

## Three Divorces In One Sitting

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According to the Salafis, three divorces given in one sitting is equivalent to one divorce only. However, this is contrary to the position held by all the Sunni Islamic schools of law (Hanafi, Hanbali, Maliki and Shafi'ee).

If a man pronounced three divorces at once by stating to the wife: "I divorce you three times" or by saying: "I divorce you", three times, then three divorces will be effected and the divorce will be irrevocable. This was also the view of the overwhelming majority of the Sahaba (radiallahu anhum) and Tabi'een (followers - rahmatullahi alaih).

it should be known that there are three types of divorce:

- (1) Ahsan (most preferred),
- (2) Sunnah (preferred) and
- (3) Bid'a (sinful & unlawful innovation).

The Ahsan (most preferred) divorce is to make one pronouncement of divorce to the wife, in an interval between menstruations (Tuhr), in which no sexual intercourse with the wife has taken place. After which she is left until her waiting period (Iddah) is over.

The Sunnah (preferred) divorce is to pronounce three divorces in three separate intervals of Tuhr, in which no sexual intercourse with the wife has taken place.

The Bid'a (sinful and unlawful innovation) divorce consists of either making a pronouncement of divorce during the woman's menstruation period (Haid) or to pronounce two or three divorces at once or to issue a divorce in a Tuhr (purity) in which sexual intercourse with the wife took place.

From the above we can see that, if a man pronounces three divorces at once, either by saying: "I give you three divorces" or by saying: "I divorce you" three times, it is considered an unlawful act and innovation. One will be sinful by divorcing the wife in such a way.

The reason for this prohibition is that, if divorce is pronounced in the period of purity (tuhr) in which sexual intercourse took place, there is a possibility that the woman may have conceived. This will prolong the waiting period for the woman, (which is until she gives birth), thus placing hardship and difficulty upon the woman, which is disliked by Shariah. Also the husband may regret giving the divorce after seeing his wife conceive.

The great Hanafi Jurist Sultan al-Ulama, Imam al-Kasani states in his famous work in fiqh, Bada'i al-Sana'i:

**“There is a possibility that the woman conceives due to that intercourse and at the confirmation of pregnancy, the man will be regretful.”**

(Kasani, Bada'i` al-Sana'i`, 3.89)

Divorcing the wife in her menstruation (Haid) will also prolong her Iddah, as she will have to begin from the next Haid. This is also unnecessary hardship which can be avoided. Also another reason for the prohibition of pronouncing divorce in Haid is that, generally the man is less inclined towards his wife when she is in her menstrual periods. Therefore, one may hasten towards pronouncing divorce in this period without thinking properly of the consequences. This is not the case when the wife is in purity.

The reason behind the prohibition of issuing two or three divorces at once is that, divorce can be affected with only one. There is no need to pronounce two or three divorces. Also, if one divorce is given, one can take back the wife if he feels remorseful.

The above is clear in pointing out that an innovated divorce (in all its various forms) is unlawful (and sinful) and contrary to the teachings of Shariah. One must avoid Talaq al-Bid'a at all times.

However, this does not mean in any way that, an unlawful divorce will not be affected. Many people object to this by saying: “If the divorce is unlawful, then why should it come into effect?”

The simple answer to this is that, one should not say why, how and but, etc., when there are clear evidences from the Qur'an and Sunnah declaring the pronouncement of three divorces at once to be three divorces, then it is necessary that one accepts it without any hesitation. These evidences will be mentioned further along Insha Allah; however I would like to answer this from an analogical point also.

An example which this humble servant usually gives when asked regarding this issue is that, Allah Almighty has prohibited murder as is common knowledge. It is a totally outrageous act, condemned by humanity, let alone all the religions.

Now, when a person is killed and murdered without any (lawful) reason, one can not say that, due to this act being prohibited, one should not die! If a person was to say that, then he will be regarded to be insane by everybody. The act being unlawful does not prevent death.

The great Imam al-Kawthari (Allah have mercy on him) refuses to use analogy in this issue in his famous work on the subject

al-Ashfaq ala Ahkam al-Talaq.

He says: **“We are not in need of any analogy as the evidences are clear and explicit from the Messenger of Allah (Allah bless him and give him peace), but an example for it is ‘Zihar’ (likening the wife to the back of a mahram woman, i.e. in prohibition). This has been described in the Qur'an as “evil and false”, yet the effect still remains.”** (al-Ashfaq, P: 13)

Therefore, if a man pronounced three divorces at once by stating to the wife: "I divorce you three times" or by saying: "I divorce you", three times, then three divorces will be effected and the divorce will be irrevocable. The woman will be free to re-marry another man after the termination of her Iddah. She cannot return to her former husband's marriage unless she is divorced once again from her second husband.

