



## **The Law on the Tripple *Talaq* at Once in the View of Yusuf Al Qaradawi's in Contemporary Context: Analysis of *Sadd Al-Žarī'ah* Theory**

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### **Abstract**

Triple *talaq* (Third Divorce) at once is a prominent topic in Islamic jurisprudence that continues to be of great interest to modern academics, including Yusuf Al-Qaradawi. Yusuf Al-Qaradawi holds a divergent perspective from the majority of ulama who regard the law on maximum *talaq* at once as equivalent to triple *talaq* (the one mentioned three times). This research seeks to analyze Yusuf al-Qaradawi's perspectives on triple *talaq* at once by employing the *sadd al-žarī'ah* theory. This study employs a normative legal approach, utilizing the *sadd al-žarī'ah* theory for descriptive and analytical analysis. According to Yusuf al-Qardhawi, maximum *talaq* at once is illegal due to its non-compliance with the commandments of Islamic law. The process of divorce should follow several steps, including the initial divorce, followed by the *iddah* period, and then the possibility of reconciliation. The second or third divorce procedure can be pursued if reconciliation is not achieved. The argument presented relies on the historical account of Imam Muslim from Ibn Abbas, which elucidates that the occurrence of maximum *talaq* at once throughout the era of the Prophet, Abu Bakr, and the first two years of Umar's caliphate was seen as a single *talaq*. Ibn Wahhab's historical account of Al-Nasa'i documents the incident where the Messenger of Allah declined to listen to the news of a maximum divorce being pronounced simultaneously. The historical account of Abu Dawud, as related by Nafi', documented the divorce of Rukanah from his wife, which eventually reached the Messenger of Allah. According to Yusuf Al-Qaradawi, the immediate restriction of the maximum *talaq* at once is an attempt to conceal the harm caused. The fundamental principle of *sadd al-žarī'ah's* theory posits that every action that is forbidden by the Qur'an and hadith is intended to hinder the occurrence of harm or wrongdoing.

**Keywords:** *Talaq*, Yusuf Al-Qaradhawi, *Sadd al-Žarī'ah*, Islamic Law

### **Abstrak**

*Talak tiga sekaligus merupakan salah satu permasalahan hukum Islam klasik yang saat ini masih mendapat perhatian serius dari banyak ulama kontemporer, salah satunya ialah adalah Yusuf Al-Qaradhawi. Pendapat Yusuf Al-Qaradhawi berbeda dengan pandangan mayoritas ulama yang menganggap hukum talak tiga sekaligus jatuh tiga talak. Untuk itu, penelitian ini bertujuan untuk mengkaji pandangan Yusuf al-Qaradhawi tentang talak tiga sekaligus dengan menggunakan teori sadd al-zarī'ah. Penelitian ini menggunakan metode hukum normative dengan menganalisisnya dengan teori sadd al-zarī'ah yang dipaparkan secara deskriptif-analisis. Hasil penelitian menunjukkan bahwa menurut Yusuf al-Qardhawi, talak tiga sekaligus dilarang karena tidak setuju dengan petunjuk hukum Islam. Talak harus dilakukan dengan tahapan-tahapan tertentu dari talak kemudian iddah diikuti rujuk, selanjutnya proses talak yang kedua atau ketiga. Dalil yang digunakan berdasarkan riwayat Imam Muslim dari Ibn Abbas, menjelaskan tentang talak tiga sekaligus yang terjadi pada masa Rasul, Abu Bakar dan dua tahun masa kekhalifahan Umar hanya dihitung satu kali talak. Riwayat Al-Nasa'i dari Ibnu Wahhab, yang mengabarkan tentang Rasulullah yang tidak setuju mendengar kabar terjadinya talak tiga sekaligus. Riwayat Abu Dawud dari Nafi' yang mengabarkan perceraian Rukanah dengan isterinya yang sampai pada Rasulullah. maka larangan talak tiga sekaligus di dalam pandangan Yusuf Al-Qaradhawi adalah upaya menutup kerusakan. Basis teori sadd al-zarī'ah adalah apapun yang dilarang Al-Qur'an dan hadis merupakan sebuah upaya mencegah keburukan.*

