



## **The Practice of Triple Talaq and Women's Protection in Aceh: A Maslahat Perspective**

Agustin Hanafi

Univeristas Islam Negeri Ar-Raniry, Banda Aceh

Sarina Aini

Sekolah Tinggi Agama Islam Pante Kulu, Aceh

Muhammad Husnul

Univeristas Islam Negeri Ar-Raniry, Banda Aceh

Iskandar Usman

Univeristas Islam Negeri Ar-Raniry, Banda Aceh

Siti Dian Natasya Solin

Univeristas Islam Negeri Ar-Raniry, Banda Aceh

Email: agustin.hanafi@ar-raniry.ac.id

**Abstract:** Talaq resulting in divorce is one of the issues discussed in Islamic family law not only in Aceh, but in Indonesia and the Muslim world. This study aims to discuss triple talaq at once that occurred in Aceh in relation to women's protection. This study uses empirical legal methods, analyzed with the theory of maslahat. Data is collected by; In-depth interviews and document review. This study concluded that triple talaq occurs due to three factors; The existence of *wild qadhi*, the presence of *muhallil*, lack of understanding. These three factors cause married couples to believe that triple talaq pronounced by the husband is legally valid, even though it occurs outside the court. Talaq must also be performed before the Court whose function is as a witness for the protection of the rights of the former husband and wife. In this context, to provide awareness and socialization about the legal rules regarding marriage, synergistic cooperation between institutions and across sectors is needed. These institutions are, syar'iyah courts or religious courts, religious ministries, clerical organizations, educational institutions and religious leaders at the village level. So that an understanding of the rules of law that apply in religious courts can be conveyed to the community as a whole. Thus, the issue of triple talaq does not make the wife a victim, because the husband can easily give talaq, resulting in a divorce. In the context of benefits, these legal regulations are carried out with the aim of protecting women's rights and making them dignified and treated fairly.

**Keywords:** Triple talaq, protection of women, maslahat, Islamic family law

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**Abstrak:** Talak yang berujung pada perceraian merupakan salah satu permasalahan yang dibicarakan dalam hukum keluarga Islam tidak hanya di Aceh, tetapi di Indonesia dan dunia Islam. Penelitian ini bertujuan untuk membahas talak tiga sekaligus yang terjadi di Aceh dalam kaitannya dengan perlindungan perempuan. Penelitian ini menggunakan metode hukum empiris yang dianalisis dengan teori manfaat. Data dikumpulkan melalui wawancara mendalam dan tinjauan dokumen. Penelitian ini menyimpulkan bahwa talak tiga kali lipat terjadi karena tiga faktor; Adanya qadhi yang liar, keberadaan muhallil dan kurangnya pemahaman agama. Ketiga faktor tersebut menyebabkan pasangan suami istri meyakini bahwa talak tiga yang diucapkan suami sah secara hukum, meskipun terjadi di luar pengadilan. Talak juga harus dilakukan di hadapan Pengadilan yang fungsinya sebagai saksi untuk melindungi hak-hak mantan suami-istri. Dalam konteks ini, untuk memberikan kesadaran dan sosialisasi tentang aturan hukum mengenai perkawinan, diperlukan kerjasama yang sinergis antar lembaga dan lintas sektor. Lembaga-lembaga tersebut adalah, pengadilan syar'iyah atau pengadilan agama, kementerian agama, organisasi ulama, lembaga pendidikan dan tokoh agama di tingkat desa. Sehingga pemahaman terhadap aturan hukum yang berlaku di peradilan agama dapat tersampaikan kepada masyarakat secara keseluruhan. Dengan demikian, persoalan talak tiga tersebut tidak menjadikan pihak isteri sebagai korban, disebabkan suami dengan mudah menjatuhkan talak, sehingga terjadilah perceraian. dalam konteks masalah, aturan hukum tersebut dilakukan bertujuan untuk melindungi hak-hak perempuan dan menjadikan mereka bermartabat dan diperlakukan secara adil.

**Kata Kunci:** Talak tiga, perlindungan perempuan, masalah, hukum keluarga Islam

## Introduction

One of the issues that is widely discussed in Islamic family law is divorce, because after divorce will cause legal consequences such as, payment of bread, inheritance, joint property, child care, child support. Divorce is an issue that has become a legal reality in many Muslim countries in the world, such as in Southeast Asia, South Asia, the Middle East, and North Africa.<sup>1</sup> Divorce starting

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<sup>1</sup> Jaime E. Mendoza, et.al., "Strengthening Marriages in Egypt: Impact of Divorce on Women," *Behavioral Sciences* 10, No. 1, (2019), p. 14. Hazar Kusmayanti, et.al., "The Settlement of Disputes Regarding Division of Joint Property After a Divorce in The Central Aceh Regency," *Jurnal Ilmiah Islam Futura* 21, No. 1 (2021). Siti Aminah and Arif Sugitanata, "Genealogy and Reform of Islamic Family Law: Study of Islamic Marriage Law Products in Malaysia," *Journal of Islamic Studies* 3, No. 1 (2022).

from talaq from a husband, or fasak from a wife is not an illegal act, but it can have a negative impact on women as well as husbands and children.<sup>2</sup>

Divorce can cause resentment and hostility between families, and children will lose figure and affection.<sup>3</sup> However, if you have to endure conditions that are not conducive and even believed to bring mudharat for married couples, then Islam provides a solution by taking a divorce in the hope that each partner will get a new, better life.<sup>4</sup> For this reason, divorce in Islam is the last alternative if efforts to reconcile a disputing married couple are deadlocked. The Qur'an wants divorce not to be done rashly, but should be done after fulfilling certain stages, such as the existence of *nusyuz* and *shiqaq*.<sup>5</sup>

For this reason, when a husband and wife want to divorce there must be a clear cause, not necessarily when a dispute occurs and then the husband easily expresses lafaz "divorce". However, both of them tried to take various efforts so that divorce did not occur, one of which was to mediate by presenting a respected and honorable person to help reconcile the two so that the marriage bond was always maintained. Even if the wife does *nusyuz* even if there are other efforts by giving advice, separating the bed, hitting slowly that is not painful so that there is regret for the mistake that the wife did, as the Qur'an hints sura an-Nisa': 35, and at-Talak: 1. But in today's society there are many cases of husbands who so easily drop talaq on their wives without careful consideration and clear reasons. The perception of some people is that even if the husband jokes and plays with the word "talaq" then the talaq is considered valid and falls, even if the husband utters talaq three at once without any witnesses then it is considered to fall three so that the husband can no longer refer to his ex-wife.

But along the way, many husbands regret what they did and really hope that there is a solution so that they can both be reunited. While the provisions based on the Qur'anic nash for wives who have been rejected three then the status becomes bain kubra so that the ex-husband can no longer refer to the ex-wife

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<sup>2</sup> Mursyid Djawas, et. al., "The Government's Role In Decreasing Divorce Rates In Indonesia: A Study of Its Factors and Impacts In Aceh And South Sulawesi," *Ahkam: Jurnal Ilmu Syariah* 21, No. 1 (2021). Fauzul Hanif Noor Athief and Resti Hedi Juwanti, "Court Decisions On Post-Divorce Children's Livelihood: Islamic Law Analysis On Their Practices In Indonesia and Malaysia," *Ijtihad: Jurnal Wacana Hukum Islam dan Kemanusiaan* 20, No. 2 (2020).

