنْ بَعْدِ مَا تَبَيَّنَ لَهُ الْهُدَىٰ مُسْتَحَقٌّ لِلْوَعِيدِ وَمَعْلُومٌ أَنَّ هَذَا الْوَصْفَ يُوجِبُ الْوَعِيدَ بِمَجَرَّدِهِ فَلَوْ لَمْ يَكُنْ الْوَصْفُ الْأَخْرَجُ يَدْخُلُ فِي ذَلِكَ لَكَانَ لَا فَايْدَةَ فِي ذِكْرِهِ (١٧٩/١٩)

- Ijma' of the Ummah is Haqq. The Ummah cannot gather on falsehood. Allah describes them in Quran as enjoiners of good and forbidders of evil just as He describes Rasoolullah ﷺ with the same quality. Hence, if we were to say that the Ummah can hold a deviant opinion it would mean they are not enjoiners of good and forbidders of evil as Allah described them.
- Allah and His Messenger ﷺ has described the Ummah as witnesses. Had it been possible for the Ummah to testify to falsehood then Allah's Messenger ﷺ would not described the Ummah as Allah's witnesses in a saheeh Hadith.
- Following the entire Ummah follow that it has to be Haqq.
- Following a way besides the way of the Believers leads to Jahannam.
- Shaykh states that Imam Shafi'ee took the authority of Ijma' from the mentioned verse of Surah Al-Nisa. He also states that Umar Ibn Abdil Aziz رحمه الله and Imam Malik رحمه الله would affirm the same point based on the same verse.

Ibn Katheer رحمه الله writes:

ثم حكي أن الأمة تلتفت هذين الكتابين بالقبول، سوى أحرف يسيرة، انتقدتها بعض الحفاظ، كالدارقطني وغيره، ثم استنبط من ذلك القطع بصحة ما فيهما من الأحاديث، لأن الأمة معصومة عن الخطأ، فما ظنت صحته ووجب عليها العمل به، لا بد أن يكون صحيحا في نفس الأمر. وهذا

جيد (الباعث الحثيث ٣/١)

Ibn Katheer رحمه الله states that the Ummah as a whole is unerring. Whatever the Ummah considers correct has to be correct.

The famous Ahlul hadith (Salafi) scholar Nawab Siddeeq Hasan Khan رحمه الله d. 1307 also mentions that when the Ummah unanimously agrees upon a practice then the Ummah is unerring in that. (Al-Junnah fil-uswa al-hasana bis-Sunnah pg.17)

Ibnul Qayyim also clearly states that no practice is acceptable after the practice of the Messenger ﷺ and the Khulafa:

فصل في كيفية سلامه صلى الله عليه وسلم في الصلاة... والسنة تحكم بين الناس، لا عمل أحد بعد رسول الله (زاد المعاد ٢٥٣/١) صلى الله عليه وسلم وخلفائه، وبالله التوفيق

After all these clear references it is clear that undermining the Ijma' of the Noble Companions رضي الله عنهم is not acceptable in any case because the Haqq is with them.

An isolated opinion does not affect the unanimous ruling of jumhoor (majority):

All Muslims know that the Shia opinion of the Quran having been interpolated does not affect the authority of the Quran at all. The objections of the rejectors of hadith and Sunnah does not affect the authority of hadith and Sunnah. Similarly, in many a ruling the opinions of deviants like Mu'tazila, Khawarij and Rafidha etc. differ with Ijma' but their opposing opinions make no difference to the Ijma'. It is impossible for deviants to have Haqq with them and for Ahlus Sunnah to be away from Haqq in any single ruling. Take the example of Khatm nubuwwah and the Qadianiyyah or the issue of mut'a.

Regarding the issue of when a woman is divorced thrice can remarry her first husband: it is unanimous that she has to consummate the marriage with the second and then get divorced by him before she can remarry the first, but the great tabi'ee Saeed Ibn Al-Musayyab opines that it is permissible to remarry the first husband after merely performing nikah with the second after which he divorces her:

وَأَنْفَرَدَ سَعِيدُ بْنُ الْمُسَيَّبِ فَقَالَ إِذَا عَقَدَ النَّبِيُّ عَلَيْهَا ثُمَّ فَرَغَهَا حَلَّتْ لِلأَوَّلِ وَلَا يُشْتَرَطُ وَطْءُ النَّبِيِّ لِقَوْلِ اللَّهِ تَعَالَى حَتَّى تَنْكِحَ زَوْجًا غَيْرَهُ وَالتَّكَاخُ حَقِيقَةٌ فِي الْعَقْدِ عَلَى الصَّحِيحِ (شرح مسلم للنووي ٣/١٠)

Some Kharijites held the same opinion:

وَهَذَا الْحُكْمُ أَيْضًا مُتَّفَقٌ عَلَيْهِ إِلَّا مَا يُحْكَى عَنْ سَعِيدِ بْنِ الْمُسَيَّبِ أَنَّهُ لَا يَحْتَاجُ إِلَى وَطْءِ الزَّوْجِ، وَحُكْيَ نَحْوُ هَذَا الْقَوْلِ عَنْ نَفَرٍ مِنَ الْخَوَارِجِ، وَاسْتَدَلُّوا بِظَاهِرِ الْآيَةِ (الإعتبار للحازمي ١/١٨٢)

Can these opinions make a difference to the Ijma or even change the Ijma'?

Imam Nawawi, Qadhi Al-Shawkani and Allama Tahir Al-Jazairi الله رحمهم all state that Dawud Zahiri's difference makes no difference to Ijma'. (See: Sharh Bulugh al-maraam pg.6/ Sharh Nawawi on Muslim 2/187)

Imam Nawawi states in one place that Dawud Zahiri's differing does not affect Ijma':

وَلَوْ صَحَّ إِجَابُهُ عَنْ دَاوُدَ لَمْ تَضُرَّ مَخَالَفَتُهُ فِي ائْتِقَادِ الإِجْمَاعِ عَلَى الْمُخْتَارِ الَّذِي عَلَيْهِ الْمُحَقِّقُونَ وَالأَكْثَرُونَ (شرح مسلم ١٤٢/٣)

Nawab Siddeeq Hasan Khan الله رحمه states:

ولا يتوهم ان المراد بالمجتهدين جميع مجتهدي الأمة فان هذا توهم باطل لانه يؤدي إلي عدم ثبوت الإجماع (الجنة ٩)

For Ijma' to be formed it is not necessary for all mujtahidoon to agree on the issue otherwise it would mean no Ijma' may be established.

Thus, opinions of scholars' who oppose the 3=3 talaq Ijma' are insignificant. They are شاذ and cannot be acted upon.

Shaykh Ahmad Ibn Muhammad Al-Qastalani رحمه الله states:

و أجيب: بأن ابن إسحاق وشيخه مختلف فيهما مع معارضته بفتوى ابن عباس بوقوع الثلاث كما سيأتي إن شاء (إرشاد الساري ١٣٣/٨) الله تعالى وبأنه مذهب شاذ فلا يعمل به إذ هو منكر

Ibn Ishaq and his Shaykh related the hadith of Rukana (RA) stating he divorced his wife thrice. The two narrators are disparaged by many hadith scholars. This narration of theirs also goes against the fatwas of Ibn Abbas RA of 3=3 which will be mentioned later. Hence, their narration is munkar and the 3=1 opinion is an isolated rejected opinion.

Some scholars (like Qadhi Shawkani and Ameer Yamani in Nayl al-Awtar and Subul al-salam sharh Bulughul maram respectively) have attempted to display larger numbers opining 3=1 by adding names such as Haadi, Qaasim, Naasir and Baaqir. The truth is that these people are Zaydi Shias [See: Daleel al-taalib pg. 756]:

وذهبت طائفة من أهل العلم إلى أن الطلاق لا يتبع الطلاق بل يقع واحدة فقط. وقد حكى ذلك صاحب البحر عن أبي موسى ورواية عن علي - عليه السلام - وابن عباس وطاوس وعطاء وجابر بن زيد والهادي والقاسم والباقر والناصر وأحمد بن عيسى وعبد الله بن موسى بن عبد الله ورواية عن زيد بن علي، وإليه ذهب جماعة من المتأخرين منهم ابن تيمية وابن القيم وجماعة من المحققين (نيل ٢٧٥/٦)

Zaydi Shia opinions hold no weight for Ahlus Sunnah.

Mulla Ali Qari رحمه الله states:

قَالَ الْبُخَارِيُّ فِي تَصْنِيفِهِ فِي الرَّدِّ عَلَى مُنْكَرِي الرَّفْعِ، رَوَاهُ عَنِ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - سَبْعَةَ عَشَرَ مِنَ الصَّحَابَةِ، وَلَمْ يَنْبُتْ عَنْ أَحَدٍ مِنْهُمْ خِلَافُهُ، قَالَ ابْنُ حَجْرٍ: وَمِنْ تَمَّ حَكْيُ فِيهِ ابْنُ الْمُنْذِرِ وَغَيْرُهُ الْإِجْمَاعُ، وَخَالَفَ فِيهِ الرَّيْدِيُّ وَهُمْ لَا يُعْتَدُّ بِهِمْ فِي الْإِجْمَاعِ (مرقاة ٦٥٥/٢)

This clearly tells us that Zaydiyyah and other deviants opposing an Ijma' cannot and does not affect the Ijma'.

According to Shias 3 talaq in one gathering are not considered three.

The well known Shia book Furu' al-kafi states:

“Refrain from marrying women divorced thrice in one gathering because they are still married.” (2/178)

Thus, presenting such deviants' names regarding this issue is useless.

Similarly, presenting names of majhool (unknown) personalities is of no use. It is wrong to abandon the Ijma' of prominent Imams and Noble Sahaba رضي الله عنهم and

take the research of such unreliable unknown personalities in matters of halal and haram.

Those scholars who passionately took a scholarly-research approach in this 3=1 opinion are Ibn Taymiyah and Ibnul Qayyim. The rejecters of taqleed of this era use the evidences compiled by the two aforementioned Shaykhs and have gained confidence through their passion in this opinion.

Although the Haqq is with the majority (in the 3=3 ruling) and although the 3=1 stance is feeble and rejected, there have been some isolated individuals from the time of the tabi'oon advocating 3=1.

Nawab Siddeeq Hasan Khan states in Al-Taaj al-mukallal (pg. 286) that despite Imam Shamsuddeen Al-Dhahabi رحمه الله being a student and an admirer of Ibn Taymiyah رحمه الله but in this issue he strongly opposes his teacher's view.

Evidence And Arguments Presented by Jumhoor (The Majority):

Evidence 1:

Allah has set a rule for issuing divorce which is that after the man issues one or two divorces he can either practice ruju' with her or he may decide not to keep her in his wedlock.

However, if he issues the third divorce she will not remain lawful for him until she marries another man.

Imam Al-Shafi'ee رحمه الله states that the Quran indicates to the fact that when a man issues three divorces she does not remain lawful for him until she marries someone else, regardless of he had consummated his marriage with her or not.

Sunan Al-Kubra of Bayhaqi states:

باب ما جاء في إمضاء الطلاق الثلاث وإن كن مجموعات

وقال: {فإن طلقها فلا [٢٢٩]: قال الله جل ثناؤه: {الطلاق مرتان فإمساك بمعروف أو تسريح بإحسان} [البقرة ص: ٥٤٥] قال الشافعي رحمه الله: فالقرآن والله أعلم [٢٣٠]: تحل له من بعد حتى تنكح زوجا غيره} [البقرة ٥٤٤/٧] يدل على أن من طلق زوجة له دخل بها أو لم يدخل بها ثلاثا لم تحل له حتى تنكح زوجا غيره

The previous verse (الطلاق مرتان) means that raj'i (rescindable) divorces are two (at the most). Thereafter comes the verse فإن طلقها which starts with the letter faa (which denotes something following without an interval) to state that if the third divorce is issued immediately after having issued two then the woman no longer remains halal until she remarries etc.

Had there been the particle ثم (which denotes something following with an interval) in place of the ف then the verse could have been taken to mean that the first divorce has to be issued in the first tuhr, the second divorce in the second tuhr and the third in the third tuhr for all three to take effect.

Imam Shafi'ee believes this ruling to be applicable to both the madkhool biha and the ghayr madkhool biha. How can a ghayr madkhool biha possibly be divorced once in each of the three tuhr? She is separated from her husband upon the first and the second and third will not apply to her (in the case where the man says: you are divorced, you are divorced, you are divorced). The only way she can receive three divorces is if her husband issues all three in one go ie. You are divorced thrice.

Sayyiduna Ibn Abbas رضي الله عنه explains this verse thus:

أخبرناه أبو زكريا بن أبي إسحاق المزكي، أنا أبو الحسن الطرائفي، نا عثمان بن سعيد، نا عبد الله بن صالح، عن معاوية بن صالح، عن علي بن أبي طلحة، عن ابن عباس رضي الله عنهما في قوله تعالى: {فإن طلقها فلا تحل زوجها غيره} (له من بعد حتى تنكح زوجا غيره) [البقرة: ٢٣٠] يقول: " إن طلقها ثلاثا فلا تحل له حتى تنكح (السنن الكبرى ٦١٦/٧

He clearly states that if the man divorces his wife thrice she is no longer lawful for him until she marries another man.

Evidence 2:

Sayyida Aisha رضي الله عنها reports a hadith, which can be found in the Sahih of Al-Imam Al-Bukhari رحمه الله in the chapter: الطلاق الثلاث (و في نسخة أجاز) (Also in Sahih Muslim 1/463 and Al-Sunan al-Kubra 7/334):

أَنَّ رَجُلًا طَلَّقَ امْرَأَتَهُ ثَلَاثًا، فَتَزَوَّجَتْ فَطَلَّقَ، فَسُئِلَ النَّبِيُّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ: أَتَجِلُّ لِلأَوَّلِ؟ قَالَ لَا، حَتَّى (صحيح البخاري ٧٩١/٢) يَذُوقَ عُسَيْلَتَهَا كَمَا ذَاقَ الأَوَّلُ

The words in this hadith denote three divorces issued simultaneously make the woman unlawful for the man until she marries someone else and then her second marriage is consummated with intercourse.

Ibn Hajar رحمه الله confirms this in his Commentary on Sahih Al-Bukhari:

فإنه ظاهر في كونها مجموعة (٤٥٩/١٢)

Al-Qastalaani رحمه الله also refers to the above text from Fathul Bari in his commentary Irshad al-Sari under the same hadith.

Imam Al-Bukhari has a chapter titled:

باب من جوز (و في نسخة أجاز) الطلاق الثلاث

Chapter: Those who permit issuing three divorces. (According to the great Imam issuing three divorces simultaneously is permissible and all three take effect. His opinion is same as Imam Shafi'ee in that three in one go are not talaq bid'ah (haram).

See Ibnul Munayyir's work Al-Mutawari on Bukhari in this chapter. He states Imam Bukhari 's objective in this chapter is to prove his stance of three simultaneous divorces taking effect.

This speaks volumes from Imam Bukhari رحمه الله. There are possibilities in what is meant by three divorces in this chapter title:

Firstly, it could mean divorces issued separately in each tuhr. However, this meaning is problematic because the great Imam here refers to the three divorces in the context of a difference of opinion and there is no difference of opinion of this being allowed.

The second possibility is that he is referring to three divorces altogether in one go. This is the preferred stance.

Imam Al-Darami رحمه الله has titled a similar chapter in his Sunan.

Bayhaqi رحمه الله has a chapter titled:

مجموعات باب ما جاء في إمضاء الطلاق الثلاث وإن كن

Chapter: Enforcing three divorces even though though they were issued simultaneously.

Evidence 3:

Sayyida Aisha رضي الله عنها was asked about a man who issues three divorces:

أخبرنا أبو عبد الله الحافظ، أخبرني أبو الوليد الفقيه، أنا الحسن بن سفيان، نا أبو بكر بن أبي شيبة، نا ابن فضيل، عن هشام بن عروة، عن أبيه، عن عائشة رضي الله عنها أنها سألت عن الرجل يتزوج المرأة فيطلقها ثلاثاً، فقالت: قال رسول الله صلى الله عليه وسلم: " لا تحل للأول حتى يذوق الآخر عسيلتها وتذوق عسيلته " رواه (مسلم في الصحيح عن أبي بكر بن أبي شيبة (السنن الكبرى ٦١٣/٧

The words in this hadith denote three divorces issued simultaneously make the woman unlawful for the man until she marries someone else and then her second marriage is consummated with intercourse.