**Kata Kunci:** *Hukum talak tiga, Yusuf Al-Qaradhawi, sadd al-zarī'ah, hukum Islam*

### **Introduction**

In the Islamic law, marriage is designed to establish a harmonious and mutually satisfying household, where rights and obligations are fulfilled equitably and with respect. An optimal domestic environment can be achieved when both partners possess a deep comprehension of one another, establish a marital bond founded on effective communication, and fulfill their respective rights and responsibilities towards each other, as well as their joint rights and responsibilities within the household. In accordance with Islamic jurisprudence, establishing a joyful family is a crucial aspect and the primary objective of entering into a marriage based on happiness, love, and affection between the husband and wife.<sup>1</sup>

Nevertheless, it is important to acknowledge that not all homes exhibit optimal levels of development and operate seamlessly, securely, and harmoniously

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<sup>1</sup> Juwaini Saleh, et.al., "Marriage Guidance Towards Family Resilience in Aceh: A Study of Islamic Law Philosophy," *Samarah: Jurnal Hukum Keluarga dan Hukum Islam* 6, No. 2 (2022). Mursyid Djawas, et.al., "Creating Family Resilience in Indonesia: A Study of Marriage Guidance Program in Aceh and South Sumatera," *Al-Ihkam: Jurnal Hukum dan Pranata Sosial* 7, No. 1 (2022), p. 299-324.

over time, occasionally resulting in divorce. Numerous married couples ultimately divorce due to a range of issues, varying from minor to significant. Hence, divorce becomes the primary recourse for couples who are no longer compatible. Divorce typically arises when spouses experience a breakdown in communication and divergent views on the desired trajectory of their family. In adverse domestic circumstances, Islam permits a husband to terminate his marital union by means of divorce. *Talak* refers to the dissolution of marital bonds and the termination of the spousal connection.<sup>2</sup>

Divorce is not a choice for married spouses. Nevertheless, under specific and pressing circumstances, Islam permits husbands to exercise their right to divorce their wives by following the divorce procedure. The allowance for divorce is stated in verse 1 of QS. Al-Thalaq [65]. This verse elucidates the requirement of divorcing a wife during a period when she can observe the customary *iddah*, namely when she is in a state of purity and has not been subjected to any form of intimidation.<sup>3</sup> The process of *talaq* in Islam must adhere to specific procedures. It should only be carried out in urgent or necessary circumstances. Additionally, *talaq* should occur when the wife is in a state of purity or has not been in sexual intercourse with her husband.

Judging from the suitability of *talaq* with the Shari'a, *talaq* can be divided into two types. The first is Sunni divorce, in the form of divorce in accordance with the instructions of the Qur'an and hadith, as directed by the QS. al-Thalaq [65] verse 1 which requires the husband to divorce the wife when the wife can carry out her normal *iddah*. The second type is *talak bid'i* in the form of *talak* that does not comply with the instructions of the Qur'an and hadith.

The *Sunni talaq* only occurs when the wife has yet to engage in sexual intercourse with her husband, and the *talaq* is done in stages. Meanwhile, *talaq bid'i* occurs if a husband divorces his wife when she is in monthly period, or is chaste but has had sex with him before. *Talaq bid'i* also occurs when a husband divorces his wife with tripple *talaq* at once without going through a gradual process.<sup>4</sup> One of the interesting legal issues to study is the maximum *talaq* at once in the view of the *ulama*. The *ulama's* perspective on the triple *talaq* at once seems to be still being debated. The scholars are divided into four general opinions. The first opinion was held by a number of *ulama* and included the four imams of the four school of thought and was also taken by the *Zahiriyah ulama*. They are of the opinion that the tripple *talaq* at once are seen to be eligible as triple *talaq*. The second opinion was put forward by Ibn Tamiyyah and his student Ibn Qayyim al-

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<sup>2</sup>Ali Trigiyatno and Sutrisno Sutrisno, "Dharar as a Reason for Divorce Lawsuit in Fiqh and Legislation of Some Muslim Countries: Study on Indonesia, Bahrain, Sudan, Qatar, and Morocco," *Istinbath: Jurnal Hukum Islam* 7, No. 1 (2022). Rizem Aizid, *Fiqh Keluarga Terlengkap*, (Yogyakarta: Laksana, 2018), p. 182.

<sup>3</sup>Amir Syarifuddin, *Hukum Perkawinan Islam di Indonesia: Antara Fiqh Munakahat dan Undang-Undang Perkawinan*, (Jakarta: Kencana Prenada Media Group, 2014), p. 224-225.