<sup>3</sup> Diyan Putri Ayu, et.al., "Pemikiran Ibnu Taimiyah Tentang Talak Tiga (Kajian Kitab Al-Fatawa Al Qubro)," *Al-Manhaj: Jurnal Hukum Dan Pranata Sosial Islam* 5, No. 1 (2023). Yusnanik Bakhtiar, "Penelantaran Rumah Tangga Sebagai Bentuk Kekerasan Dalam Rumah Tangga Yang Menjadi Alasan Perceraian Di Masa Pandemi Covid-19," *Legitimasi* 9, no. 2 (2020).

<sup>4</sup> Syukrawati Syukrawati, et. al., "Post-Divorce Rights of Women and Children in Pekalongan City, Central Java: Challenges in Islamic Law Analysis," *Al-Ahkam* 34, no. 1 (2024), p. 123.

<sup>5</sup> Darmawan Darmawan, et. al., "Relative Competence of The Sharia Court: Talaq Divorce Lawsuit And Protection of Women's Rights," *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 7, No. 1 (2023), 84.

unless the ex-wife first marries another man.<sup>6</sup> Eventually the former husband and wife cut corners, by going to a wild qadhi who did not have any authority as a guardian of marriage. By giving a reward, then begging that the ex-wife be married to another man with an unwritten agreement for example for a few nights only, not to be touched and so on and then divorced as one of the conditions to be remarried to her ex-husband which is first called *nikah tahlil* which is known in Acehnese society "*nikah china buta*."

This practice is very detrimental to women, as if women can move from one man to another so easily that it does not provide protection for women properly.<sup>7</sup> On the other hand, some people believe that for divorce cases there is no need for "witnesses" even the validity does not have to go through the Court because it is the absolute authority of a husband.<sup>8</sup> As a result, wild talaq occurs everywhere, but the most disadvantaged are women because they do not have a clear status, it is not even known when to start the *iddah* period and so on.<sup>9</sup>

Regarding this matter, there are several studies that can be used as comparisons or references, especially related to women's protection,<sup>10</sup> discusses divorce in Indonesia, Malaysia and the Maldives. Malaysian and Indonesian laws allow wives or husbands to file for divorce due to violence, while Maldivian only wives are allowed.<sup>11</sup> Discussing the reality of divorce in Madura which has increased in the last five years, which is caused by economic factors, namely low income of husbands, factors in the presence of third parties both due to parental intervention and infidelity with others, as well as disharmony due to disputes and differences in views. The phenomenon of increasing divorce lawsuits in Madura indicates that there has been a shift in perceptions among women about the

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<sup>6</sup> A. Zamakhsyari Baharuddin and Rifqi Qowiyul Iman, "At-Tafrîq Al-Qadhâ'i and The Religious Courts' Authority in Deciding A Divorce," *Syariah: Jurnal Hukum Dan Pemikiran* 20, no. 1 (2020), p. 4.

<sup>7</sup> Muflikhathul Khoiroh and Abd Syakur, "The Flexibility of Islamic Law in the Ganjur Tradition in Lamongan, Indonesia," *Ijtihad: Jurnal Wacana Hukum Islam Dan Kemanusiaan* 23, no. 2 (2023), p. 141.

<sup>8</sup> Taufiqurohman, "Implementasi Mediasi Pada Proses Perceraian TKI di Pengadilan Agama Ponorogo," *Juris (Jurnal Ilmiah Syariah)* 20, No. 1 (2021). Yuliatin, "Judges Considerations in Canceling Polygamous Marriages in Religious Courts," *Al-Risalah: Forum Kajian Hukum Dan Sosial Kemasyarakatan* 22, no. 2 (2022), p. 183.

<sup>9</sup> Shofiatal Jannah and Dwi Hidayatul Firdaus, "Reformulation of the Concept of Iddah in The Compilation of Islamic Law Perspective of Negotiative Hermeneutics," *De Jure: Jurnal Hukum Dan Syar'iah* 15, no. 2 (2023), p. 287.

<sup>10</sup> Martina Purna Nisa, "Critical Review of Domestic Violence As Reason For Divorce (Comparison Of Divorce Laws In Indonesia, Malaysia and The Maldives)," *Al-Ihkam: Jurnal Hukum & Pranata Sosial* 16, No. 1 (2021).

<sup>11</sup> Maimun Maimun, "The Women's Rights in Divorce And Gender Equality Discourse in The Dynamics of Divorce In Madura," *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 6, No. 1 (2022): 468.

meaning of divorce, in response to the presence of legislation that provides space for legitimacy for women to submit divorce claims.<sup>12</sup>

Then discussed the divorce case in the Shar'iyah Court in Aceh in several rulings stipulating the provision of iddah, mut'ah, joint property and care to women.<sup>13</sup> Examines divorce talaq cases tried by the Shar'iyah Court, the majority of which do not have strong legal force, because they are not in line with the principle of actor *sequitor forum rei*. In general, the decision of the Shar'iyah Court in Aceh in divorce talaq cases is carried out without the presence of the respondent (wife). This decision not only contradicts the principles of civil procedural law, but has an impact on limited access for women to defend their interests in the courtroom.

Examine Yusuf al-Qardhawi's opinion about triple talaq as well as prohibited because it is not in accordance with Islamic law.<sup>14</sup> Talaq must be done with certain stages of talaq then iddah followed by reference, then the second or third process of talaq. The postulate used based on the narration of Imam Muslim from Ibn Abbas, explains about the triple talaq that occurred during the time of the Messenger, Abu Bakr and the two years of the caliphate of Umar only counted once talaq. The narration of Al-Nasa'i from Ibn Wahhab, who reported about the Prophet who did not agree to hear the news of the occurrence of triple talaq at once. The narration of Abu Dawud from Nafi' who reported the divorce of Rukanah with his wife reached the Messenger of Allah. hence the prohibition of triple talaq at once in Yusuf Al-Qaradawi's view is an attempt to cover the damage.

This research is based on the postulates of shari'a, namely the Qur'an and hadith by looking at social phenomena in society that refer to the views of scholars who are so loose in the dropping of talaq. According to jumhur ulama that the fall of talaq does not need testimony because it is the prerogative of a husband while the verse regarding the recommendation of witnesses is only understood as sunnah. Jumhur ulama also considered that triple talaq at once pronounced by the husband was considered valid and fell three by referring to the practice of Umar bin Khattab which at that time aimed to punish husbands who deliberately played with the word talaq against their wives so that their status became *bai'n kubra* and were not allowed to refer before the ex-wife married another man first and had to *dukhul*.

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<sup>12</sup> Fajri M. Kasim, et.al., 'The Protection of Women and Children Post-Divorce in Sharia Courts In Aceh: A Sociological Perspective.,' *Ahkam: Jurnal Ilmu Syariah* 22, No. No 2 (2022).