The same narration is found in the Sunan of Al-Daraqutni (5/59) رحمه الله with a slight variation in wording:

نا أحمد بن علي بن العلاء، نا أبو عبيدة بن أبي السفر، نا أبو أسامة، عن زائدة بن قدامة، عن علي بن زيد، قال رسول الله صلى الله عليه وسلم: «إِذَا طَلَّقَ الرَّجُلُ امْرَأَتَهُ ثَلَاثًا لَمْ تَحِلَّ لَهُ: عَنْ أُمِّ مُحَمَّدٍ، عَنْ عَائِشَةَ، قَالَتْ حَتَّى تَنْكِحَ زَوْجًا غَيْرَهُ، وَيَذُوقَ كُلَّ وَاحِدٍ مِنْهُمَا عَسِيلَةَ صَاحِبِهِ (٥٩/٥)

Evidence 4:

Narration of Mahmud Ibn Labeed رضي الله عنه

أن رسول الله صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ أَخْبَرَ عَنْ رَجُلٍ طَلَّقَ امْرَأَتَهُ ثَلَاثَ تَطْلِيقَاتٍ جَمِيعًا فِقَامَ مُغْضَبًا ثُمَّ قَالَ أَيْلَعُ بِكِتَابِ اللهِ وَأَنَا بَيْنَ أَظْهُرِكُمْ

الراوي: محمود بن لبيد الأنصاري المحدث: ابن القيم - المصدر: زاد المعاد - الصفحة أو الرقم: 220/5

خلاصة حكم المحدث: إسناده على شرط مسلم

See Naylul awtar (6/269):

قال ابن كثير: إسناده جيد. وقال الحافظ في بلوغ المرام: رواه موثوقون

The Messenger of Allah صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ was informed of a man who issued three divorces to his wife simultaneously. He صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ got up in anger and said: Is the Book of Allah being played with while I am amongst you?

Shawkani says that Ibn Katheer has authenticated this hadith. Ibn Hajar said the narrators of this hadith are reliable.

Objection:

Ibnul Qayyim has stated that Jumhoor have used fabricated words in the narration of Mahmud Ibn Labeed RA which state that Allah's Messenger ﷺ enforced his three simultaneous divorces.

Answer:

We do not use fabricated words of this narration to prove these three divorces were enforced. We have another narration which states three simultaneous divorces were enforced by Allah's Messenger ﷺ. This narration is found in the Sunan of Abu Dawud (2/274) and even al-Albani has classified it as authentic:

حَدَّثَنَا أَحْمَدُ بْنُ عَمْرٍو بْنِ السَّرْحِ، حَدَّثَنَا ابْنُ وَهْبٍ، عَنْ عِيَاضِ بْنِ عَبْدِ اللهِ الْفُهْرِيِّ، وَعَيْرِهِ

فَطَلَّقَهَا ثَلَاثَ تَطْلِيقَاتٍ عِنْدَ رَسُولِ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ: عَنْ ابْنِ شِهَابٍ، عَنْ سَهْلِ بْنِ سَعْدٍ، فِي هَذَا الْخَبَرِ، قَالَ وَسَلَّمَ، فَأَنْفَذَهُ رَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ، وَكَانَ مَا صَنَعَ عِنْدَ النَّبِيِّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ سُنَّةً، قَالَ سَهْلٌ: حَضَرْتُ هَذَا عِنْدَ رَسُولِ اللهِ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ، فَمَضَتِ السُّنَّةُ بَعْدَ فِي الْمُتَلَاعِنِينَ أَنْ يُفَرَّقَ بَيْنَهُمَا ثُمَّ لَا يَجْتَمِعَانِ أَبَدًا

حكم الألباني: صحيح]

Evidence 5:

Narration of Sahl Ibn Sa'd رضي الله عنه regarding Sayyiduna Uwaymir Al-'Ajlaani رضي الله عنه

قال عويمرُ : كَذِبْتُ عَلَيْهَا يَا رَسُولَ اللَّهِ إِنَّ أَمْسَكْتُهَا فطَلَقَهَا ثَلَاثًا قَبْلَ أَنْ يَأْمُرَهُ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ (رواه البخاري ٧٩١/٢،

(مسلم ٤٨٩/١)

He issued three divorces at once in the presence of the Messenger ﷺ and he enforced them according to the following narration in Sunan Abu Dawud which has been classed as saheeh by Albani:

حَدَّثَنَا أَحْمَدُ بْنُ عَمْرٍو بْنِ السَّرْحِ، حَدَّثَنَا ابْنُ وَهْبٍ، عَنْ عِيَاضِ بْنِ عَبْدِ اللَّهِ الْفِهْرِيِّ، وَغَيْرِهِ

فَطَلَقَهَا ثَلَاثَ تَطْلِيقَاتٍ عِنْدَ رَسُولِ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ، عَنْ ابْنِ شِهَابٍ، عَنْ سَهْلِ بْنِ سَعْدٍ، فِي هَذَا الْخَبَرِ، قَالَ وَسَلَّمَ، فَأَنْفَذَهُ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ، وَكَانَ مَا صُنِعَ عِنْدَ النَّبِيِّ صَلَّى [ص: ٢٧٥] اللَّهُ عَلَيْهِ وَسَلَّمَ سُنَّةً، قَالَ سَهْلٌ: حَضَرْتُ هَذَا عِنْدَ رَسُولِ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ، فَصَصْتُ السُّنَّةَ بَعْدُ فِي الْمُتَلَاعِنِينَ أَنْ يُفَرَّقَ بَيْنَهُمَا ثُمَّ لَا يَجْتَمِعَانِ أَبَدًا

حكم الألباني: صحيح]

Evidence 6:

رضي الله عنهما Abdullah Ibn Umar Narration of Sayyiduna

He divorced his wife once in the state of haidh. Later, he intended to issue two further divorces. The Messenger ﷺ came to know of his intention. He explained to him that he has acted against the Sunnah because the Sunnah method is to issue divorce in the woman's tuhr. So, he instructed him to take her back. He took her back. He then said: When she enters her tuhr then either divorce her or keep her. رضي الله عنه asked: Can I take her back after having issued 3 divorces? He said: No. She will be separated from you and this method would be a sin.

أخبرنا أبو عبد الله الحافظ، وأبو بكر أحمد بن الحسن قالاً: نا أبو العباس محمد بن يعقوب نا أبو أمية الطرسوسي، نا معلى بن منصور الرازي، نا شعيب بن رزيق، أن عطاء الخراساني حدثهم، عن الحسن، نا عبد الله بن عمر، أنه طلق امرأته تطليقة وهي حائض ثم أراد أن يُتبعها بتطليقتين أخراوين عند القرئين الباقيين فبلغ ذلك رسول الله صلى الله عليه وسلم، [ص: ٥٤٧] فقال: " يا ابن عمر ما هكذا أمر الله تبارك وتعالى إنك قد أخطأت السنة والسنة أن تستقبل الطهر فتطلق لكل قرء " قال: فأمرني رسول الله صلى الله عليه وسلم فراجعتها ثم قال لي: " إذا هي طهرت فطلق عند ذلك أو أمسك " فقلت: يا رسول الله أفرأيت لو أني طلقها ثلاثا كان يحل لي أن أراجعها؟ قال: (لا كانت تبين منك وتكون معصية" (السنن الكبرى ٥٤٦/٧، سنن الدارقطني ٤٣٨/٢، مجمع الزوائد ٣٣٦/٤)

This is clear that the word 'thrice' refers to three simultaneous divorces (all in one go/ one gathering) because issuing three spread over three months is not sin.

From this we learn that there is no chance of rescinding after issuing 3 divorces. Weakness in any narrators of this hadith does not make a difference to the actual ruling of 3=3 as this is accepted with Ijma'. For a detailed insight into each narrator see Umdatul athaath (pg. 58-60) by Shaykh Safaraz Safdar رحمه الله.. Also see: Al-A'laam al-marfoo'ah by Mawlana Habibur Rahman A'zami رحمه الله pg. 506-511.

For the sake of brevity see what Shamsuddeen Al-Dhahabi رحمه الله says about this hadith in his book تنقيح التحقيق regarding the authenticity of this hadith:

معلی بن منصور، نا شعيب بن زريق، ثنا عطاء الخراساني، عن الحسن، ثنا عبد الله بن عمر " أنه طلق امرأته تطليقة وهي حائض، ثم أراد أن يتبعها بتطليقتين أخريين عند القرءين، فبلغ ذلك رسول الله [صلى الله عليه وسلم] فقال: يا ابن عمر، ما هكذا أمرك الله، إنك قد أخطأت السنة، والسنة أن تستقبل الطهر، فتطلق لكل قرء. فأمرني رسول الله [صلى الله عليه وسلم] فراجعتها ثم قال: إذا طهرت فطلق عند ذلك أو أمسك. فقلت: يا رسول الله، " أ رأيت لو أني طلقته ثلاثا، أكان يحل لي أن أرتجعها؟ قال: لا، كانت تبين منك، ويكون معصية

قال ابن حبان: لم يشافه الحسن ابن عمر

قلت: فقد صرح هنا بمشافهته. وهذا إسناد قوي

(تنقيح التحقيق ٢/٢٠٥)

Evidence 7:

Sayyiduna Rukana رضي الله عنه divorced his wife with the word

"البتة" (a word which denotes severing of ties). The Messenger of Allah ﷺ asked him how many divorces he intended. Had three simultaneous divorces been considered only one why would Allah's Messenger ﷺ ask how many he intended? This clearly shows that three divorces simultaneously do take effect.

This hadith is in the Sunan of Abu Dawud (2/263, Also Hakim 2/218 and Daraqutni 5/60):

حَدَّثَنَا ابْنُ السَّرْحِ، وَإِبْرَاهِيمُ بْنُ خَالِدِ الْكَلْبِيِّ أَبُو ثَوْرٍ، فِي آخِرِينَ قَالُوا: حَدَّثَنَا مُحَمَّدُ بْنُ إِدْرِيسَ الشَّافِعِيُّ، حَدَّثَنِي عَمِّي مُحَمَّدُ بْنُ عَلِيِّ بْنِ شَافِعٍ، عَنْ عَبْدِ اللَّهِ بْنِ عَلِيٍّ بْنِ السَّائِبِ، عَنْ نَافِعِ بْنِ عُجَيْرٍ بْنِ عَبْدِ يَزِيدَ بْنِ رُكَانَةَ، أَنَّ رُكَانَةَ بْنَ عَبْدِ يَزِيدَ طَلَّقَ امْرَأَتَهُ سُهِيمَةَ الْبَيْتَةَ، فَأَخْبَرَ النَّبِيَّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ بِذَلِكَ، وَقَالَ: وَاللَّهِ مَا أَرَدْتُ إِلَّا وَاحِدَةً، فَقَالَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ: «وَاللَّهِ مَا أَرَدْتُ إِلَّا وَاحِدَةً؟»، فَقَالَ رُكَانَةُ: وَاللَّهِ مَا أَرَدْتُ إِلَّا وَاحِدَةً، فَرَدَّهَا إِلَيْهِ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ، فَطَلَّقَهَا الثَّانِيَةَ فِي زَمَانِ عُمَرَ، وَالثَّلَاثَةَ فِي زَمَانِ عُثْمَانَ

Also:

أنه طلق امرأته البتة فأتى رسول الله صلى الله عليه وسلم فقال ما أردت قال واحدة قال الله قال الله قال هو على ما (أردت) جامع الترمذي ١/١٤٠، سنن ابن ماجه ١٤٩

Imam Dhahabi has classified this hadith as Saheeh:

التعليق - من تلخيص الذهبي: قد انحرف في الصحيحين عن الزبير بن سعيد لكن له متابعا يصح به الحديث

Shawkani has also stated this narration is more authentic than the hadith which states that Rukana رضي الله عنه issued three simultaneous divorces and Allah's Messenger ﷺ enforced it as only one rescindable divorce. (Naylul Awtar 6/269):

وَأَصْحَهَا أَنَّهُ طَلَّقَهَا أَلْبَتَّةَ، وَأَنَّ الثَّلَاثَ ذُكِرَتْ فِيهِ عَلَى الْمَعْنَى. قَالَ ابْنُ كَثِيرٍ: لَكِنْ قَدْ رَوَاهُ أَبُو دَاوُدَ مِنْ وَجْهِ آخَرَ. وَلَهُ طُرُقٌ أُخْرَى فَهُوَ حَسَنٌ إِنْ شَاءَ اللَّهُ

Hafidh Ibn Hajar has stated that this hadith has been authenticated by al-Hakim, Abu Dawud and Ibn Hibban (Al-Talkhees al-habeer 3/429):

أَنَّ رُكَّانَةَ بِنْتُ عَبْدِ يَزِيدَ أَتَى رَسُولَ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - فَقَالَ: إِنِّي طَلَّقْتُ امْرَأَتِي سُهِيمَةَ أَلْبَتَّةَ، «: حَدِيثٌ وَوَاللَّهِ مَا أَرَدْتُ إِلَّا وَاحِدَةً، فَرَدَّهَا عَلَيَّ». . الشَّافِعِيُّ وَأَبُو دَاوُدَ وَالتِّرْمِذِيُّ وَابْنُ مَاجَةَ، وَاحْتَلَفُوا هَلْ هُوَ مِنْ مُسْنَدِ رُكَّانَةَ، أَوْ مُرْسَلٌ عَنْهُ، وَصَحَّحَهُ أَبُو دَاوُدَ وَابْنُ جِبَّانَ وَالْحَاكِمُ

Evidence 8

رضي الله عنه Umar Sayyiduna

أخبرنا أبو بكر بن الحارث الفقيه، أنا علي بن عمر الحافظ قال: قرئ على عبد الله بن محمد بن عبد العزيز وأنا أسمع حدثكم إسماعيل بن إبراهيم الترجماني أبو إبراهيم نا سعيد بن عبد الرحمن عن عبيد الله بن عمر عن نافع عصبية: عن ابن عمر أن رجلاً أتى عمر رضي الله عنه فقال: إني طلقت امرأتي يعني البتة وهي حائض قال ربك وفارقت امرأتك فقال الرجل: فإن رسول الله صلى الله عليه وسلم أمر ابن عمر رضي الله عنهما حين فارق امرأته أن يراجعها، فقال له عمر رضي الله عنه: إن رسول الله صلى الله عليه وسلم أمره أن يراجع امرأته لطلاق بقي له وإنه لم يبق لك ما ترتجع به امرأتك " (السنن الكبرى ٥٤٧/٧، مجمع الزوائد ٣٣٥/٤ قال أبو الحسن علي الهيثمي: رواه الطبراني في الأوسط، ورجاله رجال الصحيح خلا إسماعيل بن إبراهيم الترجماني، (وهو ثقة)

A man came to Sayyiduna Umar رضي الله عنه and informed him that he divorced his wife using the word while she was in her menstrual cycle. Sayyiduna Umar رضي الله عنه said: You have disobeyed your lord and you are separated from your wife. The man said: The Messenger ﷺ instructed Ibn Umar رضي الله عنه to rescind when he divorced his wife. Sayyiduna Umar رضي الله عنه explained: The Messenger ﷺ allowed him to rescind because he had still had an unissued divorce in his possession. Whereas, you have no divorce outstanding whereby you could be allowed to rescind (hence, you cannot rescind).

This clearly shows that Sayyiduna Umar رضي الله عنه took his 3=3 ruling from the Messenger ﷺ.

Imam Badrud deen Al-Ayni has stated in Nukhabul afkar that the sanad of this hadeeth is saheeh. Imam al-Haithami has stated the same in Majma' al-Zawaaid.

Evidence 9:

وَإِنْ كُنْتَ طَلَّقْتَهَا ثَلَاثًا، فَقَدْ حُرِّمَتْ عَلَيْكَ، حَتَّى تَتَكَبَّرَ: وَكَانَ عَبْدُ اللَّهِ (بن عمر) إِذَا سُئِلَ عَنْ ذَلِكَ، قَالَ لِأَحَدِهِمْ رَوْجًا غَيْرَكَ، وَعَصَيْتَ اللَّهَ فِيمَا أَمَرَكَ مِنْ طَلَاقِ امْرَأَتِكَ (صحيح مسلم ٤٧٦/١، صحيح البخاري ٨٠٣/٢)

This narration of Saheeh Al-Bukhari and Muslim states that when Ibn Umar رضي الله عنه would be asked about divorce he would say: If you divorced her thrice then she is unlawful for you until she marries someone else, and you have disobeyed your Lord in the way He instructed you to divorce.

This must be referring to 3 divorces issued simultaneously otherwise رضي الله عنه would not have said "you have disobeyed Allah" because divorcing thrice over three months is not disobedience.

Evidence 10:

There was a humorous man in Madinah who issued 1000 divorces to his wife. The issue was taken to Sayyiduna Umar رضي الله عنه. The man claimed he was only playing. Sayyiduna Umar رضي الله عنه lashed him and said: Three were enough for you.

أَخْبَرَنَا أَبُو عَبْدِ اللَّهِ الْحَافِظُ، نا أَبُو الْعَبَّاسِ مُحَمَّدُ بْنُ يَعْقُوبَ نا مُحَمَّدُ بْنُ عَبْدِ اللَّهِ الْمُنَادِي، نا وَهْبُ بْنُ جَرِيرٍ، نا شُعْبَةُ، عَنْ سَلَمَةَ بْنِ كَهَيْلٍ، عَنْ زَيْدِ بْنِ وَهْبٍ، أَنَّ بَطَّالًا كَانَ بِالْمَدِينَةِ فَطَلَّقَ امْرَأَتَهُ أَلْفًا فَرَفَعَ ذَلِكَ إِلَى عُمَرَ بْنِ إِمَامًا كُنْتُ أَلْعَبُ فَعَلَاهُ عُمَرُ رَضِيَ اللَّهُ عَنْهُ بِالذِّرَّةِ وَقَالَ: " إِنْ كَانَ لِيكَفَيْكَ ثَلَاثٌ " :الْحَطَّابِ رَضِيَ اللَّهُ عَنْهُ فَقَالَ ((السنن الكبرى ٥٤٧/٧

Hafidh Ibn Hajar has stated that this hadith is saheeh (see his Fathul Bari)

Sayyiduna Umar رضي الله عنه enforced three and the rest were considered void.