This is the position held by all the Sunni schools of Islamic law, i.e., Hanafi, Shafi'i, Maliki and the Hanbali. This was also the view of the overwhelming majority of the Sahaba (Allah be pleased with them all) and Tabi'in (followers). Only the Ja'fariyya sect amongst the Shi'a and those who followed the literal meaning of the texts, like Imam Ibn Taymiyya and his student Ibn al-Qayyim differed with this view. Their view, however, was not accepted by the majority of the Ummah.

(See Ibn Qudama, al-Mugni, V: 7, P: 104)

Some of the evidences declaring all three divorces to be in effect:

1) Allah Almighty says in the Qur'an:

**"Divorce is (only permissible) twice, thereafter either retaining her honourably or releasing her kindly...If he divorces her (the third time), she will not be lawful for him unless she marries another husband (and he also divorces her)."**

(Surah al-Baqarah, V: 229/230)

2) Sayyida A'isha (Allah be pleased with her) reports that: A man pronounced three divorces to his wife. She (after her Iddah) married another man. The Messenger of Allah salallahu 'alayhi wasallam was asked whether it was lawful for her to return to the first husband. He said: **"Not until they have sexual intercourse."**

(Recorded by Imam al-Bukhari in his Sahih)

It is clear from the above Hadith that three divorces at once will be affected. The woman was allowed to marry another man. The Prophet of Allah (Allah bless him and give him peace) would have surely pointed out, had three divorces not come into effect at once. The husband in this incident pronounced all three divorces at once as the great scholar of Hadith, Ibn Hajr rahmatullahi alaih rightly points out in his monumental commentary of Sahih al-Bukhari, 'Fath al-Bari'.

3) The Companion Uwaimir al-Ajlani (Allah be pleased with him) pronounced three divorces at once to his wife in the presence of the Messenger of Allah (Allah bless him and give him peace), which has been recorded by Imam al-Bukhari and others in the famous incident of Mula'ana or li'an (Public imprecation). The Messenger of Allah (Allah bless him and give him peace) did not negate what he said, which is a sign that all three divorces were effected. Also, all the companions (Allah be pleased with them) considered them to be in effect.

4) Sayyiduna Hasan ibn Ali (Allah be pleased with him) said (in a long Hadith, after divorcing his wife): "Had I not heard my father (Ali) narrating from my grandfather (Allah bless him & give him peace) say: **"when a man pronounces three divorces, then his wife will no longer remain lawful for him, unless she marries another man"**, I would have taken my wife back."

(Sunan al-Bayhaqi)

There are many other narrations recorded by the scholars of Hadith in their respective books, but time does not allow us to mention them all. The above evidences are sufficient for a person who intends to seek the truth.

Those who hold the view that only one divorce will be effected, usually present the following narration of Ibn Abbas in support of their argument.

Sayyiduna Abd Allah ibn Abbas (Allah be pleased with him) says: **“Three divorces were considered to be one in the time of the Messenger of Allah (Allah bless him and give him peace), Abu Bakr and in the first two years of Umar’s reign. Thereafter, Umar (Allah be pleased with him) declared it to be three divorces.”**

(Sahih of Imam Muslim)

The scholars of Hadith have analyzed this narration thoroughly in the context of all the other narrations. The great Hafidh, Imam Ibn Hajar deals with it in detail in his Fath al-Bari.

One of the meanings mentioned by the scholars is that, this narration is specific to only one situation, that is, when a person pronounces three divorces, but the repetition is only for emphasis (ta’kid) and not to issue another divorce. In the early days, people were morally more sound and reliable and thus when they said, it was only for emphasis and not to issue another divorce; it was taken at face value.

Umar (Allah be pleased with him) however, observed in his time that, people are becoming morally corrupt. Bad habits such as deceiving, cheating and lying, etc., have become prevalent. As a result he declared that, people’s statements will not be accepted as far as the courts are concerned. If the man is adamant that he only repeated the words to emphasize, then this will be between him and Allah.

**In conclusion, if a person pronounced three divorces at once in any way, then in the light of the above evidences and in accordance with the scholarly consensus, it will be considered as three divorces.**

And Allah Knows Best

(Mufti Muhammad ibn Adam al-Kawthari, Darul Iftaa, Leicester , UK)