<sup>13</sup> Darmawan, et. al., "Relative Competence of The Sharia Court: Talaq Divorce Lawsuit And Protection of Women's Rights." Abd. Rouf, "Jurimetrics in the Reconstruction of the Joint Property Division Model for Wage-Earner Wives in Indonesia," *Ahkam* 34, No. 1 (2024).

<sup>14</sup> Yuhasnibar and Risna Wati, "The Law On The Tripple Talaq at Once in The View of Yusuf Al Qaradawi's In Contemporary Context: Analysis of Sadd Al-Zarī'ah Theory," *El-Usrah: Jurnal Hukum Keluarga* 2, No. 2 (2023).

As a result, there are many wild talaqs in society so that women do not have a clear status, even the impression is that women become objects because they have to marry other men first even though the wrong one is the husband.<sup>15</sup> While the Qur'anic cues so that in the practice of talaq is not rushed, it provides an opportunity for reference and even the need for witnesses.

This article aims to describe how the Islamic views and practices of the Acehnese people towards triple talaq at once and its relation to the protection of women carried out in Banda Aceh and Aceh Besar. This study uses empirical legal methods, analyzed with maslahat theory.<sup>16</sup> The mashalat theory is important to analyze the legal reality that occurs in Acehnese society regarding triple talaq by prioritizing the benefit and protection of women against the negative effects of divorce.<sup>17</sup> Data was collected by means of in-depth interviews with couples who performed triple talaq, as well as Islamic jurists and academics. Likewise, literature studies for example, books of fiqh, tafsir, and journal articles related to the discussion.

### The Practice of Talaq in Islamic Law

According to jumhur ulama that the dropping of talaq is so loose, if the husband utters it even in a state of theatrics or playfulness then it is still considered valid and falls,<sup>18</sup> by referencing QS. al-Baqarah: 231 "*Do not play with the verse of Allah*". According to the narration, because of the descent of this verse the Jahiliyah people liked to play tricks on their wives with the words "talaq" and then refer to them again, but he claimed that they were all just plays and jokes, and then this verse came down..<sup>19</sup> Then the hadith of the Prophet (peace be upon him): "*There are three things that although joking will be considered serious matters namely marriage, talaq and ruju'* (Narrated by Abu Dawud)". Thus, even in playful conditions if someone has uttered talaq is still considered valid, because it is not allowed to play with Allah's law.<sup>20</sup> So according to Jumhur, scholars can drop talaq at any time, not necessarily limited to certain situations and conditions.

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<sup>15</sup> Taufiqur Rohman, et. al., "Preventing Violations of Religious and Social Norms: Judicial Interpretation of 'Urgent Reasons' in Marriage Dispensation at the Wonosari Religious Court, Indonesia," *Journal of Islamic Law* 4, no. 2 (2023).

<sup>16</sup> Faisal Ananda Arfa and Watni Marpaung, *Metode Penelitian Hukum Islam*, Jakarta: Kencana, 2018). Peter Mahmud Marzuki, *Penelitian Hukum* (Jakarta: Kencana, 2017).

<sup>17</sup> Nasrulloh Nasrulloh Muhammad Aulia Rahman, Roibin Roibin, "Dayak Ngaju Customary Fines in Pre-Marriage Agreement to Minimize Divorce in The Perspective of Maslahah Mursalah Ramadhan Al-Buthi," *El Maslahah* 13, no. 1 (2023): 61, [https://doi.org/Dayak Ngaju Customary Fines in Pre-Marriage Agreement to Minimize Divorce in The Perspective of Maslahah Mursalah Ramadhan Al-Buthi](https://doi.org/Dayak%20Ngaju%20Customary%20Fines%20in%20Pre-Marriage%20Agreement%20to%20Minimize%20Divorce%20in%20The%20Perspective%20of%20Maslahah%20Mursalah%20Ramadhan%20Al-Buthi).

<sup>18</sup> Hasyim Nawawie, *Tarikh Tasyri'* (Surabaya: Jenggala Pustaka Utama, 2014).

<sup>19</sup> Muhammad Ali As-Sayis, *Tafsir Ayat Al-Ahkam*, 1st Ed., School Al-Safa, 2001.

<sup>20</sup> Wahbah Al-Zuhaili, *Al-Fiqh Al-Islami Wa Adillatuhu*, Juz 3 (Suriah: Dar Al Fikri, 1985).

Then another hadith, *from Abi Darda'* that the Holy Prophetsa once said "*Whoever performs talaq, frees slaves, marries, even though he says "I am only doing a play, it is still considered valid"*".<sup>21</sup> The conclusion is that tinkering with *lafaz nikah, talaq, ruju', 'itq* (liberation of slaves) is considered falling. Because based on the agreement of experts that sincerity is not a condition in the imposition of talaq Then in ratio, even though a husband is playing or playing, but talaq and his intention are directed at his wife so that the assumption of "not happening" cannot be used as an excuse.<sup>22</sup> However, some followers of Imam Mālik consider that talaq in a state of playfulness or playfulness does not fall, because without being accompanied by *al-Qasd* and intention (1975) they quote the Qur'anic verse al-Baqarah: 227. *And if they are determined to) talaq, then Allah is All-Hearing and All-Knowing.* Based on the above verse, divorce must be accompanied by intention, then talaq with theatrics is considered not to fall because in it there is no element of *al-qasd* and intention.

For that, if you pay attention to QS. al-Baqarah verse 231 which is postulated by jumhur about the validity of talaq in the condition of acting as it reads: "*If you divorce (your) wife, until (almost) the end of his iddah, detain (refer) them in a proper manner, or divorce them in a proper way (also). Do not hold them back (refer) to give harm, so that you transgress the limit. Whoever does so has indeed done evil to himself. Do not make Allah's laws a game, and remember Allah's favor on you, and what Allah has revealed to you is the Bible and Al-hikmah (al-Sunnah). God teaches you by what He has revealed. And be fearful of Allah, and know that Allah knows all things."* Before the sentence "*Do not make the laws of God a game*" there is another sentence: "*Hold (refer) them in a proper way or divorce them in a proper way (also). Do not refer them to harm, for by doing so ye persecute them."*

Thus, this verse cannot be understood narrowly or literally as the understanding of the number of scholars above, because the meaning contained in it is very broad, namely the advice for husbands not to be arbitrary towards their wives either when living together or when taking the path of divorce. If you do not heed God's provisions as outlined, you are considered to have played with God's law. Likewise, if you refer to the Qur'anic verses and hadith of the Holy Prophet (peace be upon him) which hint not to facilitate the fall of talaq, even as much as possible avoided and husbands are advised to always be patient in dealing with the attitude of the wife,<sup>23</sup> as QS. al-Nisa: 19. "*And get along with them*

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<sup>21</sup> Ibnu Syaybah, *Musannaf: Kitab Al-Talaq Bab Ma Qalu Fi Al-Rajuli Mata Yatibu Lahu An Yakhla Imra'atahu*, (Riyadh: Maktabah Al-Rusyd, 2004).