Another hadith states that Sayyiduna Umar رضي الله عنه would punish anyone who was brought before him for issuing 3 divorces in one go:

حَدَّثَنَا صَالِحٌ، قَالَ: ثنا سَعِيدٌ هُوَ ابْنُ مَنْصُورٍ، قَالَ: ثنا أَبُو عَوَانَةَ عَنْ شَقِيبٍ، عَنْ أَنَسٍ، قَالَ: «لَا تَجِلُّ لَهُ حَتَّى يَشْرَحَ مَعَانِي» تَنْكِحَ زَوْجًا غَيْرَهُ». قَالَ: وَكَانَ عُمَرُ بْنُ الْخَطَّابِ إِذَا أَتَى بِرَجُلٍ طَلَّقَ امْرَأَتَهُ ثَلَاثًا أَوْجَعَ ظَهْرَهُ (الأثار ٥٩/٣

Evidence 11:

Sayyiduna Anas رضي الله عنه narrates:

وَأَخْبَرَنَا أَبُو نَصْرٍ بْنُ قَنَادَةَ، أَنَا أَبُو الْفَضْلِ بْنُ خُمَيْرٍ وَبِهِ، نا أَحْمَدُ بْنُ نَجْدَةَ، نا سَعِيدُ بْنُ مَنْصُورٍ، نا سُفْيَانُ، عَنْ شَقِيبٍ، سَمِعَ أَنَسَ بْنَ مَالِكٍ يَقُولُ: قَالَ عُمَرُ بْنُ الْخَطَّابِ رَضِيَ اللَّهُ عَنْهُ فِي الرَّجُلِ يُطَلِّقُ امْرَأَتَهُ ثَلَاثًا قَبْلَ أَنْ يَدْخُلَ بِهَا قَالَ: " هِيَ ثَلَاثٌ لَا تَجِلُّ لَهُ حَتَّى تَنْكِحَ زَوْجًا غَيْرَهُ " وَكَانَ إِذَا أَتَى بِهِ أَوْجَعَهُ (السنن الكبرى ٥٤٧/٧)

Three divorces only take effect on a ghair madkhool biha when offered as one word eg. أنت طالق ثلاثا not as three separate words.

Evidence 12:

Abdur Rahman Ibn Abi Layla رحمه الله narrates:

أَخْبَرَنَا أَبُو عَمْرٍو الرَّزَّجَاهِيُّ، ثنا أَبُو بَكْرِ الْإِسْمَاعِيلِيُّ قَالَ: قَرَأْتُ عَلَى أَبِي مُحَمَّدٍ إِسْمَاعِيلَ بْنِ مُحَمَّدٍ الْكُوفِيِّ نَا أَبُو نُعَيْمٍ الْفَضْلُ بْنُ دُكَيْنٍ، نَا حَسَنٌ، عَنِ عَبْدِ الرَّحْمَنِ بْنِ أَبِي لَيْلَى، عَنِ عَلِيِّ رَضِيَ اللَّهُ عَنْهُ فِيمَنْ طَلَّقَ امْرَأَتَهُ ثَلَاثًا لَا تَحِلُّ لَهُ حَتَّى تَنْكِحَ رَوْجًا غَيْرَهُ" (السنن الكبرى ٥٤٧/٧) "قَبْلَ أَنْ يَدْخُلَ بِهَا قَالَ

وَأَخْبَرَنَا أَبُو الْحُسَيْنِ مُحَمَّدُ بْنُ عَلِيٍّ بْنِ حُبَيْشٍ الْمُقْرِيُّ بِالْكُوفَةِ أَنَا أَبُو [ص: ٥٤٨] إِسْحَاقُ إِبْرَاهِيمَ بْنِ عَبْدِ اللَّهِ الْأُرْدِيِّ بْنِ أَبِي الْعَزَائِمِ أَنَا أَحْمَدُ بْنُ حَازِمٍ، أَنَا أَبُو نُعَيْمٍ، عَنِ الْأَعْمَشِ، عَنِ حَبِيبِ بْنِ أَبِي ثَابِتٍ، عَنِ بَعْضِ أَصْحَابِهِ قَالَ: جَاءَ رَجُلٌ إِلَى عَلِيِّ رَضِيَ اللَّهُ عَنْهُ فَقَالَ: طَلَّقْتُ امْرَأَتِي أَلْفًا قَالَ: " ثَلَاثٌ تَحْرِمُهَا عَلَيْكَ وَأَقْسِمُ سَائِرَهَا بَيْنَ نِسَائِكَ " (أَيْضًا)

أَخْبَرَنَا أَبُو الْحَسَنِ عَلِيُّ بْنُ أَحْمَدَ بْنِ عَبْدِ اللَّهِ أَنَا أَحْمَدُ بْنُ عَبْدِ الصَّفَّارِ، نَا [ص: ٥٥٠] إِبْرَاهِيمَ بْنِ مُحَمَّدٍ الْوَاسِطِيِّ، نَا مُحَمَّدُ بْنُ حَمِيدِ الرَّازِيِّ، نَا سَلْمَةُ بْنُ الْفَضْلِ، عَنِ عَمْرٍو بْنِ أَبِي قَيْسٍ، عَنِ إِبْرَاهِيمَ بْنِ عَبْدِ الْأَعْلَى، عَنِ سُؤَيْدِ بْنِ غَفَلَةَ قَالَ: كَانَتْ عَائِشَةُ الْخَنْعَمِيَّةُ عِنْدَ الْحَسَنِ بْنِ عَلِيٍّ رَضِيَ اللَّهُ عَنْهُ، فَلَمَّا قُتِلَ عَلِيُّ رَضِيَ اللَّهُ عَنْهُ قَالَتْ: لِنَهْنَيْكَ الْخِلَافَةَ، قَالَ: يَقْتُلُ عَلِيٌّ نَظِيرِينَ السَّمَاتِ أَذْهَبِي فَأَنْتِ طَالِقٌ، يَعْنِي ثَلَاثًا قَالَ: فَتَلَفَعْتُ بِنْيَابِهَا وَقَعَدْتُ حَتَّى قَصَتْ عِدَّتَهَا فَبِعَتْ إِلَيْهَا بِبِقِيَّةِ بَيْتِ لَهَا مِنْ صَدَاقِهَا وَعَشْرَةَ آلَافٍ صَدَقَةً، فَلَمَّا جَاءَهَا الرَّسُولُ قَالَتْ: مَتَاعٌ قَلِيلٌ مِنْ حَبِيبٍ مَفَارِقٍ، فَلَمَّا بَلَغَهُ قَوْلُهَا بَكَى ثُمَّ قَالَ: لَوْلَا أَنِّي سَمِعْتُ جَدِّي أَوْ حَدَّثَنِي أَبِي أَنَّهُ سَمِعَ جَدِّي يَقُولُ: " أَيُّمَا رَجُلٍ طَلَّقَ لِرَاجِعَتِهَا " وَكَذَلِكَ رُوِيَ عَنْ عَمْرٍو " امْرَأَتُهُ ثَلَاثًا عِنْدَ الْأَقْرَاءِ أَوْ ثَلَاثًا مُبْهَمَةً لَمْ تَحِلَّ لَهُ حَتَّى تَنْكِحَ رَوْجًا غَيْرَهُ بِنِ شِمْرِ عَنْ عُمَرَ بْنِ مُسْلِمٍ وَإِبْرَاهِيمَ بْنِ عَبْدِ الْأَعْلَى عَنْ سُؤَيْدِ بْنِ غَفَلَةَ (السنن الكبرى ٥٤٩/٧، سنن الدارقطني ٤٢٧/٢)

After Sayyiduna Ali رضي الله عنه was martyred and people pledged allegiance to Sayyiduna Hasan رضي الله عنه his wife, Aisha Khath'amiyyah said to him: Congratulations on your leadership. He replied: Are you congratulating me upon my fathers martyrdom? Are you expressing happiness over it? Go! You are divorced thrice.

She wore her clothes of iddah. Upon the completion of her iddah he gave her outstanding mahr and 10,000 extra. When she received this amount she said: A small amount of wealth from a separated beloved!

Upon hearing this he cried and said:

Had I not heard my grandfather say "Whichever man divorces his wife thrice altogether or thrice over three periods then she is unlawful for him until she marries another man", I would have taken her back.

The above narrations prove that Sayyiduna Ali رضي الله عنه and his son Sayyiduna Hasan رضي الله عنه both considered three divorces issued simultaneously to be three.

Evidence 13:

وَأَخْبَرَنَا أَبُو عَبْدِ اللَّهِ الْحَافِظُ، نَا أَبُو الْعَبَّاسِ مُحَمَّدُ بْنُ يَعْقُوبَ نَا الْحَسَنُ بْنُ عَلِيٍّ بْنِ عَفَّانَ، نَا ابْنُ نُمَيْرٍ، عَنِ الْأَعْمَشِ، عَنِ مَالِكِ بْنِ الْحَارِثِ، عَنِ ابْنِ عَبَّاسٍ قَالَ: أَتَانِي رَجُلٌ فَقَالَ: إِنَّ عَمِّي طَلَّقَ امْرَأَتَهُ ثَلَاثًا فَقَالَ: " إِنَّ عَمَّكَ عَصَى اللَّهَ فَأَنْدَمَهُ اللَّهُ وَأَطَاعَ الشَّيْطَانَ فَلَمْ يَجْعَلْ لَهُ مَخْرَجًا " قَالَ: أَفَلَا يُخَلِّلُهَا لَهُ رَجُلٌ؟ فَقَالَ: " مَنْ يُخَادِعِ اللَّهَ (السنن الكبرى ٥٥١ ٥٥٢/٧، شرح معاني الآثار ٥٧/٣) " يَخْدَعُهُ

حَدَّثَنِي يَحْيَى، عَنِ مَالِكٍ أَنَّهُ بَلَغَهُ، أَنَّ رَجُلًا قَالَ لِعَبْدِ اللَّهِ بْنِ عَبَّاسٍ إِنِّي طَلَّقْتُ امْرَأَتِي مِائَةَ تَطْلِيقَةٍ فَمَاذَا تَرَى عَلَيَّ؟ (موطأ الإمام مالك ٥٥٠/٢) «فَقَالَ لَهُ ابْنُ عَبَّاسٍ «طَلَّقْتَ مِنْكَ لِثَلَاثٍ، وَسَبْعٌ وَتِسْعُونَ اتَّخَذْتَ بِهَا آيَاتِ اللَّهِ هُرُؤًا

أَخْبَرَنَا أَبُو أَحْمَدَ الْمُهْرَجَانِيُّ، أَنَا أَبُو بَكْرٍ بْنُ جَعْفَرٍ الْمُرَكِّي، نَا مُحَمَّدُ بْنُ [ص: ٥٥٣] إِبْرَاهِيمَ الْبُوشَنجِي، نَا ابْنُ بَكِيرٍ، نَا مَالِكٌ، عَنِ ابْنِ شِهَابٍ، عَنِ مُحَمَّدِ بْنِ عَبْدِ الرَّحْمَنِ بْنِ تَوْبَانَ، عَنِ مُحَمَّدِ بْنِ إِبَاسِ بْنِ الْبَكِيرِ، أَنَّهُ قَالَ: طَلَّقَ رَجُلٌ امْرَأَتَهُ ثَلَاثًا قَبْلَ أَنْ يَدْخُلَ بِهَا ثُمَّ بَدَأَ لَهُ أَنْ يَنْكِحَهَا فَجَاءَ يَسْتَفْتِي فَذَهَبْتُ مَعَهُ أَسْأَلُ لَهُ فَسَأَلْتُ أَبَا هُرَيْرَةَ وَعَبْدَ اللَّهِ بْنَ عَبَّاسٍ عَنِ ذَلِكَ فَقَالَ لَهُ: " لَا تَرَى أَنْ تَنْكِحَهَا حَتَّى تَنْزُوجَ زَوْجًا غَيْرَكَ " قَالَ: فَإِنَّمَا كَانَ طَلَّاقِي إِيَّاهَا وَاحِدَةً فَقَالَ ابْنُ عَبَّاسٍ: " إِنَّكَ أَرْسَلْتَ مِنْ يَدِكَ مَا كَانَ لَكَ مِنْ فَضْلِ " فَهَذِهِ رَوَاهُ سَعِيدُ بْنُ جُبَيْرٍ وَعَطَاءُ بْنُ أَبِي رَبَاحٍ وَمُجَاهِدٌ وَعِكْرَمَةُ وَعَمْرُو بْنُ دِينَارٍ وَمَالِكُ بْنُ الْحَارِثِ وَمُحَمَّدُ بْنُ إِبَاسِ بْنِ الْبَكِيرِ وَرُوَيْنَاهُ عَنْ مُعَاوِيَةَ بْنِ أَبِي عِيَّاشٍ الْأَنْصَارِيِّ كُلُّهُمْ عَنِ ابْنِ عَبَّاسٍ أَنَّهُ أَجَازَ الطَّلَاقَ الثَّلَاثَ وَأَمْضَاهُنَّ

وَأَخْبَرَنَا أَبُو الْحُسَيْنِ بْنُ بِشْرَانَ الْعَدَلِيُّ، بِبَعْدَادَ أَنَا إِسْمَاعِيلُ بْنُ مُحَمَّدٍ الصَّفَّارُ، نَا الْحَسَنُ بْنُ عَلِيِّ بْنِ عَفَّانَ، نَا ابْنُ نُمَيْرٍ، عَنِ عُبَيْدِ اللَّهِ بْنِ عَمْرٍ، عَنِ نَافِعٍ، أَنَّ رَجُلًا سَأَلَ ابْنَ عُمَرَ فَقَالَ: طَلَّقْتُ امْرَأَتِي ثَلَاثًا وَهِيَ حَايِضٌ فَقَالَ: " عَصَيْتَ رَبَّكَ وَفَارَقْتَ امْرَأَتَكَ "

أَخْبَرَنَا أَبُو عَبْدِ اللَّهِ الْحَافِظُ، أَخْبَرَنِي مُحَمَّدُ بْنُ أَحْمَدَ بْنِ بَالُوَيْهٍ، نَا مُحَمَّدُ بْنُ غَالِبٍ، نَا عُبَيْدُ اللَّهِ بْنُ مُعَاذٍ، نَا أَبِي، نَا شُعْبَةُ، عَنِ طَارِقِ بْنِ عَبْدِ الرَّحْمَنِ قَالَ: سَمِعْتُ قَيْسَ بْنَ أَبِي حَازِمٍ قَالَ: سَأَلَ رَجُلٌ الْمُعِيرَةَ بِنَ شُعْبَةَ وَأَنَا شَاهِدٌ، " ثَلَاثَ نَحْرَمَ وَسَبْعَ وَتِسْعُونَ فَضَلَّ " : عَنِ رَجُلٍ طَلَّقَ امْرَأَتَهُ مِائَةَ قَالٍ

(السنن الكبرى ٥٤٩- ٥٥٢/٧)

The above narrations prove that Sayyiduna Ali رضي الله عنه and his son Sayyiduna Hasan رضي الله عنه both considered three divorces issued simultaneously to be three.

Evidence 14:

وَحَدَّثَنِي عَنْ مَالِكٍ، عَنْ يَحْيَى بْنِ سَعِيدٍ، عَنْ بَكِيرِ بْنِ عَبْدِ اللَّهِ بْنِ الْأَسْحَجِ، أَنَّهُ أَخْبَرَهُ، عَنْ مُعَاوِيَةَ بْنِ أَبِي عِيَّاشٍ الْأَنْصَارِيِّ أَنَّهُ كَانَ جَالِسًا مَعَ عَبْدِ اللَّهِ بْنِ الرَّبِيعِ وَعَاصِمِ بْنِ عُمَرَ بْنِ الْخَطَّابِ، قَالَ فَجَاءَهُمَا مُحَمَّدُ بْنُ إِبَاسِ بْنِ الْبَكِيرِ فَقَالَ: إِنَّ رَجُلًا مِنْ أَهْلِ الْبَادِيَةِ طَلَّقَ امْرَأَتَهُ ثَلَاثًا قَبْلَ أَنْ يَدْخُلَ بِهَا، فَمَاذَا تَرَيَانِ؟ فَقَالَ عَبْدُ اللَّهِ بْنُ الرَّبِيعِ إِنَّ هَذَا الْأَمْرَ مَا لَنَا فِيهِ قَوْلٌ، فَادْهَبْ إِلَى عَبْدِ اللَّهِ بْنِ عَبَّاسٍ وَأَبِي هُرَيْرَةَ فَإِنِّي تَرَكْتُهُمَا عِنْدَ عَائِشَةَ، فَسَأَلْتُهُمَا ثُمَّ اتَيْنَا فَأَخْبَرْنَا، فَذَهَبَ فَسَأَلْتُهُمَا، فَقَالَ ابْنُ عَبَّاسٍ لِأَبِي هُرَيْرَةَ: أَفْتِيهِ يَا أَبَا هُرَيْرَةَ فَقَدْ جَاءَتْكَ مُعْضِلَةٌ، فَقَالَ أَبُو هُرَيْرَةَ: " الْوَاحِدَةُ تُبَيِّنُهَا، وَالثَّلَاثَةُ تَحْرِمُهَا، حَتَّى تَنْكِحَ زَوْجًا غَيْرَهُ وَقَالَ ابْنُ عَبَّاسٍ مِثْلَ ذَلِكَ قَالَ مَالِكٌ: «وَعَلَى ذَلِكَ الْأَمْرُ عِنْدَنَا وَالتَّبَيُّنُ إِذَا مَلَكَهَا الرَّجُلُ فَلَمْ يَدْخُلْ بِهَا، أَنَّهَا تَجْرِي مَجْرَى الْبِكْرِ. الْوَاحِدَةُ تُبَيِّنُهَا، وَالثَّلَاثُ تَحْرِمُهَا حَتَّى تَنْكِحَ (زَوْجًا غَيْرَهُ)» (السنن الكبرى ٥٥٢/٧، موطأ الإمام مالك ٥٧١/٢، شرح معاني الآثار ٥٥٣/٧)

The above narrations prove that Sayyiduna Ibn Abbas رضي الله عنه and Sayyiduna Abu Hurayra رضي الله عنه both considered three divorces issued simultaneously to be three.