<sup>4</sup>Amir Syarifuddin, Amir Syarifuddin, *Hukum Perkawinan Islam di Indonesia: Antara Fiqh Munakahat dan Undang-Undang Perkawinan*

Jauziyyah. They view that the tripple *talaq* at once is only seen as the first step of *talaq*.<sup>5</sup>

The tripple (three time mentioned) *talaq* at once in this context is an expression that is said three times in a relatively short time, or the triple *talaq* which is expressed in one sentence, such as: "I give you a triple divorce", or can be used as a conditional expression, such as: "I divorce you as many as the stars in the sky" or something similar. This type of divorce is often called the three (or triple) divorce. The fourth opinion was held by Ibn Abbas who was later followed by Ishaq bin Rahawaih. This opinion states that if triple *talaq* is pronounced at the same time after a divorce has occurred between a and a wife, then the *talaq* will be counted as the triple *talaq* (three time mentioned).<sup>6</sup> If the triple *talaq* are pronounced at once before sexual intercourse occurs between the husband and the wife, then only one *talaq* will result.<sup>7</sup>

These perspectives suggest that triple *talaq* at once is still an *ikhtilaf* (controversy or dissenting views) among the *ulama*, there are those who claim that the triple *talaq* are possible, and there are also those who view only one *talaq* to occur. The latter opinion was taken and chosen by Yusuf al-Qaradawi, a contemporary scholar of the 20<sup>th</sup> century who was also quite concerned with discussion regarding the issue of triple *talaq* at once.<sup>8</sup> According to al-Qaradawi, divorce is executed through specific phases. The husband is granted the triple *talaq*, which is said separately. Following this, the wife observes an *iddah* period. If both parties are willing, the husband has the option to reconcile with his wife before issuing another *talaq*.<sup>9</sup>

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<sup>5</sup>Wahbah al-Zuhaili, *Fiqh Islam wa Adillatuhu*, (Translation), Jilid 9, (Jakarta: Gema Insani Press, 2009), p. 359.

<sup>6</sup>Amir Syarifuddin, Amir Syarifuddin, *Hukum Perkawinan Islam di Indonesia: Antara Fiqh Munakahat dan Undang-Undang Perkawinan*, p. 224-225.

<sup>7</sup>Amir Syarifuddin, Amir Syarifuddin, *Hukum Perkawinan Islam di Indonesia: Antara Fiqh Munakahat dan Undang-Undang Perkawinan*, p. 224-225.

<sup>8</sup>Yusuf al-Qaradhawi, *Tuntas Memahami Halal dan Haram*, (Translation), (Jakarta: Qalam, 2017), p. 326.

<sup>9</sup>Yusuf al-Qaradhawi, *Tuntas Memahami Halal*.

<sup>10</sup>Yusuf al-Qaradhawi, *Fatwa-Fatwa Kontemporer*, (Translation), (Jakarta: Gema Insani Press, 2008), p. 201.

<sup>11</sup>Yusuf al-Qaradhawi, *Membumikan Islam: Keluasan dan Keluwesan Syariat Islam untuk Manusia*, (Terj: Ade Nurdin dan Riswan), Edisi Kedua, (Bandung: Mizzan Pustaka, 2018), p. 220.

experienced genuine remorse for the decision he made, which came as he approached the end of his life.<sup>12</sup>

Based on the given description, it is evident that Yusuf al-Qaradawi aligns with the viewpoint of Ibn Taimiyah and Ibn Qayyim, asserting that pronouncing triple divorces at once should be seen as a single divorce. Thus far in the investigation, Yusuf al-Qaradawi's argument relies on the historical account of the hadith, which elucidates that during the era of Rasulullah SAW, Abu Bakar al-Siddiq, and the initial period of Umar bin al-Khattab's rule, the practice of instant triple *talaq* only transpired on a single occasion.

According to Yusuf Al-Qaradawi, issuing three *talaq* at once, which are treated as a single *talaq*, aligns with the goal of preventing intermediaries from causing harm. In fiqh, this is referred to as *sadd al-Ẓarī'ah* (سدّ الذريعة), which means closing off something that can lead to forbidden and destructive actions. The *sadd al-Ẓarī'ah* doctrine is utilized in several legal endeavors to proactively mitigate any factors that may cause harm.<sup>13</sup> The spouse, who was initially granted the opportunity to reconnect following the divorce, was unable to do so due to the triple divorce he had enforced. Therefore, the prohibition of triple *talaq* is included in *sadd al-Ẓarī'ah* to allow husbands to reconcile with their wives.