<sup>22</sup> Mustafa Al-Siba'i, *Al-Sa'id Al-Sa'dal Al-Muttahidah*, 2nd Ed. (Jami'ah As-Suriyyah, 1985).

<sup>23</sup> Elizabeth B. Hurlock, *Developmental Psychology (An Approach Across The Life Span)*, Vol 5. (Erlangga, 1980).

*properly. Then if you don't like them, (then be patient) because maybe you don't like something, when God made him a lot of good."*

Then, if considering the opinion of scholars who require the existence of intention (*al-Qashd*) in the dropping of talaq, it is necessary to look at the hadith on which the number of scholars above is based carefully, because this hadith according to its birth is not in line with the signs of the Qur'an, as Allah says in QS. al-Baqarah: 227, "*And if they are determined (to remain steadfast for) talaq, then verily Allah is All-Hearing and All-Knowing*". And verse 231, "*When you chasten your wives, then they are near the end of their iddah*". In QS. al-Baqarah: 227 above there is the phrase "*wa in 'azamu*", while in QS. al-Baqarah: 231 there is the phrase "*wa idha talaqtumunnisa*". The meaning of "*azamu*" contained in the verse is "determination or having a firm determination to do something,"<sup>24</sup> while the word *idha* can be interpreted as "if, should, or desire". Thus, although the above verse is related to the case of *ila'*, and the advice to mentalak wife when her condition is ready to iddah, but when you want to do something, of course it cannot be spontaneous, but must be accompanied by strong intentions and desires, especially this relates to domestic problems that do not only concern the relationship between husband and wife, but also related to the relationship of the servant with Allah Almighty. On the other hand, according to some scholars the quality of this hadith is weak, because there is Abd Rahman bin Habib bin Ardak.<sup>25</sup>

Thus, if referring to the opinions of some scholars who require the existence of intention and *al-Qasd* and Qur'anic verses that desire prudence in the imposition of talaq,<sup>26</sup> then the number of talaq is twice (QS. al-Baqarah: 229), and something that is halal but is hated by Allah is talaq, then the dropping of talaq in a playful condition is contrary to human benefit. So if a person plays, misspeaks or slips his tongue with the words talaq, then his talaq is not considered to fall, because there is no element of intention and intention that is a condition in the dropping of talaq. Then the marriage bond is a *mitsaqan ghalizan* that is maintained as much as possible, coupled with the hadith information that all charity is only considered valid if accompanied by intention, so it is wise to place the hadith of the Prophet of Allah as a warning not to play with talaq, especially related to husband-wife relationships that are considered very sensitive that can offend one party.

Then regarding triple talaq at once, some scholars such as Imām Syāfi'ī, Abū Tsūr, Ibn Hazm al-Zahiry, and one narration from Imam Aḥmad, that triple

<sup>24</sup> Al-Imam Abi Bakr Ahmad al-Razi Al-Jasas., *Ahkam Al-Quran Juz 1.*, 1st ed., n.d.

<sup>25</sup> Al-Atsir Jazri., *Jami' Al-Usul Fi Ahadits Al-Rasul Juz. VI.*, 1st ed. (Daar al-Fikr, 1997).

<sup>26</sup> 'Abd. Al-Rahman al-Sabuni, *Syarh Qanun Al-Ahwal Al-Syakhsyiyah Al-Suri Al-Juz Al-Tsani Al-Talaq Wa Atsaruhu.* (Jami'ah Dimasyq, 1991).



talaq at once is permissible".<sup>27</sup> By referencing QS. al-Baqarah: 229: "*Talak (which can be referred to) twice. After that you can reconcile again in a ma'ruf way or divorce in a good way*". *Wajh al-dilalah* from this verse is the ability of talaq in general, without distinguishing between talaq one, two and three, whether done triple talaq in one assembly at once or on separate occasions.<sup>28</sup> Then the postulate from the *Sunnah*: "*from 'Āisyah (r.a.), that there is a man who mentalizes his wife with triple talaq at once, then his wife marries another man, then divorces, then asks this question to the Apostle "Is it permissible to return to her first husband"? The Prophet replied "No, so that he must mix first" ('Āisyah said): The Prophet did not deny the occurrence of triple talaq.* (Narrated by Bukhari)".<sup>29</sup>

The above hadith shows that triple talaq at once is permissible. If it had been forbidden, the Prophet would not have forbade his wife to refer to her first husband.<sup>30</sup> However, there is one narration from Imām Aḥmad that triple talaq is at once a forbidden talaq *bid'ī*.<sup>31</sup> Referring to the word of God: QS. al-Baqarah 2: 229). *Wajh ad-dilalah* from this verse talaq which can be referred to twice. This means that the talaq that is decreed is done only once. But if a husband rushes to his wife's mentality with triple talaq, it means that he has violated the provisions of the Shari'a so that the talaq he drops as a forbidden "*bid'ī*". Even linguistically "twice" is considered not to happen, except when done separately, and sequentially. That is, "talaq dua" or "talaq tiga" in one utterance is considered not to occur unless the husband utters it with a separate and gradual lafaz, i.e. preceded by talaq *raj'ī* and then becomes *ba'in*.

Another postulates, "That a man who mentalizes his wife with triple talaq at once, the Messenger stands up in a state of anger, and then says, Is he playing with the book of Allah (Qur'an), while I am (still) among you".<sup>32</sup> Thus, the wife's mentality with lafaz talaq three or two at a time, something that is forbidden, so that the perpetrator sins greatly. They also postulate with the prophet's hadith "that everything should be done gradually and separately like doing prayer beads, followed by tahmid then *takbir*".<sup>33</sup> Then another argument, if the husband rejects his wife with talaq one then of course there is still a chance for him to reconcile, but on the contrary if he does it more than once, it can make him even more frustrated because there is no longer a chance to reconcile.

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<sup>27</sup> Ahmad. Al-Ghandur, *Al-Talaq in Al-Syari'ah Al-Islamiyyah Wa Al-Qanun. 1st 1967*, 1st ed (Dar al-Ma'arif, 1967).

<sup>28</sup> Mutiara Fahmi, et al., "Raj'i Talaq Law According to the Shafi'i School in Polyandry Cases (Case Study of Banda Aceh Shar'iyah Court Decision Number 383/Pdt.G/2020/MS. Bna)," *El-USrah: Jurnal Hukum Keluarga* 6, no. 1 (2023), p. 161.

<sup>29</sup> IBN Hazar. Al-Asklani, *Fath Al-Bari' Siyad Sahih Al-Bukhari*, CET. I.I. (Beirut: Dar al-Qutb al-'Ilmiyyah, 1997).

<sup>30</sup> Al-Asqalani, *Fath al-Bari' Siyad Sahih Al-Bukhari*.

<sup>31</sup> Al-Asklani. .

<sup>32</sup> Al-Asklani.

<sup>33</sup> Ibn Qudamah, *Al-Mughni.*, Juz VIII, Kairo: Dar Alamiyah, 2011.