Evidence 15:

وَحَدَّثَنِي عَنْ مَالِكٍ أَنَّهُ بَلَغَهُ، أَنَّ رَجُلًا جَاءَ إِلَى عَبْدِ اللَّهِ بْنِ مَسْعُودٍ فَقَالَ: إِنِّي طَلَّقْتُ امْرَأَتِي ثَمَانِي تَطْلِيقَاتٍ، فَقَالَ صَدَّقُوا (موطأ الإمام مالك: قِيلَ لِي إِنَّهَا قَدْ بَانَتْ مِنِّي، فَقَالَ ابْنُ مَسْعُودٍ: ابْنُ مَسْعُودٍ: «فَمَاذَا قِيلَ لَكَ؟» قَالَ (٥٥٠/٢)

The same narration is found in Sharh Ma'anil Aathaar (of al-Tahawi) with a clear mention of ghair madkhood biha:

، حَدَّثَنَا صَالِحُ بْنُ عَبْدِ الرَّحْمَنِ ، قَالَ: ثنا سَعِيدُ بْنُ مَنْصُورٍ ، قَالَ: ثنا سُفْيَانُ ، وَأَبُو عَوَانَةَ ، عَنْ مَنْصُورٍ - ٤٤٨٤ ، عَنْ أَبِي وَائِلٍ ، عَنْ عَبْدِ اللَّهِ ، أَنَّهُ قَالَ فِيمَنْ طَلَّقَ امْرَأَتَهُ ثَلَاثًا قَبْلَ أَنْ يَدْخُلَ بِهَا ، قَالَ: «لَا تَحِلُّ لَهُ حَتَّى تَنْكِحَ زَوْجًا غَيْرَهُ» (٥٧/٣)

The above narrations prove that Sayyiduna Abdullah ibn Mas'ood رضي الله عنه considered three divorces issued simultaneously to be three.

Evidence 16:

خَبَرَنَا أَبُو عَبْدِ اللَّهِ الْخَافِظُ، نا أَبُو الْعَبَّاسِ بْنُ يَعْقُوبَ، نا يَحْيَى بْنُ أَبِي طَالِبٍ، نا عَبْدُ الْوَهَّابِ بْنُ عَطَاءٍ، نا حُمَيْدٌ عَنْ وَاقِعِ بْنِ سَخْبَانَ، أَنَّ رَجُلًا أَتَى عِمْرَانَ بْنَ حُصَيْنٍ رَضِيَ اللَّهُ عَنْهُ وَهُوَ فِي الْمَسْجِدِ فَقَالَ: رَجُلٌ طَلَّقَ امْرَأَتَهُ ثَلَاثًا وَهُوَ فِي مَجْلِسٍ قَالَ: " أَمْ بَرِيءٌ وَحَرَمْتُ عَلَيْهِ امْرَأَتَهُ " قَالَ: فَانْطَلَقَ الرَّجُلُ فَذَكَرَ ذَلِكَ لِأَبِي مُوسَى رَضِيَ اللَّهُ عَنْهُ يُرِيدُ بِذَلِكَ عَيْبَةً فَقَالَ: أَلَا تَرَى أَنَّ عِمْرَانَ بْنَ حُصَيْنٍ قَالَ: كَذَا وَكَذَا؟ قَالَ أَبُو مُوسَى: أَكْثَرَ اللَّهُ فِينَا مِثْلَ أَبِي نُحَيْدٍ (السنن الكبرى ٥٤٤/٧)

The above narrations prove that Sayyiduna Imran Ibn Husayn رضي الله عنه and Sayyiduna Abu Musa رضي الله عنه both considered three divorces issued simultaneously to be three.

Evidence 17:

أَخْبَرَنَا مَالِكٌ، عَنْ يَحْيَى بْنِ سَعِيدٍ، عَنْ بُكَيْرِ بْنِ عَبْدِ اللَّهِ بْنِ الْأَشَجِّ، عَنْ نُعْمَانَ بْنِ أَبِي عِيَّاشِ الرَّزْقِيِّ، عَنْ عَطَاءِ بْنِ يَسَارٍ قَالَ: جَاءَ رَجُلٌ يَسْأَلُ عَبْدَ اللَّهِ بْنَ عَمْرٍو بْنَ الْعَاصِ عَنْ رَجُلٍ طَلَّقَ امْرَأَتَهُ ثَلَاثًا قَبْلَ أَنْ يَمْسُهَا، قَالَ عَطَاءُ بْنُ يَسَارٍ: فُطِلْتُ: إِنَّمَا طَلَّقَ الْبِكْرَ وَاحِدَةً، فَقَالَ عَبْدُ اللَّهِ بْنُ عَمْرٍو: إِنَّمَا أَنْتَ قَاصٍ، الْوَاحِدَةُ تُبَيِّنُهَا، وَالثَّلَاثُ تُحَرِّمُهَا حَتَّى تَنْكِحَ زَوْجًا غَيْرَهُ (مسند الشافعي ١٠٢/١، شرح معاني الآثار ٣٠/٢)

The above narrations prove that Sayyiduna Abdullah ibn Amr رضي الله عنه considered three divorces issued simultaneously to be three.

Evidence 18:

أَخْبَرَنَا مَالِكُ بْنُ أَنَسٍ، عَنْ ابْنِ شَهَابٍ، عَنْ مُحَمَّدِ بْنِ عَبْدِ الرَّحْمَنِ بْنِ تَوْبَانَ [ص: ١٠٢] ، عَنْ مُحَمَّدِ بْنِ إِبْرَاهِيمَ بْنِ بُكَيْرٍ قَالَ: طَلَّقَ رَجُلٌ امْرَأَتَهُ ثَلَاثًا قَبْلَ أَنْ يَدْخُلَ بِهَا، ثُمَّ بَدَأَ لَهُ أَنْ يَنْكِحَهَا، فَجَاءَ يَسْتَفْتِي فَسَأَلَ أَبَا هُرَيْرَةَ، وَعَبْدَ اللَّهِ بْنَ عَبَّاسٍ، فَقَالَ: " لَا تَرَى أَنْ تَنْكِحَهَا حَتَّى تَزُوجَ زَوْجًا غَيْرَكَ، فَقَالَ: إِنَّمَا كَانَ طَلَاقِي إِيَّاهَا وَاحِدَةً. قَالَ ابْنُ (عَبَّاسٍ: إِنَّكَ أَرْسَلْتَ مِنْ يَدِكَ مَا كَانَ لَكَ مِنْ فَضْلٍ" (مسند الشافعي ١٠١/١)

Evidence 19:

أَخْبَرَنَا أَبُو عَبْدِ اللَّهِ الْخَافِظُ، نا أَبُو عَمْرٍو عُمَانُ بْنُ أَحْمَدَ بْنِ السَّمَاكِ بِبَعْدَادَ أَنَا حَنْبَلُ بْنُ إِسْحَاقَ بْنِ حَنْبَلٍ، نا مُحَمَّدُ بْنُ عِمْرَانَ بْنِ مُحَمَّدِ بْنِ عَبْدِ الرَّحْمَنِ بْنِ أَبِي لَيْلَى، نا مَسْلَمَةُ بْنُ جَعْفَرِ الْأَحْمَسِيِّ قَالَ: قُلْتُ لِجَعْفَرِ بْنِ مُحَمَّدٍ: إِنَّ

قَوْمًا يَزْعُمُونَ أَنَّ " مَنْ طَلَّقَ ثَلَاثًا بِجَهَالَةٍ رُدَّ إِلَى السَّنَةِ يَجْعَلُونَهَا وَاحِدَةً "، يَرُؤُونَهَا عَنْكُمْ قَالَ: مَعَاذَ اللَّهِ مَا هَذَا مِنْ قَوْلِنَا " مَنْ طَلَّقَ ثَلَاثًا فَهُوَ كَمَا قَالَ " (السنن الكبرى ٥٥٦/٧)

Shaykh Sarfaraz رحمه الله has cited a reference on page 75 which states that Ahlul Bayt opined 3=3. This shows that the attribution of 3=1 to them is incorrect.

Many more references are available on 3=3 but our aim here is not to encompass every proof.

In short, the Noble Sahaba رضي الله عنه opined 3=3, so did the majority of Tabi'oon, and early and latter scholars of this Ummah. This is the opinion endorsed by the Holy Quran and this is what we learn in light of Sahih and Sarih hadiths. This is without doubt the correct opinion.

Also, Ibnul Qayyim himself states:

وروى البيهقي من حديث معاذ بن معاذ: حدثنا شعبة عن طارق بن عبد الرحمن سمعت قيس بن أبي عاصم قال: "سأل رجل المغيرة وأنا شاهد عن رجل طلق امرأته مائة، فقال: ثلاثة تحرم، وسبع وتسعون فضل

وأما ابن عباس فروى عنه مجاهد، وسعيد بن جبير، وعطاء بن أبي رباح، وعمرو بن دينار، ومالك بن الحارث، ومحمد بن إياس بن البكير، ومعاوية بن أبي عياش وغيرهم: أنه ألزم الثلاث من أوقعها جملة

(إغاثة اللهفان ٣٢١/١)

Evidence 20:

There is a chapter in Sunan Ibn Majah which is entitled: Chapter of three divorces issued in one gathering. The hadith in this chapter proves that three simultaneous divorces were enforced by Allah's Messenger. This hadith has been classified as saheeh by al-Albani:

بَابُ مَنْ طَلَّقَ ثَلَاثًا فِي مَجْلِسٍ وَاحِدٍ
٢٠٢٤ - حَدَّثَنَا مُحَمَّدُ بْنُ رُمْحٍ قَالَ: أَنْبَأَنَا اللَّيْثُ بْنُ سَعْدٍ، عَنْ إِسْحَاقَ بْنِ أَبِي فَرْوَةَ، عَنْ أَبِي الرَّزَّادِ، عَنْ عَامِرِ
الشَّعْبِيِّ، قَالَ: قُلْتُ لِإِفَاطِمَةَ بِنْتِ قَيْسٍ: حَدِّثِي عَن طَلَّاقِكِ، قَالَتْ: «طَلَّقَنِي زَوْجِي ثَلَاثًا، وَهُوَ خَارِجٌ إِلَى الْيَمَنِ،
فَأَجَارَ ذَلِكَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ»
[حكم الألباني]
صحيح

The 3=3 opinion was also unanimously accepted by the Saudi Council of Scholars in 1393 AH.

Shaykh Anwar Shah Kashmeeri (ra) states the saheeh hadeeth which is strengthened with ta'amul of salaf (practice of the early generations of the Ummah) is the highest level of saheeh:

:واعلم أن الصحيح عندي على أربعة أقسام

أحدها: أن يكون رواته ثقات وعدولاً ويساعده تعامل السلف

والثاني: أن يصححه إمام من أئمة الحديث بخصوصه

أن يخرج من التزم الصحة في كتابه مثل صحيح ابن خزيمة، وصحيح ابن السكن، وصحيح ابن حبان، والثالث والنسائي، وإن لم يحكم عليه بخصوصه بالصحة

والرابع: أن يكون الرواة سالمين عن الجرح، ويكونون ثقات فعندي المرتبة الأولى أعلى مراتب الصحيح. (العرف الشذي ٤٠/١)

Evidence used by the 3=1 camp

Evidence 1:

حَدَّثَنَا عَبْدُ ٱلرَّزَاقِ، أَخْبَرَنَا مَعْمَرٌ، عَنِ ابْنِ طَاوُسٍ، عَنْ أَبِيهِ، عَنْ ابْنِ عَبَّاسٍ، قَالَ: " كَانَ الطَّلَاقُ عَلَى عَهْدِ رَسُولِ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ، وَأَبِي بَكْرٍ، وَسَنَتَيْنِ مِنْ خِلَافَةِ عُمَرَ، طَلَاقُ الثَّلَاثِ وَاحِدَةً، فَقَالَ عُمَرُ بْنُ الْخَطَّابِ: إِنَّ النَّاسَ قَدْ اسْتَعْجَلُوا فِي أَمْرِ قَدْ كَانَتْ لَهُمْ فِيهِ أَنَاةٌ، فَلَوْ أَمْضَيْنَاهُ عَلَيْهِمْ، فَأَمْضَاهُ عَلَيْهِمْ "

Tawus reports from Ibn Abbas رضي الله عنه that three divorces were one during the era of Allah's Messenger ﷺ, Sayyiduna Abu Bakr رضي الله عنه, and two years of the Caliphate of Sayyiduna Umar رضي الله عنه. Then Sayyiduna Umar رضي الله عنه said: "People have begun acting hastily in an issue in which they used to act calmly, so it would be good for us to enforce it upon them." He then enforced it upon them.

حَدَّثَنَا إِسْحَاقُ بْنُ إِبْرَاهِيمَ، أَخْبَرَنَا رَوْحُ بْنُ عُبَادَةَ، أَخْبَرَنَا ابْنُ جُرَيْجٍ، ح وَحَدَّثَنَا ابْنُ رَافِعٍ، وَاللَّفْظُ لَهُ، حَدَّثَنَا عَبْدُ ٱلرَّزَاقِ، أَخْبَرَنَا ابْنُ جُرَيْجٍ، أَخْبَرَنِي ابْنُ طَاوُسٍ، عَنْ أَبِيهِ، أَنَّ أَبَا الصَّهْبَاءِ، قَالَ لِابْنِ عَبَّاسٍ: أَتَعْلَمُ أَنَّمَا «كَانَتْ الثَّلَاثُ تُجْعَلُ وَاحِدَةً عَلَى عَهْدِ النَّبِيِّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ، وَأَبِي بَكْرٍ، وَثَلَاثًا مِنْ إِمَارَةِ عُمَرَ»؟ فَقَالَ ابْنُ عَبَّاسٍ: «نَعَمْ»

Tawus reports Abu Sahba said to Ibn Abbas رضي الله عنه: "Do you know three divorces were one during the era of Allah's Messenger ﷺ, Sayyiduna Abu Bakr رضي الله عنه, and three years of the caliphate of Sayyiduna Umar رضي الله عنه?" Ibn Abbas رضي الله عنه replied: "Yes."

حَدَّثَنَا إِسْحَاقُ بْنُ إِبْرَاهِيمَ، أَخْبَرَنَا سُلَيْمَانُ بْنُ حَرْبٍ، عَنْ حَمَّادِ بْنِ زَيْدٍ، عَنْ أَيُّوبَ السَّخْتِيَانِيِّ، عَنْ إِبْرَاهِيمَ بْنِ مَيْسَرَةَ، عَنْ طَاوُسٍ، أَنَّ أَبَا الصَّهْبَاءِ، قَالَ لِابْنِ عَبَّاسٍ: هَاتِ مِنْ هَنَاتِكَ، «أَلَمْ يَكُنِ الطَّلَاقُ الثَّلَاثَ عَلَى عَهْدِ رَسُولِ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ، وَأَبِي بَكْرٍ وَاحِدَةً»؟ فَقَالَ: «قَدْ كَانَ ذَلِكَ، فَلَمَّا كَانَ فِي عَهْدِ عُمَرَ تَتَابَعِ النَّاسُ فِي الطَّلَاقِ، فَأَجَازَهُ عَلَيْهِمْ

(صحيح مسلم ١٠٩٩/٢)

فَهَذِهِ رَوَايَةُ سَعِيدِ بْنِ جُبَيْرٍ وَعَطَاءِ بْنِ أَبِي رَبَاحٍ وَمُجَاهِدٍ وَعَكْرِمَةَ وَعَمْرُو بْنُ دِينَارٍ وَمَالِكِ بْنِ الْحَارِثِ وَمُحَمَّدِ بْنِ
إِبْرَاهِيمَ بْنِ الْبُكَيْرِ وَرُوَيْنَاهُ عَنْ مُعَاوِيَةَ بْنِ أَبِي عِيَّاشٍ الْأَنْصَارِيِّ كُلُّهُمْ عَنِ ابْنِ عَبَّاسٍ أَنَّهُ أَجَارَ الطَّلَاقَ الثَّلَاثَ
وَأَمْضَاهُنَّ

(٥٥٢/٧ السنن للكبري)

Sa'eed Ibn Jubayr, 'Ataa Ibn Abi Rabaah, Mujahid, Ikrimah, Amr Ibn Dinar, Malik
Ibn Al-Harith, Muhammad Ibn Iyaas and Mu'awiyah Ibn Abi Abbas all narrate from
Ibn Abbas رضى الله عنه that he enforced three simultaneous divorces.