Scholars also differ on whether triple talaq at once is considered a fall or not. The first group (Ibn 'Abbās, 'Alī, Ibn Mas'ūd, 'Abd al-Raḥmān bin 'Awuf, Ibn Taymiyah and Ibn Qayyim<sup>34</sup> such talaq is considered to fall only once (*talak raj'ī*) by referring to the hadith of the Prophet (peace be upon him): "*from Tāwus, from his father verily Abū al-Sahbā' said to Ibn Abbas "do you not know that triple talaq in one word at the time of the Holy Prophetsa, Abu Bakr, and two years into the reign of 'Umar is considered to have fallen once? He replied "yes" (Narrated by Muslim). In another narration, " Was not triple talaq in one word at the time of the Holy Prophetsa, Abu Bakr, considered to fall only once, he replied "yes". However, in Umar's time there were many people who played with talaq, so Umar decided that triple talaq in one word was considered to fall three (Narrated by Bukhārī).*

What Umar did did not mean that he had made new provisions outside the Shari'a or allowed something forbidden, but the situation at that time, many husbands played tricks on their wives with afaz talaq, and referred to her when she wanted so that it was considered to have played with Allah's provisions. In order that this dishonorable attitude did not continue continuously, Umar took a firm decision that triple talaq at once pronounced by the husband was judged to fall three at once.<sup>35</sup>

Then another hadith: "*Rukānah once mentalized his wife with triple talaq at once in one assembly, then she was very sorry for what she did. When this matter was brought to the Messenger of Allah, it was answered that such talaq was only considered to fall once so the Prophet told him to refer back. (Narrated by Bukhari).*" Furthermore, the *second group* (jumhur ulama including contemporary scholars such as Wahbah Zuhaili, that triple talaq at once pronounced by the husband is considered to fall three<sup>36</sup> by referring to the hadith of the Apostle "*that Ibn Umar mentalak his wife was in a state of menstruation, then wanted to add it with two more talaqs that were still left, then when this reached the Holy Prophetsa, he asserted that this had violated the provisions of the sunnah. Then Ibn 'Umar replied "O Messenger of Allah, if I want to mentalak him with triple talaq, can I refer him back? The Prophet replied "no" this is considered talaq bain and is immoral. (Narrated by Bayhaqī)".*

Another reason is that Allah SWT has set a limit in talaq which is with talaq one, so that the husband has the right to reconcile'. But if this right is ignored, it is still considered to fall, because whoever narrows himself, then all the

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<sup>34</sup> Jamhuri Jamhuri and Zuhra Zuhra, "Konsep Talak Menurut Ibnu Qayyim Al-Jauziyyah (Analisis Waktu Dan Jumlah Penjatuhan Talak)," *Media Syari'ah* 20, no. 1 (2020), <https://doi.org/10.22373/jms.v20i1.6503>.

<sup>35</sup> Al-Rahman al-Sabuni, *Syarh Qanun Al-Ahwal Al-Syakhsyiyah Al-Suri Al-Juz Al-Tsani Al-Talaq Wa Atsaruhu*.

<sup>36</sup> Masykurotus Sharifah, "Triple Talaq at Once the Perspective of Sheikh Wahbah Al-Zuhayli and KHL.," *The Indonesian Journal Islamic Law and Civil Law* 3 (n.d.).

consequences are borne by himself. They also refer to *ijmā'*, that Umar ibn al-Khattab decided on triple talaq and triple fall, no one denied Umar's decision.<sup>37</sup> The *third group* (Ishaq bin Rahawaih) that triple talaq pronounced by the husband of *sekalaigus* is considered to fall three, but only for women who have been interfered with, but on the contrary fall one for women who have never been interfered with.<sup>38</sup>

Implementatively the practice of talaq in Muslim countries such as Kuwait, Egypt and Sudan applies the law that triple talaq pronounced at once is considered to fall only one, both spoken through gestures and writing, for the reason of maintaining family happiness, so that they have the opportunity to reconcile.<sup>39</sup> Likewise, in Indonesian regulations that talaq pronounced several times by the husband is considered to fall only one and is considered valid and falls if pledged before the Religious Court.

Regarding the existence of witnesses in talaq there are differences of views among scholars, due to the understanding of QS. al-Talaq verse 2 "*When they are near the end of their iddah, then refer to them well or deliver them well and testify with two just witnesses among you and establish that testimony for Allah's sake. Thus is taught with it those who believe in Allah and the Hereafter. whoever fears Allah will find a way out for him.*"

According to a number of scholars such as Mālik, Shafi'ī, a narration from Imam Aḥmad, that testimony in divorce is considered *sunnah*. Because of the meaning of *firaq* in the verse mentality of the wife to end her iddah period, even the mention of "testimony" in this verse after the words divorce, so testimony is considered not a condition for the validity of talaq.<sup>40</sup> Jumhur ulama agreed that the testimony is not a condition for the validity of divorce, because the command in the verse is only to anticipate lest disputes occur if they are not witnessed. Jumhur ulama understand that the order is not to be carried out at the time of the dropping of talaq, but at a certain time if there is a dispute.<sup>41</sup>

Another reason, that talaq is the prerogative of the husband so that it does not need to be witnessed, and when doing so there must be no blessing from the wife (al-Sabuni, n.d.). The same thing is expressed by Ḥanafīyyah that testimony in talaq is only something *mandub*, because it is *qiyaskan* to buying and selling as QS al-Baqarah: 282 "*Witness the process of buying and selling*".

Then QS. al-Baqarah: 231. "*If you divorce (your) wife, until (almost) the end of her iddah, detain (refer) them in a proper manner, or divorce them in a*

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<sup>37</sup> Al-Rahman al-Sabuni, *Syarh Qanun Al-Ahwal Al-Syakhsyiyah Al-Suri Al-Juz Al-Tsani Al-Talaq Wa Atsaruhu*.

<sup>38</sup> Muhammad Sharif. Dibaj, "Implementation of Sadd Adzariah against Triple Talaq Falls Talaq One.," *Journal of Sharia Darusalam* Vol 6, no. No. 1 (n.d.).

<sup>39</sup> Al-Ghandur, *Al-Talaq in Al-Syari'ah Al-Islamiyyah Wa Al-Qanun*. 1st 1967.

<sup>40</sup> Muhammad Ali. Al-Sabuni, *Al-Bayan*, n.D, n.d.

<sup>41</sup> M Quraish. Shihab, *Tafsir Al-Misbah*, Vol. 14 (Lentera Hati, 2004).

*proper way (also)*. The common thread of the verse is mental ability, without mentioning the urgency of the presence of witnesses. In fact, there is no specific evidence that mentions the obligation of witnesses in a divorce, so testimony is considered not mandatory. Thus, according to the *jumhur ulama* talaq is considered to fall even in the absence of witnesses, because the Messenger and the Companions do not explain specifically about the necessity of witnesses.<sup>42</sup> Allah commands to bring witnesses in times of talaq, because of the nature of the commandment it is considered something obligatory. Likewise, according to Ibn Hazm and some of his followers, the commandment contained in the verse is obligatory.<sup>43</sup>

Based on the postulates put forward by the above scholars, then QS. at-Talaq verse 2 which is in the form of a command, Then refers to the hadith of the Prophet (peace be upon him): "*From 'Imrān bin Ḥaṣīn r.a., he was once asked about a man who divorced his wife and then referred her back but did not testify to anyone else. Ḥaṣīn replied, you have mentalized and refer 'not to the sunnah. When performing talaq and ruju' should be witnessed. And don't repeat what happened before. (Narrated by Abu Dawud)*".<sup>44</sup> The fact that divorce is to end the marriage period that was once witnessed by many people, so at the time of ending it also needs to be witnessed even by two people to maintain legal certainty.