Ibn Rushd رحمه الله writes:

وَقَدْ اخْتَجَّ مَنْ ائْتَصَرَ لِقَوْلِ الْجُمْهُورِ بِأَنَّ حَدِيثَ ابْنِ عَبَّاسٍ الْوَاقِعَ فِي الصَّحِيحَيْنِ إِنَّمَا رَوَاهُ عَنْهُ مِنْ أَصْحَابِهِ
طَاوُسٌ، وَأَنَّ جَلَّةَ أَصْحَابِهِ رَوَوْا عَنْهُ لِرُومِ الثَّلَاثِ، مِنْهُمْ سَعِيدُ بْنُ جُبَيْرٍ، وَمُجَاهِدٌ، وَعَطَاءٌ، وَعَمْرُو بْنُ دِينَارٍ
وَجَمَاعَةٌ غَيْرُهُمْ، وَأَنَّ حَدِيثَ ابْنِ إِسْحَاقَ وَهُمْ، وَإِنَّمَا رَوَى الثَّقَاتُ أَنَّهُ طَلَّقَ زُكَّانَةَ زَوْجَهُ الْبَيْتَةَ لَا ثَلَاثًا (بداية
المجتهد ٨٤/٣)

In short, Tawus was the one who narrated 3=1 from Ibn Abbas رضى الله عنه. The rest of
Ibn Abbas' رضى الله عنه students narrated 3=3 from him.

Second answer:

What is interesting is that in one narration from Tawus it specifically restricts the 3=1
opinion to a ghair madkhood biha.

Hence, Ibn Al-Turkumani (d. 745 AH) رحمه الله writes:

ذكر ابن أبي شيبة بسند رجاله ثقات عن طاوس وعطاء وجابر بن زيد انهم قالوا إذا طلقها ثلاثا قبل ان يدخل بها
فهي واحدة (الجواهر النقي ٣٣١/٧)

Ibn Abi Shaybah narrates in his Musannaf (4/69):

حَدَّثَنَا أَبُو بَكْرِ قَالَ: نَا إِسْمَاعِيلُ ابْنُ عَلِيَّةَ، عَنْ لَيْثٍ، عَنْ طَاوُسٍ، وَعَطَاءٍ، أَنَّهُمَا قَالَا: إِذَا طَلَّقَ الرَّجُلُ امْرَأَتَهُ ثَلَاثًا،
قَبْلَ أَنْ يَدْخُلَ بِهَا فَهِيَ وَاحِدَةٌ

This tells us that Tawus' own narration is not applicable to all cases, rather, it is
specifically regarding a ghair madkhood biha (a woman whose marriage has not been
consummated with intercourse, for, her rule is that when she is divorced with three
separate words she is separated upon the first and the second and third divorce do not
apply to her).

This means that it is wrong to take the hadith of Muslim as a general ruling regarding
all women.

He further states that Ibn Abd Al-Barr states regarding the narration of Tawus:

ونكر صاحب الاستنكار أن هذه الرواية وهم وغلط
(الجواهر النقي
٣٣٧/٧)

This narration of Tawus is a mistake.

Qadhi Shawkani رحمه الله writes:

وَقَالَ أَحْمَدُ بْنُ حَنْبَلٍ: كُلُّ أَصْحَابِ ابْنِ عَبَّاسٍ رَوَوْا عَنْهُ خِلَافَ مَا قَالَ طَاوُسٌ

(نيل الأوطار ٢٧٦/٦)

Imam Ahmad رضي الله عنه said: All students of Ibn Abbas narrated from him different to what Tawus narrated from him.

Ibnul Qayyim also states:

قال الإمام أحمد وقد سأله الأثرم: بأى شيء تردّ حديث ابن عباس "كان الطلاق على عهد رسول الله صلى الله تعالى عليه وآله وسلم وأبي بكر وعمر رضي عنهما طلاق الثلاث واحدة" بأى شيء تدفعه؟ قال "برواية الناس عن ابن عباس من وجوه خلافه" ثم ذكر عن عدة عن ابن عباس أنها ثلاث، وإلى هذا نذهب

(إغاثة اللهفان ٣٢١/١)

Ibnul Qayyim confirms the same point from Imam Ahmad as Shawkani mentioned from him.

Authentic sanad does not necessarily mean authentic hadith:

Imam Qurtubi رحمه الله states that this narration is مضطرب (confused):

الجواب الرابع دعوى الاضطراب قال القرطبي في المفهم وقع فيه مع الاختلاف على بن عباس الاضطراب (فتح الباري ٣٦٤/٩)

Ibnul Arabi رحمه الله states:

وَقَالَ بِنُ الْعَرَبِيِّ هَذَا حَدِيثٌ مُخْتَلَفٌ فِي صِحَّتِهِ فَكَيْفَ يُقَدَّمُ عَلَى الْإِجْمَاعِ (فتح الباري ٣٦٣/٩)

There is a difference of opinion regarding the authenticity of this narration so how can it be given priority over Ijma'?

Abu Ja'far Al-Nahhaas (d. 338 AH) writes:

رُوي عن: وطأوس وإن كان رجلاً صالحاً فعنده عن ابن عباس مناكير يخالف عليها ولا يقبلها أهل العلم منها أنه ابن عباس، أنه قال في رجل قال لامرأته أنت طالق ثلاثاً إنما يلزمه واحدة ولا يعرف هذا عن ابن عباس إلا من روايته والصحيح عنه وعن علي بن أبي طالب رضي الله عنهما أنها ثلاث كما قال الله جل وعز {فإن طلقها فلا تجلّ له من بعد} [البقرة: ٢٣٠] أي الثالثة

(الناسخ و المنسوخ ٢٣٠/١)

This clearly show Tawus was a pious man but he did narrate some rejected narrations from Ibn Abbas رضي الله عنه.

Ibnus Salah states

قد يُقَالُ: " هَذَا حَدِيثٌ صَحِيحُ الْإِسْنَادِ "، وَلَا يَصِحُّ، لِكُونِهِ شَاذًا أَوْ مُعَلَّلًا

(مقدمة ابن الصلاح)

Sometimes it is said: "This hadith has an authentic chain, but it is not authentic because it is shaadh (at odds with something stronger) or mu'allal (flawed).

The Ahlul Hadith (Salafi) scholar Mubarakpuri states:

فَقَدْ تَقَرَّرَ أَنَّهُ لَا يَلْزَمُ مِنْ كَوْنِ رِجَالِ السَّنَدِ ثِقَاتٍ صِحَّةُ الْحَدِيثِ

(تحفة الأحوذى)

It has been established that the reliability of a chains narrators does not necessitate the hadith being saheeh.

Ibnul Qayyim and Qadhi Shawkani رحمهما الله have tried to defend the narration against claims of وهم (mistake) and اضطراب (confusion) but how can such a narration be used as a basis in such a serious issue of halal and haram?

A narration which:

- 1: jumhoor are not satisfied with. Ta'amul of salaf is with the 3=3 hadiths.
- 2: The narrator himself (Ibn Abbas رضي الله عنهما) himself issued verdicts contrary to
- 3: Tawus (the only narrator of the 3=1 narration from Ibn Abbas رضي الله عنهما) himself considered to be specifically regarding a ghair madkhood biha and issued verdicts accordingly (Ibn Abi Shayba narration of Tawus has passed).

Then can such a narration be used as a basis of such an important issue?

It must be noted that Abu Sahba has also mentioned the narration but he is not a narrator, rather, he is mentioned in the capacity of a questioner. Tawus is the only narrator of 3=1 from Sayyiduna Ibn Abbas رضي الله عنهما.

[Was Abu Sahba reliable?](#)

Scholars of hadith differ in this regard. Some have stated he is reliable:

- Ibn Abd Al-Barr رحمه الله stated he is majhool:

وذكر صاحب الاستنكار ان هذه الرواية وهم وغلط لم يعرج عليها احد من العلماء وقد قيل أبو الصهباء لا يعرف في موالى ابن عباس (الجواهر النقي ٣٣٧/٧)

- Imam Nasai called Dhaeef:

• صهيب، أبو الصهباء [د، س، م] البكري
عن علي، وابن عباس

وعنه طاوس، وسعيد بن جبيرة، وأبو نضرة

وثقه أبو زرعة، وقال النسائي: بصري ضعيف

(ميزان الإعتدال ٣٢١/٢، تهذيب التهذيب ٤٣٩/٤)

*What is certain is that he is not a Sahabi. It is ironic that he knew three divorces were considered one during the time of Rasoolullah ﷺ Sayyiduna Abu Bakr رضي الله عنه and the early days of Sayyiduna Umar's رضي الله عنه caliphate, but the Sahaba رضي الله عنهم remained oblivious of this ruling!

Not a single Sahabi spoke up and objected when Sayyiduna Umar رضي الله عنه endorsed 3=3. Had it been against the teachings of Rasoolullah ﷺ then surely none of them would have remained silent. It was an era in which women would object to Sayyiduna Umar رضي الله عنه and cause him to yield as is stated by Ibn Taymiyah:

وَأَبْلَغُ مِنْ هَذَا أَنَّهُ خَطَبَ النَّاسَ فَقَالَ: { لَا يَزِيدُ رَجُلٌ عَلَى صَدَاقِ أَزْوَاجِ النَّبِيِّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ وَبَنَاتِهِ إِلَّا { وَأَتَيْتُمْ إِجْدَاهُنَّ فَنُطَارًا } : رَدَدْتَهُ } . فَقَالَتْ لَهُ امْرَأَةٌ: { يَا أَمِيرَ الْمُؤْمِنِينَ لِمَ تَحْرِمُنَا شَيْئًا أَعْطَانَا اللَّهُ إِيَّاهُ؟ } ثُمَّ قَرَأَتْ (النساء) فَرَجَعَ عُمَرُ إِلَى قَوْلِهَا، وَقَدْ كَانَ حَافِظًا لِلْأَيَّةِ وَلَكِنْ نَسِيَهَا

(رفع الملام ٢٣/١)

So, if 3=3 was against the practice of Rasoolullah ﷺ and Sayyiduna Umar رضي الله عنه invented it why didn't anybody speak up? The above text of Shaykh Ibn Taymiyah shows they would speak up against rulings if they had their evidence.

What is more interesting is the fact that Abu Sahba used the words:

هات من هناتك
"unusual"

Had 3=1 been a normal practice during Rasoolullah's ﷺ stime that word would not be used. This shows 3=1 one was not the accepted ruling during the Prophetic era.

It is for these reasons that jumhoor were not satisfied upon the apparent meaning of this hadith. A hadith states:

يد الله علي الجماعة

Thus, we stick with the Sahaba
رضي الله عنهم.

As for Sayyiduna Ibn Abbas رضي الله عنها affirmation to the questioner, well this affirmation is not general, rather, it is specifically regarding a ghair madkhool biha whose husband issues her divorce thrice with separate words (this issue will be explained later).

* Another point to be noted here is that something taking place in the time of Rasoolullah ﷺ and Sayyiduna Abu Bakr رضي الله عنه does not necessitate it being valid and permitted.

Some actions would take place in the time of Rasoolullah ﷺ without the Messenger ﷺ knowing. How can such acts be proven permissible?

For example:

Sayyiduna Ammar رضي الله عنه performed tayammum from head to toe because of janabah during the life of Rasoolullah ﷺ by rolling on the floor. When Rasoolullah learnt of this he ﷺ criticised it:

جَاءَ رَجُلٌ: حَدَّثَنَا أَدَمُ، قَالَ: حَدَّثَنَا شُعْبَةُ، حَدَّثَنَا الْحَكَمُ، عَنْ ذَرٍّ، عَنْ سَعِيدِ بْنِ عَبْدِ الرَّحْمَنِ بْنِ أَبِي زَيْدٍ، عَنْ أَبِيهِ، قَالَ
إِلَى عُمَرَ بْنِ الْخَطَّابِ، فَقَالَ: إِنِّي أَجْنَبْتُ فَلَمْ أُصِبِ الْمَاءَ، فَقَالَ عَمَارُ بْنُ يَاسِرٍ لِعُمَرَ بْنِ الْخَطَّابِ: أَمَا تَذَكُرُ أَنَّا كُنَّا
فِي سَفَرٍ أَنَا وَأَنْتَ، فَأَمَا أَنْتَ فَلَمْ تُصَلِّ، وَأَمَا أَنَا فَتَمَعَكْتُ فَصَلَّيْتُ، فَذَكَرْتُ لِلنَّبِيِّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ، فَقَالَ النَّبِيُّ
صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ: «إِنَّمَا كَانَ يَكْفِيكَ هَكَذَا» فَضَرَبَ النَّبِيُّ صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ بِكَفَيْهِ الْأَرْضَ، وَنَفَخَ فِيهِمَا، ثُمَّ
(صحيح البخاري ٤٨/١) مَسَحَ بِهِمَا وَجْهَهُ وَكَفَيْهِ

There are dozens of such incidents in the books of hadith. Does something occurring in the life of Rasoolullah ﷺ make these actions permissible even if there is no clear evidence that he ﷺ did not approve of it?

The 3=1 hadith in Muslim is neither the statement of Rasoolullah ﷺ nor his action, how then can it possibly be used as a valid argument?

The renowned literalist scholar Ibn Hazm رحمه الله writes:

وَأَمَّا حَدِيثُ طَاوُسٍ - عَنْ ابْنِ عَبَّاسٍ الَّذِي فِيهِ أَنَّ الثَّلَاثَ كَانَتْ وَاحِدَةً وَتُرَدُّ إِلَى الْوَاحِدَةِ وَتُجْعَلُ وَاحِدَةً فَلَيْسَ شَيْءٌ
مِنْهُ أَنَّهُ - عَلَيْهِ الصَّلَاةُ وَالسَّلَامُ - هُوَ الَّذِي جَعَلَهَا وَاحِدَةً أَوْ رَدَّهَا إِلَى الْوَاحِدَةِ، وَلَا أَنَّهُ - عَلَيْهِ الصَّلَاةُ وَالسَّلَامُ -
عَلِمَ بِذَلِكَ فَاقْرَأَهُ، وَلَا حُجَّةَ إِلَّا فِيمَا صَحَّ أَنَّهُ - عَلَيْهِ الصَّلَاةُ وَالسَّلَامُ - قَالَهُ أَوْ فَعَلَهُ أَوْ عَلِمَهُ فَلَمْ يُكْرِهُهُ
(المحلي ٣٩٢/٩)

From this text we learn that this hadith is not marfu' because it is not statement, action or affirmation of Rasoolullah ﷺ. Evidence is only in the hadith of Rasoolullah ﷺ not in an fallible statement of a fallible individual. This is why Sayyiduna Umar رضي الله عنه did not pay attention to this nor did the narrator himself (Sayyiduna Ibn Abbas رضي الله عنه)

Had 3=1 been the general rule in Rasoolullah's ﷺ life and during the Caliphate of Sayyiduna Abu Bakr رضي الله عنه then it would have been incumbent upon Sayyiduna Ibn Abbas رضي الله عنه to speak out against the decision of Sayyiduna Umar رضي الله عنه because of the hadith:

من رأي منكم منكرا فليغيره

"Whoever sees a wrong should change it..."

The interesting thing is that Sayyiduna Ibn Abbas رضي الله عنه would issue fatwa of 3=3 himself. It is a well established principle that a narrator's practice or fatwa contrary to his own narration (so long as the narration isn't abrogated etc) blemishes his credentials. Obviously, this cannot be applied to a Sahabi.

Another principle is that if accepting a particular narration raises one's eyebrows at the integrity of a Sahabi then that hadith is not accepted regardless of how reliable its chain of narrators may be.

All the aforementioned points make it clear that the hadith of Sayyiduna Ibn Abbas رضي الله عنه in Sahih Muslim is not taken in its apparent meaning.

Thirdly, Imam Bayhaqi relates:

فَإِنْ كَانَ : وَأَخْبَرَنَا أَبُو عَبْدِ اللَّهِ الْحَافِظُ، أَنَا أَبُو الْعَبَّاسِ مُحَمَّدُ بْنُ يَعْقُوبَ بْنِ الرَّبِيعِ بْنِ سُلَيْمَانَ قَالَ: قَالَ الشَّافِعِيُّ
مَعْنَى قَوْلِ ابْنِ عَبَّاسٍ أَنَّ التَّلَاثَ كَانَتْ تُحْسَبُ عَلَى عَهْدِ رَسُولِ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ وَاحِدَةً يَعْنِي أَنَّهُ بِأَمْرِ النَّبِيِّ
صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ فَأَلْذِي يُشْبِهُهُ وَاللَّهُ أَعْلَمُ أَنْ يَكُونَ ابْنُ عَبَّاسٍ قَدْ عَلِمَ إِنْ كَانَ شَيْئًا فَنَسَخَ (السنن الكبرى ٥٥٢/٧)

Imam Shafi'ee رحمه الله states that if Allah's Messenger ﷺ did enforce 3 as 1 then Sayyiduna Ibn Abbas رضي الله عنه must have learnt of an abrogating evidence.

This is not hard to believe because the permissibility of rescinding after issuing 3 divorces was initially permissible and later abrogated as is narrated in Nasai and Abu Dawud (1/298):

عن ابن عباس في قوله : { مَا نَنْسَخُ مِنْ آيَةٍ أَوْ نُنسِهَا نَأْتِ بِخَيْرٍ مِّنْهَا أَوْ مِثْلَهَا } ، وقال : { وَإِذَا بَدَلْنَا آيَةً مَّكَانَ آيَةٍ
فَأُولَ مَا نَسَخَ مِنَ الْقُرْآنِ الْقَبْلَهُ . { يَمْحُو اللَّهُ مَا يَشَاءُ وَيُثَبِّتُ وَعِنْدَهُ أُمُّ الْكِتَابِ } : وَاللَّهُ أَعْلَمُ بِمَا يُنَزِّلُ } الآية ، وقال
، وقال : { وَالْمُطَلَّاتُ يَتَرَبَّصْنَ بِأَنْفُسِهِنَّ ثَلَاثَةَ قُرُوءٍ وَلَا يَحِلُّ لَهُنَّ أَنْ يَكْتُمْنَ مَا خَلَقَ اللَّهُ فِي أَرْحَامِهِنَّ } إلى قوله :
{ إِنْ أَرَادُوا إِصْلَاحًا } . وذلك بأن الرجل كان إذا طلق امرأته فهو أحقُّ برجعتها ، وإن طلقها ثلاثاً ، فنسخ ذلك
{ الطَّلَاقُ مَرَّتَانٍ فَإِمْسَاكٌ بِمَعْرُوفٍ أَوْ تَسْرِيحٌ بِإِحْسَانٍ

This hadith has been classified as Saheeh by al-Albani (2/259)

Imam Abu Dawud has proven that the hadith of Sayyiduna Ibn Abbas (RA) in Saheeh Muslim is abrogated by narrating the above hadith in the chapter: Abrogation of rescinding after three divorces.

Ibn Katheer (RA) has related the hadith regarding abrogation in his tafseer from Abu Dawud, Nasai, Tafseer Ibn Jareer, Hakim (who stated that its chain is Saheeh). Ibn

Katheer then states that Ibn Jareer has taken this hadeeth as the tafseer of verse 229-230 of Surah Al-Baqarah (ie rescinding after three divorces is abrogated).

Ibnul Qayyim writes in I'laamul muwaqqi'een (4/117):

وَتَفْسِيرُ: وَقَدْ ذَهَبَ بَعْضُ أَهْلِ الْعِلْمِ إِلَى أَنَّ تَفْسِيرَهُمْ فِي حُكْمِ الْمَرْفُوعِ، قَالَ أَبُو عَبْدِ اللَّهِ الْحَاكِمُ فِي مُسْتَدْرَكِهِ
الصَّحَابِيِّ عِنْدَنَا فِي حُكْمِ الْمَرْفُوعِ، وَمُرَادُهُ أَنَّهُ فِي حُكْمِهِ فِي الْإِسْتِدْلَالِ بِهِ وَالِاخْتِجَاجِ

Ibnul Qayyim states that the tafseer of a Sahabi is in the ruling of marfu' in terms of using it as evidence.

Another point is that the Hadith of Ibn Abbas (RA) in Sahih Muslim is khabar wahid and Ibn Taymiyah states in his Fatawa al-Kubra that khabar wahid cannot stand against mashhoor. In the case of conflict, the khabar wahid will be considered shaadh or abrogated (2/47):

وَالْخَبْرُ الْوَاحِدُ إِذَا خَالَفَ الْمَشْهُورَ الْمُسْتَفِيضَ كَانَ شَاذًّا، وَقَدْ يَكُونُ مَنْسُوحًا

The Ijma' during the Caliphate of Sayyiduna Umar رضي الله عنه is a clear indication that 3=1 was abrogated. It therefore seems apparent that upon witnessing the Ijma' of 3=3 Sayyiduna Ibn Abbas رضي الله عنه was satisfied regarding the abrogation of 3=1, hence he issued fatwas accordingly. Otherwise, we would have to say the fatwas he issued contrary to his own hadith taint his integrity (ma'adhallah).

Shawkani رحمه الله baselessly states that forgetfulness is the reason why Sayyiduna Ibn Abbas رضي الله عنه issued fatwas contrary to his own narration:

وَأَمَّا مَا قَالَهُ ابْنُ الْمُنْذِرِ مِنْ أَنَّهُ لَا يُظَنُّ بِابْنِ عَبَّاسٍ أَنْ يَحْفَظَ عَنِ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - شَيْئًا وَيُفْتِيَ بِخِلَافِهِ.
فَيَجَابُ عَنْهُ بِأَنَّ الْإِحْتِمَالَاتِ الْمُسَوَّغَةَ لِتَرْكِ الرَّوَايَةِ وَالْعُدُولِ إِلَى الرَّأْيِ كَثِيرَةٌ: مِنْهَا النَّسْيَانُ
(نيل الأبطار ٢٧٧/٦)

How could he have forgotten while he issued the 3=3 fatwa on more than one occasion and in the presence of Sahaba رضي الله عنهم and Tabi'oon. Did he fail to remember his own narrated 3=1 hadith on each occasion? This reason provided by Qadhi Shawkani رحمه الله is baseless.

No one from Sahaba besides Ibn Abbas RA has narrated 3=1 (like the hadith in Muslim) with a saheeh sanad.

Fourthly, it is possible the hadith of Muslim means three divorces were considered one divorce in early times, rather, it means people in early times would issue only one divorce instead of three (thereafter the man would either leave her to complete her iddah or he would issue a second and third divorce after the woman completed her first and second menstrual period respectively).

Although we do find evidence of some people issuing three divorces altogether but such issuances were relatively rare. Later, during the time of Sayyiduna Umar رضي

الله عنه issuing three became more common and so he enforced three as three upon the people.

This point is strengthened by the statement of Sayyiduna Umar رضي الله عنه wherein he states that Shariah gave them time to ponder but they chose to rush and so we endorse upon them what they issue.

A narration states:

تتابع الناس في الطلاق

People began issuing divorces simultaneously.

In short, the hadith of Muslim means that during the time of Rasoolullah ﷺ one divorce would do the job of three. This point is strengthened by a narration of the famous Tabi'ee Ibrahim Nakha'i رحمه الله wherein he states that the Sahaba would issue only one divorce and then leave the woman for three menstrual cycles:

حَدَّثَنَا أَبُو بَكْرِ قَالَ: نَا وَكَيْعٌ، عَنِ سُفْيَانَ، عَنْ مُغِيرَةَ، عَنْ إِبْرَاهِيمَ قَالَ: «كَانُوا يَسْتَحْبُونَ أَنْ يُطَلِّقَهَا وَاحِدَةً، ثُمَّ يَبْتَازُهَا حَتَّى تَحِيضَ ثَلَاثَ حِيضٍ»
(مصنف ابن أبي شيبة ٥/٤)

Ibn Hajar رحمه الله has classed this narration as Sahih. (See Diraya pg.226)

The same point is strengthened by a statement of the famous muhaddith Abu Zur'a al-Razi رحمه الله:

وَأَخْبَرَنَا أَبُو بَكْرٍ بْنُ الْحَارِثِ الْفَقِيه، أَنَا أَبُو مُحَمَّدٍ بْنُ حَبِيبَانَ، نَا عَبْدُ الرَّحْمَنِ بْنُ أَبِي حَاتِمٍ قَالَ: سَمِعْتُ أَبَا زُرْعَةَ، يَقُولُ: مَعْنَى هَذَا الْحَدِيثِ عِنْدِي أَنَّ مَا تُطَلِّقُونَ أَنْتُمْ ثَلَاثًا كَانُوا يُطَلِّقُونَ وَاحِدَةً فِي زَمَنِ النَّبِيِّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ وَأَبِي بَكْرٍ وَعُمَرُ رَضِيَ اللَّهُ عَنْهُمَا
(السنن الكبرى ٥٥٢/٧)

The same meaning has been mentioned by Imam Nawawi, Khattaabi, Ameer Yamani and Zarqani رحمه الله. (See: Sharh Muslim 1/478, Ma'alim al-sunan 3/127, Subul al-salam 3/211, Sharh Zarqani on Muwatta 3/167)

Imam Nawawi writes the same point in the following words:

وَقِيلَ الْمُرَادُ أَنَّ الْمُعْتَادَ فِي الزَّمَنِ الْأَوَّلِ كَانَ طَلَّقَهُ وَاحِدَةً وَصَارَ النَّاسُ فِي زَمَنِ عُمَرَ يُوقِعُونَ الثَّلَاثَ دَفْعَةً فَتَقْدَهُ عُمَرُ فَعَلَى هَذَا يَكُونُ إِخْبَارًا عَنِ اخْتِلَافِ عَادَةِ النَّاسِ لَا عَنِ تَغْيِيرِ حُكْمٍ فِي مَسْأَلَةِ وَاحِدَةٍ

(شرح مسلم ٧١/١٠)

Conclusion:

Besides this hadith there is no sahih hadith which proves 3=1. This hadith fails to prove the 3=1 opinion, hence those who carry the 3=1 opinion are left without evidence.

On the other hand we, the jumhoor, have countless sahih narrations besides the Ijma' of Sahaba.

Fifthly, even if we take this narration literally then this is still problematic as it goes against the many sahih narrations of jumhoor.

In this case of conflicting evidences jumhoor's evidences are preferred over this narration because:

1: Allama Al-Hazimi رحمه الله states in Al-I'tibar (1/181) that in the case of conflicting hadiths the hadith which is in accordance to the Quran will be accepted.

It has previously been stated that the stance of jumhoor is according to the Quran.

2: The majority of the Ummah practices upon the 3=3 hadiths. (Ibid)

3: When evidences stating halal and haram clash the haram is given preference.

Sixthly, the narration of Sayyiduna Ibn Abbas رضي الله عنه is not general, rather, it is regarding a ghair madkhood biha who is divorced with three separate words of divorce. She is separated by the first divorced, the second and third don't apply to her.

Imam Bayhaqi wrote in al-Sunan a-Kubra

أَنْتِ :وَحَكَى الشَّافِعِيُّ فِي كِتَابِ اخْتِلَافِ الْعِرَاقِيِّينَ أَطْنَهُ عَنْ أَبِي يُوسُفَ فِي الرَّجُلِ يَقُولُ لِامْرَأَتِهِ لَمْ يَدْخُلْ بِهَا طَالِقٌ، أَنْتِ طَالِقٌ، أَنْتِ طَالِقٌ فَالْطَّلِيقَةُ الْأُولَى وَلَمْ تَقَعْ عَلَيْهَا الْبَاقِيَتَانِ ، هَذَا قَوْلُ أَبِي حَنِيفَةَ بَلَعْنَا عَنْ عَمْرِ بْنِ الْخَطَّابِ وَعَنْ عَلِيِّ بْنِ أَبِي طَالِبٍ وَعَنْ عَبْدِ اللَّهِ بْنِ مَسْعُودٍ وَرِيزِدِ بْنِ ثَابِتٍ رَضِيَ اللَّهُ عَنْهُمْ وَإِبْرَاهِيمَ بِذَلِكَ

(السنن الكبرى ٥٨٢/٧)

وَقَدْ أَخْبَرَنَا أَبُو عَبْدِ اللَّهِ الْحَافِظُ، وَأَبُو مُحَمَّدٍ عَبْدُ بْنُ مُحَمَّدِ بْنِ مَهْدِيٍّ الْقُسَيْرِيُّ لَفْظًا قَالَا: نَا أَبُو الْعَبَّاسِ مُحَمَّدُ بْنُ يَعْقُوبَ، نَا يَحْيَى بْنُ أَبِي طَالِبٍ، أَنَا عَبْدُ الْوَهَّابِ بْنُ عَطَاءٍ، أَنَا سَعِيدٌ، عَنْ قَتَادَةَ، عَنْ عِكْرَمَةَ، وَعَطَاءٍ، وَطَاوُسٍ، وَجَابِرِ بْنِ زَيْدٍ، كُلُّهُمْ يَرْوِيهِ عَنِ ابْنِ عَبَّاسٍ رَضِيَ اللَّهُ عَنْهُ أَنَّهُ قَالَ: " هِيَ وَاحِدَةٌ بَائِنَةٌ يَعْنِي فِي الرَّجُلِ يُطَلِّقُ " رَوَّجَتْهُ ثَلَاثًا قَبْلَ أَنْ يَدْخُلَ بِهَا

أَخْبَرَنَا أَبُو بَكْرٍ الْأَزْدِيُّ، أَنَا أَبُو نَصْرِ الْعِرَاقِيُّ، نَا سُفْيَانُ بْنُ مُحَمَّدٍ، نَا عَلِيُّ بْنُ الْحَسَنِ، نَا عَبْدُ اللَّهِ بْنُ الْوَلِيدِ، نَا سُفْيَانُ، عَنْ جَابِرٍ، عَنْ الشَّعْبِيِّ، عَنْ ابْنِ عَبَّاسٍ، فِي رَجُلٍ طَلَّقَ امْرَأَتَهُ ثَلَاثًا قَبْلَ أَنْ يَدْخُلَ بِهَا قَالَ: " عُقْدَةٌ كَانَتْ بِيَدِهِ أَرْسَلَهَا جَمِيعًا وَإِذَا كَانَ تَتْرَى فَلَيْسَ بِشَيْءٍ " قَالَ سُفْيَانُ: تَتْرَى يَعْنِي أَنْتِ طَالِقٌ، أَنْتِ طَالِقٌ، أَنْتِ طَالِقٌ ، فَإِنَّهَا تَبِينُ بِالْأُولَى وَالثَّنَانِ لَيْسَتْ بِشَيْءٍ (السنن الكبرى ٥٨٢/٧)

We learn from the above narrations that Sayyiduna Ibn Abbas رضي الله عنه considered this ruling regarding a ghair madkhood biha. The second narration tells us that even

Tawus also narrates this fatwa from Sayyiduna Ibn Abbas رضي الله عنه (like the rest of his students) only regarding a ghair madkhood biha.

Ibnul Qayyim رحمه الله writes:

قال ابن المنذر في كتابه الأوسط: وكان سعيد بن جببر، وطاوس، وأبو الشعثاء، وعطاء، وعمر بن دينار يقولون: من طلق البكر ثلاثاً فهي واحدة

أخبرنا ابن جريح قال: وأخبرني حسن بن مسلم عن ابن شهاب أن ابن عباس قال: إذا طلق الرجل امرأته ثلاثاً ولم يجمع كنّ ثلاثاً، قال: فأخبرت طاوساً فقال: أشهد ما كان ابن عباس يراهن إلا واحدة فقله "إذا طلق ثلاثاً ولم يجمع كنّ ثلاثاً" أي إذا كن متفرقات، فدل على أنه إذا جمعهن كانت واحدة. وهذا هو الذي حلف عليه طاوس: أن ابن عباس كان يجعله واحدة

قال ابن أبي شيبه: حدثنا محمد بن بشر: حدثنا إسماعيل عن قتادة عن طاوس وعطاء وجابر بن زيد أنهم قالوا: إذا طلقها ثلاثاً قبل أن يدخل بها فهي واحدة

(إغاثة اللهفان ١/٣٢٥)

Ibnul Qayyim's above references show that Ibn Abbas' (RA) view was three divorces issued all in one go to a ghair madkhood biha with three separate words (ie. You are divorced, You are divorced, You are divorced) are considered one because the 2nd and 3rd dont apply to her (this is also our stance).

These are clear indications that it is so possible that the condition:

"قبل أن يدخل بها" (Before consummating the marriage) was omitted from the Sahih Muslim narration.

An example of this is found in the narration of Sayyiduna Ibn Mas'ud رضي الله عنه regarding Laylatul Jinn. In Sahih Muslim (1/184) he negates anyone being with Rasoolullah ﷺ that night. Whereas, in Tirmidhi ((2/109) he affirms being with Rasoolullah ﷺ on that night. So which narration is correct?