Thus, the presence of witnesses in the imposition of talaq is considered mandatory even if the talaq is invalid without witnesses. This is considered in line with *the zahir* of the Qur'anic verse above, without the need to distinguish testimony in terms of reference and talaq, let alone related to *the benefit* of the crowd, which may have previously been preceded by disputes and mutual claims from both sides. The same meaning is also found in Indonesian legislation, as explained in Article 124 "*Divorce occurs when the divorce is declared before the court.*" This means that talaq or divorce must be witnessed and requires legal legality.

Thus, even though in *fiqh* talaq is counted after being pronounced by the husband but the regulations applied in Indonesia, the imposition of talaq is counted from the moment it is pledged before the court, in the sense that even though the husband has uttered the words "talaq" it has not been considered valid except after it has been done before the court as in the 1974 Marriage Law and the 1991 Compilation of Islamic Law.<sup>45</sup> If the husband has previously uttered "talaq", his speech must be repeated again before the court, with this kind of

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<sup>42</sup> Al-Sabuni, *Al-Bayan*, n.D.

<sup>43</sup> Al-Sayid. Syabiq, *Fiqh Al-Sunnah*, Jilid 2. I (Dar al-Fikr, 1983).

<sup>44</sup> Syariful. Haqq, '*Aunul Ma'bud 'Ala Syarhi Sunan Abu Dawud. Vol. 1.*, 2nd ed. (Dar Ma'arif, 1984).

<sup>45</sup> Et.al Safrizal, "'The Establishment of Talaq in the Perspective of Positive Law and Shafi'i Fiqh.'" *Jurna Al-Fikrah* Vol. 9 (n.d.).

repetition does not mean that the husband has dropped talaq many times, because what was said before by the husband is considered to have no meaning.

### The Practice of Triple Talaq in Aceh

According to the provisions of Islamic law, talaq is one of the husband's rights. Allah has made the right of talaq in the hands of the husband and does not make the right of talaq in the hands of others, whether the other person is a wife, a witness or a court.<sup>46</sup> In the time of the Messenger of Allah, and Khulafaurrasyidin that triple talaq in one word was considered to fall only once, but during the reign of Umar bin Khattab many husbands played tricks on their wives with the words talaq so that Umar punished the husbands by dropping triple talaq at once so that his status became *ba'in kubra* no longer reconcile' unless the wife marries another man or the husband recently died.<sup>47</sup> However, some people are still affected by the practice carried out by Umar, meaning that triple talaq pronounced by the husband is considered to fall three.<sup>48</sup>

The legal reality of triple talaq can be traced to married couples from Banda Aceh and Aceh Besar with an age range of 26-67 years. Despite this, most of them are still not so long married. When viewed from the entire practice of triple talaq, it can be categorized as three factors; wild qadhi/*kadhi liar*, The Existence of *Muhallil* and Lack of Legal Understanding.

#### 1. Wild Qadhi

The occurrence of triple talaq in Aceh can be understood to be caused by the existence of "*kadhi liar*/wild qadhi " which in the information of the perpetrators is considered "religious figures" and "religious leaders" are considered to know more about religion and Islamic family law, especially on the issue of marriage and divorce. Therefore, a married couple reports the triple talaq incident at once so that the answer from the wild qadhi legitimizes and gives the answer that the triple talaq imposed by the husband on his wife is automatically valid and has the force of law. The practice of wild qadhi can be found in all three cases; that is;

Husband and wife B 42 years old and Y 40 years old, both admitted that one day they had a fight because Y was jealous because B often communicated with a woman by leading to an attractive relationship, then slammed B's

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<sup>46</sup> Faisal Yahya and Wani Maulida Alsa, "Penerimaan Kesaksian Tanpa Sumpah Dalam Perkara Cerai Talak (Analisis Putusan Hakim Tingkat Banding Nomor 45/Pdt.G/2017/MS.Aceh)," *Media Syari'ah* 20, no. 2 (2020), <https://doi.org/10.22373/jms.v20i2.6517>.

<sup>47</sup> Muhammad Muchtar, "Ashkur. 'The Difference between Talaq One, Two and Three in Islamic Law.,'" *Justisi* 5, no. 2 (n.d.).

<sup>48</sup> Oom Mukarromah and Entus Syamsurrizal, "'Under The Hand' Divorce Islamic Law Study of the Implementation of Divorce," *Journal of Social Science Studies* 4, no. 1 (August 2016): 22, <https://doi.org/10.5296/jsss.v4i1.9674>.

cellphone until it was badly damaged. Finally, B was furious and immediately dropped triple talaq on Y. But after two weeks Y felt sorry for her young son so she took the initiative to return to her ex-husband. But consequently she had to pay a *wild qadhi* to be willing to marry her to another man, dowry and others were borne by Y because of the desire to return the initiative from him. Finally she married another man for one month then divorced, then remarried to her ex-husband.<sup>49</sup>

Husband and wife with initials J 35 years and U 32 years, U had separated from J for several months because previously J dropped triple talaq at once to U, but after they consulted with family and religious leaders, their status was considered broken and no longer legal as husband and wife unless the ex-wife married first to another man. However, both believe that this is because it is a religious law that should not be ignored.<sup>50</sup> Husband and wife R 32 years old and N 31 years old, R once said talaq three at once, N insisted that he had fallen three based on what he understood from the results of the recitation so far the hall or taklim council so as to consider that R was no longer halal for him.<sup>51</sup>

## 2. *Muhallil*

When the couple complains about the triple talaq event to the wild qadhi, then usually the qadhi will offer *muhallil*. *Muhallil* was a man who was willing to marry a wife who had been tripled by her husband. *Muhallil* or in Acehnese terms called "*China Buta*," the person is usually paid a certain amount of money. Then when there was a marriage between *Muhallil* and his wife, then at that time divorce was also carried out without the occurrence of husband and wife relationship. Furthermore, a husband and wife can remarry after they are considered to be triple talaq and unable to live together. In three cases, *muhallil* can be found;

The reality of a married couple who did this, for example; a husband and wife with initials G 40 years and N 38 years, both admitted that they had been indecisive and upset because G dropped talaq three times to N, and firmly believed that it was considered falling, because that was the message of the Qur'an, he said. And is trying to find another man as *muhallil*.<sup>52</sup> The husband and wife of M 34 years old and F 34, one day they had a big fight because M was considered less responsible and less caring for the family, F felt alone in taking care of his household. M also often commits violence, so he asks to be rejected

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<sup>49</sup> "B and Y. Interview, Married Couples (2023).," n.d.

<sup>50</sup> Emilsyah Nur and Rukman Pala, "MAPPACCI SEBAGAI MEDIA PESAN MASYARAKAT DI KABUPATEN BONE," *Walusuji : Jurnal Sejarah Dan Budaya* 11, no. 2 (2020), <https://doi.org/10.36869/wjsb.v11i2.160>.

<sup>51</sup> "R and N. Interview, Married Couples (2023).," n.d.

<sup>52</sup> *G and N. Interview, Married Couples (2023).*, n.d.

three at once, then spontaneously M utters it so that they believe that there is no longer a husband-wife relationship between the two.<sup>53</sup>

Husband and wife U 47 years old and K 46 years old, her husband once dropped triple talaq on his wife, then his wife's father no longer allowed them to live in the same house on the grounds that they had fallen talaq bain kubra, and his wife believed what her father said because he was considered to understand qualified religious knowledge.<sup>54</sup> The husband and wife with initials M 55 years and S 50 years, one day the two couples admitted to quarreling and then accidentally said triple talaq at once from their husbands, so they were confused but they both believed that it fell three so that the ex-wife had to marry another man first. Then they agreed to find another man with a certain reward so that later after marrying his ex-wife would not be touched and divorced after three nights.<sup>55</sup>

### 3. Lack of Legal Understanding

Three talaq cases are also found in married couples who do not understand much about Islamic law in force in Indonesia, namely the Marriage Law of 1974 and the Compilation of Islamic Law in 1991. Both of these legal rules are used in religious courts, especially in Aceh, the Shar'iyah Court. The practice of triple talaq with less legal understanding can be seen in four cases;

Husband and wife Z, 40, and C, 42, have been married for 15 years. Because of the argument and then Z dropped talaq three at once, they were convinced that it really fell so that it could no longer be reconciled, but soon C admitted her delusion and wanted to return to her ex-husband. Finally, the two met someone who was considered to understand religious issues, explained that their status was considered bain kubra and then given a solution to marry a man not far from where they lived. C agreed with what was suggested because she was also thinking about her child's future.<sup>56</sup> The husband and wife F 27 years old and D 25 years old, they admitted that F had dropped talaq three at once to D but they claimed that the talaq had not fallen because it was not done before the Shar'iyah Court, but had to regret what was done and repent immediately.<sup>57</sup>

Then a husband and wife F 30 years old and S 26 years old, if the husband is angry and then utters talaq three at once in one speech even without witnesses, it is considered to fall three, the reason is because this has been practiced during the time of friends.<sup>58</sup> The husband and wife of R 67 years old and A 63 years old are no longer willing to sleep with their husband for almost a year even though they still live in the same house because her husband was once upset and said

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<sup>53</sup> "M and F. Interview, Spouse (2023).," n.d.

<sup>54</sup> "U and K. Interview, Spouse (2022).," n.d.

<sup>55</sup> "M and S. Interview, Married Couples (2022).," n.d.

<sup>56</sup> "Z and C. Interview, Spouse (2023).," n.d.

<sup>57</sup> "F and D. Interview, Spouse, (2023).," n.d.

<sup>58</sup> "S and F. Interview, Spouse (2022).," n.d.

talaq three at once, so A believes that she is no longer halal for her husband unless she must first marry another man as the ulama views.<sup>59</sup> A married couple Z 26 years old and R 24 years old have a child, according to this couple if the husband has recited talaq three at once then it is considered to fall three because of the answer from religious leaders.<sup>60</sup>

From some of the cases found above, it can be understood that there are three factors that cause the occurrence of triple talaq, namely the presence of *wild qadhi*, the presence of *muhallil*, lack of understanding. These three factors cause married couples to believe that triple talaq pronounced by the husband is legally valid, even though it occurs outside the court. The couple understood Islamic law that it is not permissible to play with the word talaq, if it is spoken it is considered to fall three. However, some of these couples feel a dilemma because on the one hand the husband regrets his actions, on the one hand the ex-wife must first marry another man. They find it hard to pay a man to marry her in the face of an *agreed wild qadhi* for a certain period, then divorce and then remarry her ex-husband. This practice is rife and almost everything is engineered, paid, made agreements so that women are not touched and returned in accordance with the agreement so that women's status is like goods traded for the benefit of certain parties.

The large number of understandings about the fall of triple talaq at once is not something foreign among the people of Aceh because it also has a strong foundation and has even been regulated in the Fatwa of the Aceh Ulama Consultative Assembly Number 02 of 2015 concerning Talaq "Talaq three times said and or three times, fell three".<sup>61</sup> Talaq outside the court and/or Talaq without witnesses is valid". Then based on interviews with several members of the Aceh Ulama Consultative Assembly, MT, AH as deputy chairmen of the Ulama Consultative Council (*Majelis Permusyawaratan Ulama*/MPU, both strongly support the fatwa.<sup>62</sup> MFJ, a member of the MPU believes that if the husband recites talaq three at once in one assembly, it is considered to fall three at once, but if the husband recites the word talaq three times with separate sentences, then judging from his intention. If the intention is only for one time while the previous sentence is only as reinforcement and emphasis then the fall of one, but on the contrary if the intention is indeed to drop talaq three at once then it is considered to fall three.<sup>63</sup>

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<sup>59</sup> Interview with R and A, Married Couples, Banda Aceh, August 2023.

<sup>60</sup> Interview with R and Z, Spouse, Banda Aceh, August, 2023.

<sup>61</sup> Muhazir Muhazir, "Dualisme Peraturan Perceraian Di Aceh: Kontestasi Fatwa Dan Hukum Negara," *Al-Ahwal: Jurnal Hukum Keluarga Islam* 13, no. 2 (2020), p. 198.

<sup>62</sup> Interview with MT, Member of the Ulama Consultative Assembly, Banda Aceh, October 2023.

<sup>63</sup> Interview MFJ, Member of the Ulama Consultative Assembly, Banda Aceh, October 2023.



While MF agreed with the *jumhur* opinion because it was corroborated by the proposition of *ijma'* of the companions who referred to the practice of Umar bin Khattab which was indeed very appropriate in that context because many husbands played with their wives with talaq words. however, if the government has arranged by choosing one of the opinions of the mujtahids, then the decision is considered a solution in resolving differences because that is what suits the real conditions for now.<sup>64</sup> However, not all MPU members agree with the fatwa, AY for example because the Qur'an narrows the occurrence of talaq and still provides opportunities for reference.<sup>65</sup>

### Triple Talaq and Women's Protection: A Maslahat Perspective

The practice of triple talaq in the context of Islamic law is clearly contradictory and cannot bring benefits to domestic life, including children. because the benefit in Islamic law of the wife is that her rights are well protected. The three talaqs mentioned above are caused by *wild qadhi factors*, the presence of *muhallil* (blind love), lack of understanding of state law so that the talaq occurs outside religious courts. As a result, it has an impact on the loss of protection of women's rights.