Ibn Qutaybah رحمه الله writes how it is so possible for a narrator to miss a word or two:

فَإِنْ كَانَ الْأَمْرُ عَلَى مَا قَالَ أَصْحَابُ الْحَدِيثِ، فَقَدْ سَقَطَ الْخَبْرُ الْأَوَّلُ، وَإِنْ كَانَ الْحَدِيثَانِ جَمِيعًا صَحِيحَيْنِ، فَلَا أَرَى قَبْلَ لَهُ، أَكُنْتُ مَعَ النَّبِيِّ صَلَّى: النَّاقِلُ لِلْخَبَرِ الثَّانِي إِلَّا وَقَدْ اسْقَطَ مِنْهُ حَرْفًا، وَهُوَ "غَيْرِي"؛ يَدُلُّكَ عَلَى ذَلِكَ أَنَّهُ قَالَ "اللَّهُ عَلَيْهِ وَسَلَّمَ لَيْلَةَ الْجِنِّ؟ فَقَالَ: "مَا شَهِدَهَا أَحَدٌ مِنَّا غَيْرِي

فَأَعْفَلَ الرَّاوي "غَيْرِي" إِمَّا بِأَنَّهُ لَمْ يَسْمَعْهُ، أَوْ بِأَنَّهُ سَمِعَهُ فَنَسِيَهُ أَوْ بِأَنَّ النَّاقِلَ عَنْهُ اسْقَطَهُ وَهَذَا وَأَشْبَاهُهُ قَدْ يَفْعُ وَلَا يُؤْمِن (مختلف الحديث ١/٨٣)

Also see: الجواهر النقي ١/١٢

Imam Hakim has cited this narration with the words "None from the Sahabah were present besides me":

حَدَّثَنَا أَبُو الْحُسَيْنِ عُبَيْدُ اللَّهِ بْنُ مُحَمَّدِ بْنِ الْبَلْخِيِّ مِنْ أَصْلِ كِتَابِهِ، ثنا أَبُو إِسْمَاعِيلَ مُحَمَّدُ بْنُ إِسْمَاعِيلَ السُّلَمِيُّ، ثنا أَبُو صَالِحٍ عَبْدُ اللَّهِ بْنُ صَالِحٍ، حَدَّثَنِي اللَّيْثُ بْنُ سَعْدٍ، حَدَّثَنِي يُونُسُ بْنُ يَزِيدَ، عَنِ ابْنِ شَيْهَابٍ، قَالَ: أَخْبَرَنِي أَبُو عُمَرَ بْنِ سَنَةَ الْخُرَاعِيِّ، وَكَانَ رَجُلًا مِنْ أَهْلِ الشَّامِ، أَنَّهُ سَمِعَ عَبْدَ اللَّهِ بْنَ مَسْعُودٍ رَضِيَ اللَّهُ عَنْهُ، يَقُولُ: إِنَّ رَسُولَ اللَّهِ ﷺ، فَلَمْ يَحْضُرْ «صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ، قَالَ لِأَصْحَابِهِ وَهُوَ بِمَكَّةَ: «مَنْ أَحَبَّ مِنْكُمْ أَنْ يَحْضُرَ اللَّيْلَةَ أَمَرَ الْجِنِّ فَلْيُقْعَلْ مِنْهُمْ أَحَدٌ غَيْرِي (المستدرک ۲/۵۴۷)»

Imam Dhahabi رحمه الله has stated that this hadith is Sahih according to a group of muhaddithoon.

Summary:

Sayyiduna Ibn Abbas رضي الله عنه hadith in Muslim is not a general rule, rather, it is regarding a ghair madkhood biha.

Either the words قبل أن يدخل بها were omitted, or these words were not omitted but the other (aforementioned) narrations from the same Sahabi narrator which specifically mention these words are mufassar (explanatory) to this mujmal (vague) narration.

It is for this very reason that the entire Ummah during the Caliphate of Sayyiduna Umar رضي الله عنه readily accepted the Ijma' against this hadith, so did the four Imams and jumhoor muhaddithoon and the vast majority of the great scholars of Islam including the literalist scholar Ibn Hazm رحمه الله.

Sayyiduna Ibn Abbas رضي الله عنه own Fatwa goes against his hadith in Sahih Muslim. His fatwa is found in Abu Dawud (pg 299) which clearly shows three divorces issued simultaneously are three:

حَدَّثَنَا حُمَيْدُ بْنُ مَسْعَدَةَ، حَدَّثَنَا إِسْمَاعِيلُ، أَخْبَرَنَا أَبُو بَرٍّ، عَنْ عَبْدِ اللَّهِ بْنِ كَثِيرٍ، عَنْ مَجَاهِدٍ قَالَ: كُنْتُ عِنْدَ ابْنِ عَبَّاسٍ فَجَاءَهُ رَجُلٌ، فَقَالَ: إِنَّهُ طَلَّقَ امْرَأَتَهُ ثَلَاثًا، قَالَ: فَسَكَتَ حَتَّى ظَنَنْتُ أَنَّهُ رَادُّهَا إِلَيْهِ، ثُمَّ قَالَ: " يَنْطَلِقُ أَحَدُكُمْ، فَيَرْكَبُ {وَمَنْ يَتَّقِ اللَّهَ يَجْعَلْ لَهُ مَخْرَجًا} [الطلاق: ٢] وَإِنَّكَ: الْحُمُوقَةَ ثُمَّ يَقُولُ يَا ابْنَ عَبَّاسٍ، يَا ابْنَ عَبَّاسٍ، وَإِنَّ اللَّهَ قَالَ لَمْ يَتَّقِ اللَّهَ فَلَمْ أَجِدْ لَكَ مَخْرَجًا، عَصَيْتَ رَبَّكَ، وَبَانَتِ مِنْكَ امْرَأَتُكَ

Albani has classified the above Fatwa as Saheeh based on Imam Muslim's conditions: صحيح علي شرط مسلم.

Ibnul Qayyim also states:

«عَنْ « وَأَمَّا الَّذِينَ فَرَّقُوا بَيْنَ الْمَنْخُولِ بِهَا وَغَيْرِهَا، فَلَهُمْ حُجَّتَانِ: إِحْدَاهُمَا: مَا رَوَاهُ أَبُو دَاوُدَ بِإِسْنَادٍ صَحِيحٍ، طَاوُوسٌ، أَنَّ رَجُلًا يَقَالُ لَهُ: أَبُو الصَّهْبَاءِ كَانَ كَثِيرَ السُّؤَالِ لِابْنِ عَبَّاسٍ، قَالَ لَهُ: أَمَا عَلِمْتَ أَنَّ الرَّجُلَ كَانَ إِذَا طَلَّقَ امْرَأَتَهُ ثَلَاثًا قَبْلَ أَنْ يَدْخُلَ بِهَا جَعَلُوهَا وَاحِدَةً عَلَى عَهْدِ رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - وَأَبِي بَكْرٍ وَصَدْرًا مِنْ «إِمَارَةِ عُمَرَ؟ فَلَمَّا رَأَى عُمَرَ النَّاسَ قَدْ تَنَاقَعُوا فِيهَا، قَالَ: أُجِيزُوهُمْ عَلَيْهِمْ (زاد المعاد ۵/۲۳)»

Abu Sahba asked Ibn Abbas رضي الله عنه: "Do you not know that when a man would issue three divorces to his wife before he had consummated the marriage with intercourse they considered it one during the era of Allah's Messenger ﷺ, Sayyiduna Abu Bakr رضي الله عنه and early days of the caliphate of Sayyiduna Umar رضي الله عنه? Then, when Umar

رضي الله عنه saw that people began issuing divorces simultaneously he enforced the issued divorces upon them."

Ibnul Qayyim has classified the above Sunan Abu Dawud narration as authentic. The narration clearly shows that the hadith in Muslim is short of the words "before consummating the marriage with intercourse".

Imam Nasai has a chapter titled:

بَابُ طَلَاقِ الثَّلَاثِ الْمَتَّفِرَّةِ قَبْلَ النُّحُولِ بِالرَّوْجَةِ

Chapter: Three divorces issued separately before consummating the marriage with the wife.

Objection:

In Abu Dawud there is also a narration as follows:

قَالَ أَبُو دَاوُدَ: وَرَوَى حَمَّادُ بْنُ زَيْدٍ، عَنْ أَيُّوبَ، عَنْ عِكْرِمَةَ، عَنْ ابْنِ عَبَّاسٍ، إِذَا قَالَ: «أَنْتَ طَالِقٌ ثَلَاثًا بِفِعْمٍ وَاجِدٍ فَهِيَ وَاجِدَةٌ»، وَرَوَاهُ إِسْمَاعِيلُ بْنُ إِبْرَاهِيمَ، عَنْ أَيُّوبَ، عَنْ عِكْرِمَةَ، هَذَا قَوْلُهُ لَمْ يَذْكُرْ ابْنَ عَبَّاسٍ، وَجَعَلَهُ قَوْلَ عِكْرِمَةَ (٢٦/٢)

Ibn Abbas رضي الله عنه is reported to have said: "When a man says, 'You are divorced thrice', simultaneously, that is considered one divorce."

We answer to this as follows:

1: Imam Abu Dawud has stated that this is not the statement of Ibn Abbas رضي الله عنه rather, it is the statement of 'Ikrimah.

2: The word ثلاثا is connected with قال and not طالق . Thus, it means: "When a man says thrice 'You are divorced'." It does not mean: "When a man says: 'You are divorced thrice'."

3: The chapter of Nasai clearly states divorce issued to a ghair madkhool biha with three separate words has a different ruling to every other scenario of issuing three simultaneously.

Six answers have been given for the Sahih Muslim hadith. The sixth answer seems most appropriate in the science of hadith because it accommodates all the variations of the same narrations.

Objection :

Some have claimed Sayyiduna Umar رضي الله عنه enforced 3=3 based on siyasah (politics) and as a form of punishment. For the sake of brevity Ibnul Qayyim's work will be presented to answer this:

فَلَمَّا رَكِبَ النَّاسُ الْأُحْمُقَةَ، وَتَرَكَوا تَقْوَى اللَّهِ، وَلَبَسُوا عَلَى أَنْفُسِهِمْ، وَطَلَّقُوا عَلَى غَيْرِ مَا شَرَعَهُ اللَّهُ لَهُمْ، أَجْرَى اللَّهُ عَلَى لِسَانِ الْخَلِيفَةِ الرَّاشِدِ وَالصَّحَابَةِ مَعَهُ شَرْعًا وَقَدَرَ الزَّامَهُمْ بِذَلِكَ، وَإِنْفَاذَهُ عَلَيْهِمْ، وَإِيقَاءَ الْإِصْرِ الَّذِي جَعَلُوهُ هُمْ فِي أَعْنَاقِهِمْ كَمَا جَعَلُوهُ (إعلام الموقعين ٣/٣٦)

This text clearly states that this ruling was shar'i, not siyasi.

The following supports it being a shar'i ruling as opposed to siyasi:

عليكم بسنتي وسنة الخلفاء الراشدين المهديين من بعدي ، تمسكوا بها وعضوا عليها بالنواجذ
الراوي: [العرباض بن سارية] المحدث: ابن تيمية - المصدر: مجموع الفتاوى - الصفحة أو الرقم: 493/28
خلاصة حكم المحدث: صحيح

Also:

وعد الله الذين آمنوا منكم و عملوا الصالحات ليستخلفنهم

A few more points regarding the hadith of Muslim:

- There is no mention in the Muslim Hadith of issuing all three divorces in one gathering simultaneously, nor does it mention issuing three in one tuhr (clean cycle) or three separate tuhrs.
- There is no mention that the 3 divorce cases were presented to Rasoolullah ﷺ and Sayyiduna Abu Bakr رضي الله عنه who considered them one.
- The hadith of Sayyiduna Ibn Abbas رضي الله عنه as in Sahih Muslim is Sahih just as is the following hadith regarding mut'a is in sahih Muslim:

قَدِمَ جَابِرُ بْنُ عَبْدِ اللَّهِ مُعْتَمِرًا، وَحَدَّثَنَا الْحَسَنُ الْخُلَوَانِيُّ، حَدَّثَنَا عَبْدُ الرَّزَّاقِ، أَخْبَرَنَا ابْنُ جُرَيْجٍ، قَالَ: قَالَ عَطَاءٌ • فَجِئْنَا فِي مَنْزِلِهِ، فَسَأَلَهُ الْقَوْمُ عَنْ أَشْيَاءَ، ثُمَّ ذَكَرُوا الْمُتْعَةَ، فَقَالَ: «نَعَمْ، اسْتَمْتَعْنَا عَلَى عَهْدِ رَسُولِ اللَّهِ صَلَّى اللَّهُ فَقَالَ جَابِرٌ: «فَعَلْنَا هُمَا مَعَ رَسُولِ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ، ثُمَّ تَهَانَا: عَلَيْهِ وَسَلَّمَ، وَأَبِي بَكْرٍ، وَعُمَرُ» وَ فِي رِوَايَةِ عَنْهُمَا عُمَرُ، فَلَمْ نَعُدْ لَهُمَا» (١٠٢٣/٢)

The Saheeh Muslim hadith does not mention issuing talaq in one go/one tuhr or otherwise. No hadith states that 3 talaq cases were presented to Allah's Messenger صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ who enforced 3=1. Also, the Muslim hadith is not marfoo', rather it refers to the practice of some Sahaba without mention of affirmation by Allah's Messenger صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ. It is also incompatible with Quran, Sunnah, Ijma, Saheeh narrations, as stated by Ibn Katheer, Ibn Jareer and Imam Hazimi رحمه الله.

In both issues (mut'a and talaq) the people who continued to practice were those who the news of abrogation did not reach. Sayyiduna Umar رضي الله عنه merely announced the news of abrogation.

Where did 3=1 come from?

The reality is that the roots of 3=1 opinion are found in the late 7th century AH or early 8th century from Ibn Taymiyah. The scholars of Islam in that era strongly opposed him.

The famous ghair muqallid scholar Mawlana Abu Saeed Sharaf al-din Dehlwi رحمه الله has academically scrutinised the validity of acting upon Sayyiduna Ibn Abbas' رضي الله عنه Muslim narration.

(See Fatawa Thanaiyyah 2/43-54).

He further states that Nawab Siddeeq Hasan Khan has included this 3=1 ruling in Shaykh Ibn Taymiyah's isolated opinions. When he issued this fatwa there was outrage. He and his student were made to sit on a camel and lashed and taken around the city. They were disgraced. He was imprisoned. This was because his fatwa was from the signs of Rafidhi Shias.

(See Ithaaf al-nubala 318).

Nawab also writes that Imam Dhahabi رحمه الله, despite being a student and advocate of Shaykh Ibn Taymiyah, sternly opposed him in this issue.

(See Subul al-salam 2/98, Al-Taj al-mukallal 286-89).

He further writes that because our Ahl al-hadith scholars of later times hold Shaykh Ibn Taymiyah in high esteem they agree with him in this issue, and to strengthen their stance they claim this to be the stance of the muhaddithoon. And, because the Hanafi school is against this they refute them. The reality is that the 3=1 stance came into being in the 8th century whilst the four schools were developed and formed centuries earlier.

It is similar to the Barelwis who try to hijack the name "Ahlus Sunnah wal jama'ah" for themselves claiming all others to be outside the fold of Ahlus Sunnah.

(See Fatawa Thanaiyyah 2/43-46)

An Objection

Some have claimed Sayyiduna Umar رضي الله عنه regretted passing the three talaq ruling, hence this ruling couldn't have been a correct shar'i ruling otherwise why would he regret?

For this they use the text of Ibnul Qayyim:

قال الحافظ أبو بكر الإسماعيلي في مسند عمر: أخبرنا أبو يعلى: حدثنا صالح ابن مالك: حدثنا خالد بن يزيد بن أبي مالك عن أبيه قال: قال عمر بن الخطاب رضى الله عنه: ما ندمت على شيء ندامتى على ثلاث: أن لا أكون حرمت الطلاق، وعلى أن لا أكون أنكحت الموالى، وعلى أن لا أكون قتلت النوائح

ومن المعلوم أنه رضى الله عنه لم يكن مراده تحريم الطلاق الرجعى، الذى أباحه الله تعالى وعلم بالضرورة من دين رسول الله صلى الله تعالى عليه وآله وسلم جوازه. ولا الطلاق المحرم الذى أجمع المسلمون على تحريمه لا جُنَاحَ عَلَيْكُمْ { كَالطَّلَاقِ فِي الْحَيْضِ، وَفِي الطَّهْرِ الْمَجَامِعِ فِيهِ. وَلَا الطَّلَاقِ قَبْلَ الدُّخُولِ الَّذِي قَالَ اللَّهُ تَعَالَى فِيهِ . [إِنْ طَلَّقْتُمُ النِّسَاءَ مَا لَمْ تَمْسُوهُنَّ أَوْ تَفْرِضُوا لَهُنَّ فَرِيضَةً] [البقرة: ٢٣٦

هذا كله من أبين المحال أن يكون عمر رضى الله عنه أراد: فتعين قطعاً أنه أراد تحريم إيقاع الثلاث، فعلم أنه إنما كان أوقعها لاعتقاده جواز ذلك، ولذلك قال: إن الناس قد استعجلوا فى شيء كانت لهم فيه أناة، فلو أمضيها عليهم؟ وهذا كالصريح فى أنه غير حرام عنده، وإنما أمضاه لأن المطلق كانت له فسحة من الله تعالى فى التفريق فأمضاه عمر رضى الله عنه عليه، فلما تبين له بأخرة ما فيه. فرغب عما فسحه الله تعالى له إلى الشدة والتغليظ من الشر والفساد ندم على أن لا يكون حرم عليهم إيقاع الثلاث ومنعهم منه. وهذا مذهب الأكثرين: مالك، وأحمد، وأبى حنيفة رحمهم الله. (إغاثة اللهفان ١/٣٣٦)

Objection Answered

1: Chain of the above narration is weak:

Khalid Ibn Yazeed: Although some hadith scholars said he is reliable but jumhoor muhaddithoon said he is weak.

(See Tahdheeb al-tahdheeb 3/126):

Some of those who disparaged him are listed here:

Imam Yahya Ibn Ma'een said: ليس بشيئى

Imam Nasai said: He is not reliable

Imam Daraqutni said: He is weak

Imam Abu Dawud said: Weak (in another narration Imam Abu Dawud said he is Munakrul hadith)

Imam Ibn Hibban رحمه الله has said:

كان يخطيء كثيراً وفي حديثه مناكير لا يعجبني الاحتجاج به إذا انفرد عن أبيه

"He erred a lot. He has many rejected hadiths. I do not like using his hadith as evidence when he is alone in narrating from his father."

The Imam of the science of jarh and ta'deel, Yahya Ibn Ma'een said:

"Khalid Ibn Yazeed's book on diyaat ought to be buried. He fabricated lies against the Sahaba رضى الله عنهم"

It seems like a lie was fabricated against Sayyiduna Umar رضي الله عنه in the hadith in discussion.