Actually, if we examine the arguments and arguments put forward by the ulama above and pay attention to the proposition of *Jumhur ulama*, that in the Qur'anic verse does not mention at all the problem of triple talaq at once, but only explains that the wife should no longer refer to her ex-husband who has experienced three talaqs, unless the ex-wife first carries out a marriage contract with another man. Then refer to the Qur'anic verse sura al-Baqarah 229, "*Talaq (which can be referred to) twice after that may be reconciled' again in a ma'rūf manner or divorce in a good way*". The common thread is that Allah Almighty does not want triple *talaq* at once, but still gives ex-husbands and wives the opportunity to reconcile. So it is really hard to feel a household that has been built for so long but has to dissolve with just one sentence, even though it can still learn from previous mistakes.

Then QS. al-Talaq: 1, "*O Prophet, if you divorce your wives then you should divorce them when they can (face) his iddah*" Commentators such as Ibn 'Arabī mention that at the end of the verse there is a sentence "*wanting something else*" that is the will and desire to return to the ex-wife', then the talaq that is considered ideal is to fall once while talaq three in one speech is considered contradictory With human problems because it can have a negative impact on the husband when there is regret and strong hope to return to his ex-wife. Therefore,

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<sup>64</sup>Interview with MF, Member of the Ulema Consultative Assembly, Banda Aceh, October 2023.

<sup>65</sup> Interview with MF, Member of the Ulema Consultative Assembly, Banda Aceh , October 2023.

the status of triple talaq in one word is considered as talak *raj'i* which gives ex-husbands the opportunity to reconcile as they expect.<sup>66</sup>

Then the hadith of the Prophet that was quoted earlier, There was *a husband who rejected his wife three times in one word*. The Prophet said, *Is he playing with the Qur'an, while I am still with you*. From the attitude of the Prophet who was a little angry as mentioned in the hadith that triple talaq in one word is considered something that is contrary to the wishes of *the Shari'ah* 'and also the benefit of man. If referring to the Qur'an which is so strict in the imposition of talaq that ex-husbands and wives have the opportunity to reconcile', then it is considered something positive if following the opinion of some scholars that the fall of triple talaq in one word is considered something contrary to the principles of the Shari'a. So dropping talaq must be sequential, not three talaqs in one utterance.<sup>67</sup> Because Islam still gives opportunities to both parties to try to evaluate, introspect and regret what they have done before.

Thus, triple talaq in one word is considered to fall once, *'illat* so that the opportunity for reference' remains open.<sup>68</sup> Because wisdom allows talaq to teach a lesson to husbands and wives to have noble morals and improve each other, and provide opportunities for the husband and wife to evaluate and take pity from what has happened. Because if you follow the decision of Umar bin Khattab and jumhur ulama diniiai less relevant and contrary to the concept of maslahat which still provides opportunities for reference and improvement so that it becomes a valuable lesson for husband and wife. Because in fact there are many illegal talaq practices in the community so that the rights and obligations of each spouse do not have legal certainty, because they face wild qadhi so that everything is engineered and women are very disadvantaged even though the mistake is born from the husband. It is not known when a woman should start the iddah period, and the other rights she must obtain, can then cause negative stigma because there is an impression as if women are like a cartel that can be trafficked casually.

Therefore, to provide awareness and socialization about the legal rules on marriage (divorce and talaq) requires synergistic cooperation between institutions and across sectors.<sup>69</sup> These institutions are, syar'iyah courts (religious courts), religious ministries, clerical organizations, educational institutions and religious leaders at the gampong (village) level. So that the understanding of the legal rules that apply in court can be conveyed to the community as a whole, without any

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<sup>66</sup> Shaiful Annas, *"Recontextualization of the Dropping of Triple Talaq in the Frame of the Indonesian State*, n.d.

<sup>67</sup> Muchtar Ashkur, 'The Difference between Talaq One, Two and Three in Islamic Law.

<sup>68</sup> Ardi Akbar Tanjung, et. al., "Pengucapan Talak Tiga Sekaligus Persepsi Ulama Muhammadiyah Kota Palangka Raya," *Jurnal Hadratul Madaniyah* 8, no. 1 (2021), p. 34.

<sup>69</sup> Azwir, et. al., "The Legality of Divorce in Aceh: A Study of Divorce Practices Out of Religious Courts," *Al-Manahij: Jurnal Kajian Hukum Islam* 16, no. 2 (2022), p. 167. Lilik Andar Yuni, "The Use of Ex Officio To Fulfill Women's Post-Divorce Rights at The Samarinda Religious Court," *Ijtihad: Jurnal Wacana Hukum Islam dan Kemanusiaan* 21, No. 2 (2021).

wrong understanding. Lastly, what is more important is from the perspective of *maslahat*, that divorce must be carried out in a religious court in order to protect women's rights so that they are not easily divorced.

## Conclusion

Triple talaq as well as the legal reality that occurs in society in Aceh found that there are three factors that cause the occurrence of triple talaq, namely the presence of *wild qadhi*, the presence of *muhallil*, lack of understanding. These three factors cause married couples to believe that triple talaq pronounced by the husband is legally valid, even though it occurs outside the court. Triple talaq dropped by the husband at once is not considered to fall three because it is contrary to the benefit because it has closed the opportunity for the husband and wife to reconcile so that the household that has been built for a long time. Talaq must also be performed before the Court whose function is as a witness for the protection of the rights of the former husband and wife. In this context, to provide awareness and socialization about the legal rules on marriage (divorce and talaq) requires synergistic cooperation between institutions and across sectors. These institutions are, shar'iyah courts or religious courts, religious ministries, clerical organizations, educational institutions and religious leaders at the village level. Likewise, an understanding of the rules of law that applies in court can be conveyed to the community as a whole, without any wrong understanding. Thus, the issue of talaq does not harm the married couple, especially the wife who is the victim party in the divorce. so that from the context of *maslahah* the wife is not easily divorced and the wife's rights can also be protected legally.

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## **Interviews**

Interview with G and N, Married Couples, Banda Aceh, August 2023.

Interview with MF, Member of The Ulema Consultative Assembly, Banda Aceh, October 2023.

Interview with MFJ, Member of The Ulema Consultative Assembly, Banda Aceh, October 2023.

Interview with MT, Member of The Ulema Consultative Assembly, Banda Aceh, October 2023.

Interview MF, Member of the Ulema Consultative Assembly, (2023).,” n.d.

Interview with S and F, Spouse, Aceh Besar, October 2022.

Interview with U and K, Spouse, Aceh Besar, October 2022.

Interview with B and Y, Married Couples, Banda Aceh, August 2023.

Interview with R and A, Married Couples, Banda Aceh, August 2023.

Interview with R and Z, Spouse, Banda Aceh, August, 2023

Interview with J and U, Married Couples, Aceh Besar, August 2023.

Interview with F and D, Spouse, Aceh Besar, September 2023.

Interview with M and F, Spouse, Aceh Besar, September 2023.

Interview with Z And C, Spouse, Banda Aceh, October 2023.

Interview with M and S, Married Couples, Aceh Besar, September 2022.

Interview with R and N, Married Couples, Aceh Besar, September 2023.