What to say about Shaykh Ibnul Qayyim who accepted a narration from such a narrator!

2: Even if we were to accept the hadith its meaning is vague.

There are numerous methods and scenarios of talaq. Where in the narration does it specify what type of talaq he regretted making unlawful.

This is a grave error from Ibnul Qayyim to accept a narration from such narrators.

Evidence 2 for 3=1:

حَدَّثَنَا أَحْمَدُ بْنُ صَالِحٍ، حَدَّثَنَا عَبْدُ الرَّزَّاقِ، أَخْبَرَنَا ابْنُ جُرَيْجٍ، أَخْبَرَنِي بَعْضُ بَنِي أَبِي رَافِعٍ، مَوْلَى النَّبِيِّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ، عَنْ عِكْرِمَةَ مَوْلَى ابْنِ عَبَّاسٍ، عَنْ ابْنِ عَبَّاسٍ..... قَالَ: إِنِّي طَلَّقْتُهَا ثَلَاثًا يَا رَسُولَ اللَّهِ، قَالَ: «قَدْ عَلِمْتُ (رَاجِعُهَا)» (أبو داود ٢/٢٥٩، السنن الكبرى ٧/٣٣٩)

Rukana رضي الله عنه issued three divorces simultaneously and Allah's Messenger ﷺ allowed him to rescind.

Our answer:

This hadith does not prove 3 talaq not taking effect because:

1: Its chain is problematic.

Its chain contains بعض بني أبي رافع This is an unknown individual.

Imam Nawawi states:

وَأَمَّا الرَّوَايَةُ الَّتِي رَوَاهَا الْمُخَالِفُونَ أَنَّ رُكَاةَهُ طَلَّقَ ثَلَاثًا فَجَعَلَهَا وَاحِدَةً فَرَوَايَةٌ ضَعِيفَةٌ عَنْ قَوْمٍ مَجْهُولِينَ وَإِنَّمَا الصَّحِيحُ مِنْهَا مَا قَدَّمَاهُ أَنَّهُ طَلَّقَهَا الْبَيْتَةَ وَلَفْظُ الْبَيْتَةِ مُحْتَمِلٌ لِلوَاحِدَةِ وَلِلثَلَاثِ وَلَعَلَّ صَاحِبَ هَذِهِ الرَّوَايَةِ الضَّعِيفَةِ اعْتَقَدَ أَنَّ لَفْظَ الْبَيْتَةِ يَقْتَضِي الثَّلَاثَ فَرَوَاهُ بِالْمَعْنَى الَّتِي فَهَمَهُ وَغَلِطَ فِي ذَلِكَ (شرح مسلم ١٠/٧١)

This text of Inam Nawawi clearly states that the above hadith is weak.

Ibn Hazm رحمه الله states:

قَالَ أَبُو مُحَمَّدٍ: أَمَّا الْخَبَرُ فَضَعِيفٌ، لِأَنَّهُ عَمَّنْ لَمْ يُسَمَّ، وَلَا عُرِفَ مِنْ بَنِي أَبِي رَافِعٍ - فَهُوَ لَا يَصِحُّ،

(المطلى ٢٠٦/٩)

Ibn Hazm states the hadith is weak.

How can such a weak narration with unknown narrators stand against authentic narrations and Ijma' of Sahaba?

Objection:

In Mustadrak of Imam al-Hakim there is a clear mention of the unknown narrator as:

مُحَمَّدُ بْنُ عَبْدِ اللَّهِ بْنِ أَبِي رَافِعٍ

But this narrator is very weak.

Imam Bukhari says: He is Munkarul hadith. Imam Bukhari himself states:

كل من قلت فيه منكر الحديث فلا تحل الرواية عنه. (ميزان ٦/١)

"It is not permissible to narrate from anyone who I call munkarul hadith."

Also see: Tadreeb al-rawi of al-Suyuti (pg. 235)

According to Imam Bukhari رحمه الله relating this narration is impermissible.

Imam Yahya Ibn Ma'een says:

ليس بشيء

"He is not all that"

Abu Hatim says: منكر الحديث جدا and ضعيف الحديث جدا

"Very weak and his hadiths are rejected"

Imam Daraqutni says: متروك

"Abandoned"

Imam Dhahabi says: The scholars of hadith have stated he is weak.

Imam Ibn Adiy says: He is a shia

(See: Mizan al-i'tidal 3/634)

2: The word used in Sayyiduna Rukana's رضي الله عنه sahih narration is not ثلاثا it is البتة . Hence, Imam Abu Dawud himself states:

قال أبو داود: «وَهَذَا أَصَحُّ مِنْ حَدِيثِ ابْنِ جُرَيْجٍ أَنَّ رُكَّانَةَ طَلَّقَ امْرَأَتَهُ ثَلَاثًا، لِأَنَّهُمْ أَهْلُ بَيْتِهِ، وَهُمْ أَعْلَمُ بِهِ

The narration with the word البتة in it is more authentic than the ثلاثا narration.

Qadhi Shawkani رحمه الله mentions this too:

وَيُجَابُ بِأَنَّ أُثْبِتَ مَا رُوِيَ فِي قِصَّةِ رُكَانَةَ أَنَّهَا طَلَّقَهَا أَلْبَتَّةَ لَا ثَلَاثًا (نيل ٢٧٥/٦)

Imam Nawawi states:

وَأَمَّا الرَّوَايَةُ الَّتِي رَوَاهَا الْمُخَالِفُونَ أَنَّ رُكَانَةَ طَلَّقَ ثَلَاثًا فَجَعَلَهَا وَاحِدَةً فَرَوَايَةٌ ضَعِيفَةٌ عَنْ قَوْمٍ مَجْهُولِينَ وَإِنَّمَا الصَّحِيحُ مِنْهَا مَا قَدِمْتُمُ لِلْوَّاحِدَةِ وَلِلثَّلَاثِ وَلَعَلَّ صَاحِبَ هَذِهِ الرَّوَايَةِ الضَّعِيفَةِ اعْتَقَدَ أَنَّ لَفْظَ أَلْبَتَّةِ يَقْتَضِي الثَّلَاثَ فَرَوَاهُ بِالْمَعْنَى الَّتِي فَهَمَهُ وَغَلَطَ فِي ذَلِكَ (شرح مسلم ٧١/١٠)

"The narration stating Rukana رضي الله عنه issued three divorces is weak and it was narrated from unknown narrators."

Evidence 3 for 3=1:

عَنْ مُحَمَّدِ بْنِ إِسْحَاقَ، عَنْ دَاوُدَ بْنِ الْحُصَيْنِ، عَنْ عِكْرِمَةَ، عَنْ ابْنِ عَبَّاسٍ قَالَ: طَلَّقَ رُكَانَةَ امْرَأَتَهُ ثَلَاثًا فِي مَجْلِسٍ وَاحِدٍ فَحَزَنَ عَلَيْهَا حُزْنًا شَدِيدًا فَسَأَلَهُ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ: "كَيْفَ طَلَّقْتَهَا؟" قَالَ: طَلَّقْتُهَا ثَلَاثًا فَقَالَ: "فِي مَجْلِسٍ وَاحِدٍ؟" قَالَ: نَعَمْ قَالَ: "فَإِنَّمَا تِلْكَ وَاحِدَةٌ فَارْجِعْهَا إِنْ شِئْتَ" فَارْجَعَهَا فَكَانَ ابْنُ عَبَّاسٍ رَضِيَ اللَّهُ فَطَلَّقُوهُنَّ لِعِدَّتِهِنَّ { عَنْهُمَا بَرَى إِذَا الطَّلَاقُ عِنْدَ كُلِّ طَهْرٍ فِتْلِكَ السُّنَّةُ الَّتِي كَانَ عَلَيْهَا النَّاسُ وَالَّتِي أَمَرَ اللَّهُ لَهَا [الطلاق: ١]

(السنن الكبرى ٥٥٥/٧، مسند أحمد ٢٦٥/١)

This hadith states Rukana issued three divorces in one gathering and Allah's Messenger ﷺ still allowed him to rescind stating it is one divorce.

Qadhi Shawkani states that Imam Ahmad and Abu Ya'la have narrated this narration and the latter stated that this narration is sahih.

Our answer:

This narration is also unfit to be used as an evidence because the chain is problematic:

Narrator 1:

Muhammad Ibn Ishaq

Imam Daraqutni says: لا يحتج به He cannot be used in evidence.

Imam Hisham Ibn Urwa says: He is a great liar.

Imam Yayha Ibn Sa'eed Al-Qattan says: I bear witness that he is a big liar.

Sulayman Al-Taymi says: He is a big liar.

Imam Malik says: He is a dajjal from the dajjals.

(See Mizan 3/469)

Imam Dhahabi says using his narration to prove a ruling relating to halal/haram issues in incorrect. (Tadhkirah al-huffaadh 1/163)

Hafiz Ibn Hajar says: his narration cannot be used as evidence when he relates a narration alone, let alone when he narrates a narration which goes against narrators which are more reliable than him.

Ibn Rushd says:

وَأَنَّ حَدِيثَ ابْنِ إِسْحَاقَ وَهُمْ، وَإِنَّمَا رَوَى التِّقَاتُ أَنَّهُ طَلَّقَ رُكَّانَةَ زَوْجَهُ الْبَيْتَةَ لَا ثَلَاثًا
(بداية المجتهد ٨٤/٣)

The narration of Ibn Ishaq is a mistake. Reliable narrators narrated that Rukana رضي الله عنه issued one severing divorce (البيتة) to his wife.

Narrator2:

Dawud Ibn Husayn

Imam Abu Zur'a says: He is weak

Sufyan Ibn Uyayna says: We would avoid his hadiths.

Ali Ibnul Madeeni says: What he narrates from 'Ikrimah is rejected.

Imam Abu Dawud says: His hadiths from 'Ikrimah are rejected.

(See: Mizan 2/5)

Hafidh Ibn Hajar sums him up as:

ثقة إلا في عكرمة
(تقريب ١٩٨/١)

He is reliable only when he does not narrate from 'Ikrimah.

It is for this very reason that Imam Bayhaqi has stated that this hadith cannot be used as evidence. (Al-Sunan al-Kubra 7/339)

Imam Dhahabi has counted this hadith amongst Dawud Ibn Husayn's manakeer (rejected narrations). (Mizan 1/317)

Another interesting point that Imam Ahmad رحمه الله narrated this narration but his own fatwa is against it. That strengthens Hafidh Ibn Hajar's classification of this hadith where he states it is ma'lool (flawed)

وَفِي الْبَابِ عَنْ ابْنِ عَبَّاسٍ رَوَاهُ أَحْمَدُ وَهُوَ مَعْلُولٌ أَيْضًا

In Brief..

These are the narrations presented by the advocates of the 3=1 opinion. The truth is that they generalise the hadiths which prove that three separate divorces issued to a ghair madkhool biha are one and they apply those hadiths to all women.

People in the past made errors too but the difference between them and the Salafis of today is that they would accept the Haqq when it was made clear to them, whereas today our Salafi brothers choose to remain firm whatever the case.

There is a lesson to be learnt from this narration of Sahih Muslim:

حَدَّثَنِي عَلِيُّ بْنُ حُجْرٍ السَّعْدِيُّ، حَدَّثَنَا إِسْمَاعِيلُ بْنُ إِبْرَاهِيمَ، عَنْ أَبِي يُونُسَ، عَنْ ابْنِ سِيرِينَ، قَالَ: مَكَثْتُ عِشْرِينَ سَنَةً يُحَدِّثُنِي مَنْ لَا أَتَهُمْ أَنْ ابْنَ عُمَرَ طَلَّقَ امْرَأَتَهُ ثَلَاثًا وَهِيَ حَائِضٌ، فَأَمَرَ أَنْ يُرَاجَعَهَا، فَجَعَلْتُ لَا أَتَهُمْ، وَلَا أَعْرِفُ الْحَدِيثَ، حَتَّى لَقِيتُ أَبَا غَالِبٍ يُونُسَ بْنَ جُبَيْرِ الْبَاهِلِيِّ، وَكَانَ ذَا ثَبَتٍ، فَحَدَّثَنِي أَنَّهُ سَأَلَ ابْنَ عُمَرَ، فَحَدَّثَهُ «أَنَّهُ طَلَّقَ امْرَأَتَهُ تَطْلِيقَةً وَهِيَ حَائِضٌ، فَأَمَرَ أَنْ يُرَاجَعَهَا»، قَالَ: قُلْتُ: أَفَحَسِبْتَ عَلَيْهِ؟ قَالَ: «فَمَهْ، أَوْ إِنْ عَجَزَ، وَاسْتَحَمَقَ» يَرَجَعَهَا (صحيح مسلم ١٠٩٥/٢)

Ibn Sirinn رحمه الله states that for 20 years he was informed by narrators who he does not accuse of lying that Sayyiduna Ibn Umar رضي الله عنه divorced his wife thrice whilst she was in her menstrual cycle. Until, he met Yunus Ibn Jubayr Al-Bahili, a competent narrator, who informed him that he personally asked Ibn Umar رضي الله عنه about this and that he was informed that he رضي الله عنه only issued one divorce while she was in her menstrual cycle.

From this we learn reliability of narrators or the book a narration is found in does not always mean that narration can be used in evidence.

Lastly, some people try to use Mawlana Abdul Hayy Lakhnawi رحمه الله for the 3=1 opinion. In this regard they present a fatwa of his in which they claim he gave leeway to act upon the 3=1 opinion at times of need.

Firstly, there is a possibility that the fatwa was not written by him but rather added into his Majmu'ah fatawa later.

Secondly, a fatwa by Mawlana himself which was written after the claimed fatwa clearly states the opinion of jumhoor to be the correct opinion. See Umdatul athaath.

Thirdly, his footnotes on Sharh Wiqayah known as Umdatur ri'ayah which were written about two years before he passed away (12 years after the fatwa) clearly state the jumhoor opinion to be correct. (3/63)

Lastly, see his Al-Taleeq al-Mumajjad on Muwatta Imam Muhammad RA. It clearly states 3=3.

Errors of Shaykh Ibnul Qayyim

Error 1:

He claims that all the Sahaba who passed away before the end of the first couple of years of the caliphate of Sayyiduna Umar

رضي الله عنه are on the side of 3=1, the best of them being Sayyiduna Abu Bakr رضي الله عنه

Answer:

Besides the hadith of Sahih Muslim (for which answers have passed) can Ibnul Qayyim present any other sahih narration clearly stating that three talaqs were counted as one during the time of Rasoolullah ﷺ and Siddeeq رضي الله عنه ?

We have previously proven that that Rasoolullah ﷺ himself counted three as three.

What good is it to carry out a census of Sahaba based on the vague narration of Muslim?

There is no authentic narration that states Sayyiduna Abu Bakr

رضي الله عنه counted three as one in his Caliphate. But there is for 3=3 during Sayyiduna Umar's رضي الله عنه caliphate.

Error 2:

Shaykh has claimed that Sayyiduna Ibn Abbas رضي الله عنه has two opinions (3=3 & 3=1) and that Sayyiduna Ibn Mas'ood رضي الله عنه has two opinions (3=3 & tawaqquf [hesitance to prefer any one opinion other the other]). Ibnul Qayyim states:

فَقَدْ صَحَّ عَنِ ابْنِ عَبَّاسٍ الْقَوْلَانِ، وَصَحَّ عَنِ ابْنِ مَسْعُودٍ الْقَوْلُ بِاللَّرُومِ، وَصَحَّ عَنْهُ التَّوَقُّفُ،
(زاد ٢٤٧/٥)

How can two conflicting opinions from one individual both be Sahih in a matter of halal and haram?

The reality is that tawaqquf is not reported from him in any Sahih narration. Nor has Ibnul Qayyim proven that it is.

Error 3:

Shaykh claims the Sahih Muslim hadith is narrated from three individuals: Tawus, Abus Sahba 'Adawi and Abul jawza.

Answer:

The latter two are not narrators. They are mentioned in the capacity of questioners.

Besides Tawus the same narration has been narrated by Ibn Abi Mulayka but Dhahabi has stated it is weak:

أَخْبَرَنِي أَبُو الْحُسَيْنِ مُحَمَّدُ بْنُ أَحْمَدَ بْنِ تَمِيمِ الْقَنْطَرِيِّ بِبَعْدَادَ، ثنا أَبُو قِلَابَةَ، ثنا أَبُو عَاصِمٍ، ثنا عَبْدُ اللَّهِ بْنُ الْمُؤَمَّلِ،
عَنِ ابْنِ أَبِي مُلَيْكَةَ، أَنَّ أَبَا الْجَوْرَاءِ، أَنَّى ابْنَ عَبَّاسٍ فَقَالَ: أَنْتُمْ أَنْ تَلَانَا كُنَّ يُرَدُّنَ عَلَيَّ عَهْدِ رَسُولِ اللَّهِ صَلَّى اللَّهُ
عَلَيْهِ وَسَلَّمَ إِلَى وَاحِدَةٍ، قَالَ: «نَعَمْ» هَذَا حَدِيثٌ صَحِيحٌ الْإِسْنَادِ، وَلَمْ يُخَرِّجَاهُ " (مستدرک ۲/ ۲۱۴)

التعليق - من تلخيص الذهبي ۲۷۹۲
ابن المؤمل ضعفه

May Allah enable us to accept the truth.

Usman Iqbal.