This study employs normative legal methodologies, specifically utilizing the *sadd al-Ẓarī'ah* theory, which is described and analyzed in a descriptive-analytical manner.<sup>14</sup> In this instance, the prohibition of instant triple *talaq* is also consistent with the concept of *sadd al-Ẓarī'ah*, which aims to prevent, terminate, or eliminate intermediaries (*wasilah*) that may jeopardize the relationship between a divorced husband and wife.<sup>15</sup>

### The Islamic Law's Perspectives on Divorce

Talaq is the act of a husband severing the relationship and household ties with his wife that were established since the marriage contract. This is done through specific pronouncements such as *talaq*, *sirah*, *firaq*, or other similar expressions.

The aforementioned *hadith* elucidates that a permissible divorce is initiated by a husband towards his wife. Nevertheless, scholars hold divergent views of the original legislation, debating whether it is *jaiz* (allowable) or *makruh* (discouraged). The reason for this is that the argument from the *hadith* asserts that it is permissible, alongside Allah's strong aversion towards divorce. The academics who asserted that the initial law of *talaq* was permissible (*ja'iz*) were followed by

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<sup>12</sup>Yusuf al-Qaradawi, *Pengantar Politik Islam*, (Translation), (Jakarta: Pustaka al-Kautsar, 2019), p. 278.

<sup>13</sup> Shihabuddin Al Qarafi, *Syarh Tanqih Al Fusul Fi Ikhtisar Al Mahsul Fi Al Usul*, Kairo: Dar al-Fikr, 2001. Muhammad Abu Zahrah, *Ushul Al-Fiqh*, Kairo: Dar al-Arabi, 2005.

<sup>14</sup>Faisar Ananda Arfa and Watni Marpaung, *Metode Penelitian Hukum Islam*, Jakarta: Prenada Media, 2018.

<sup>15</sup>Ahmad Muhtadi Anshor and Muhammad Ngizzul Muttaqin, "Pre-Marriage Course Based on Religious Moderation in Sadd Al-Ẓarī'ah Perspective," *Samarah: Jurnal Hukum Keluarga dan Hukum Islam* 6, No. 1 (2022).

scholars from the Maliki, Shafi'i, and Hanbali schools of thought, whilst the scholars who maintained that the original law of *talaq* was disapproved (makruh) were followed by Hanafi scholars.<sup>16</sup>

a. The Qur'anic Proposition

QS. Al-Thalaq [65] verse 1 states:

يَا أَيُّهَا النَّبِيُّ إِذَا طَلَّقْتُمُ النِّسَاءَ فَطَلِّقُوهُنَّ لِعَدَّتِهِنَّ وَأَحْصُوا الْعِدَّةَ وَاتَّقُوا اللَّهَ رَبَّكُمْ لَا تُخْرِجُوهُنَّ  
مِنْ بُيُوتِهِنَّ وَلَا يَخْرُجْنَ إِلَّا أَنْ يَأْتِيَنَّ بِفَحِشَةٍ مُبَيَّنَةٍ وَتِلْكَ حُدُودُ اللَّهِ وَمَنْ يَتَعَدَّ حُدُودَ اللَّهِ فَقَدْ  
ظَلَمَ نَفْسَهُ لَا تَدْرِي لَعَلَّ اللَّهَ يُحْدِثُ بَعْدَ ذَلِكَ أَمْرًا

Meaning: *O Prophet! 'Instruct the believers: ' When you 'intend to' divorce women, then divorce them with concern for their waiting period,<sup>1</sup> and count it accurately. And fear Allah, your Lord. Do not force them out of their homes, nor should they leave—unless they commit a blatant misconduct. These are the limits set by Allah. And whoever transgresses Allah's limits has truly wronged his own soul. You never know, perhaps Allah will bring about a change 'of heart' later. (QS. Al-Thalaq [65]: 1).*

b. The Hadith Proposition

The scholars have stipulated two prerequisites for a husband to consider when intending to divorce his wife: the wife must be in a state of menstrual purity and must not have engaged in sexual intercourse with him previously.<sup>17</sup> These two elements are prerequisites for divorce that enable the wife to observe her *iddah* period naturally. This is further corroborated by the presence of historical hadith records detailing the process of divorce, namely the hadith chronicles of Imam al-Bukhari as narrated by Abdullah bin Umar:

عَنْ عَبْدِ اللَّهِ بْنِ عُمَرَ رَضِيَ اللَّهُ عَنْهُمَا أَنَّهُ طَلَّقَ امْرَأَتَهُ وَهِيَ حَائِضٌ عَلَى عَهْدِ رَسُولِ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ فَسَأَلَ عُمَرُ بِنَ الْخَطَّابِ رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ عَنْ ذَلِكَ فَقَالَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ مُرُّهُ فَلْيُرْاجِعْهَا ثُمَّ لِيُمْسِكْهَا حَتَّى تَطْهَرَ ثُمَّ تَجِيزَنَّ ثُمَّ تَطْهَرَ ثُمَّ إِنْ شَاءَ أَمْسَكَ بَعْدُ وَإِنْ شَاءَ طَلَّقَ قَبْلَ أَنْ يَمَسَّ قَبْلَكَ الْعِدَّةَ الَّتِي أَمَرَ اللَّهُ أَنْ تُطَلَّقَ لَهَا النِّسَاءُ<sup>18</sup>.

*Abdullah bin Umar ra. reported that during the time of Rasulullah saw, he divorced his wife while she was in her monthly period. Umar bin al-Khaṭṭāb also inquired about this matter from Rasulullah Saw. The Prophet Muhammad, may peace be upon him, instructed to command her to examine*

<sup>16</sup>Abdus Sami' Ahmad Imam, *Pengantar Studi Perbandingan Mazhab*, p. 149-152.

<sup>17</sup>Abdus Sami' Ahmad Imam, *Pengantar Studi Perbandingan Mazhab* p. 158.

<sup>18</sup>Muhammad bin Ismail al-Bukhārī, *Ṣaḥīḥ al-Bukhārī*, (Riyadh: Bait al-Afkār, 1998), p. 1018.

*the discharge promptly, then retain it till she attains purity, having another period, and then achieves purity once again. At that juncture, he has the option to retain her or he might choose to dissolve the marriage. This is the perfect mindset that Allah SWT commands in divorcing the wife* (Hadith collection by al-Bukhari).

### **Yusuf Al-Qaradawi's Viewpoint On The Law of Triple Talaq and Its Legal Source**

Yusuf al-Qardhawi is a modern scholar renowned for his expertise in Islamic jurisprudence. When issuing a fatwa, al-Qaradhwi carefully considers the historical developments that have taken place, both in classical times and in the present, which necessitate legal requirements or fatwas.<sup>19</sup> Al-Qardhawi employed the Qur'an as the primary source and the *Sunnah* as the secondary source in his *ijtihad*. Al-Qardhawi proposed the *ijtihad* approach as a means to revitalize Islamic law and address the complexities of the present-day context.<sup>20</sup>

This section will give two significant talks on triple *talaq* from Yusuf Al-Qaradawi's perspective. Firstly, his opinions on the law of triple *talaq* will be discussed. Secondly, the legal propositions and procedures of *istinbath* that he employed in creating the law of triple *talaq* at once will be examined.

### **Yusuf Al-Qaradhawi's Perspectives**

Understanding *talaq* is crucial due to its frequent misuse in various practices and contexts. Even in the theoretical analysis, divergent viewpoints among the ulama were identified, particularly about the legality of instant triple *talaq*. Yusuf Al-Qaradawi is a scholar who has a notable interest in studying the legal aspects of triple *talaq* comprehensively. These ideas may be found in other intellectual works by the author, including his book titled "*Madkhal li Dirasah Al-Syariah Al-Islamiyyah*" and also in "*Siyasah Al-Syar'iyyah*".

Yusuf Al-Qaradawi asserts that divorce is a necessary course of action for a husband and wife when one of them fails to fulfill their obligations in upholding Allah's rule. Yusuf Al-Qaradawi further elucidated that in Islam, males are granted the authority to dissolve marriage bonds in addition to being bestowed with the responsibility of nurturing and upholding the marital connection, as they are perceived to possess greater agency in this regard.<sup>21</sup> Nevertheless, it is imperative that men exercise their right to divorce in a manner that aligns with the guidelines and regulations set forth by the *Shari'a*. Al-Qaradawi considers the act of

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<sup>19</sup> Amrin Amrin and Amirullah Amirullah, "Contemporary Legal Istimbat: Study on the Theory of Changes in Fatwa According to Yusuf Qardhawi," *Mizan: Journal of Islamic Law* 6, No. 1 (2022), p. 89.

<sup>20</sup> Kusnadi Kusnadi, "Perspektif Yusuf Al-Qardhawi dan Fazlu Rahman tentang Ijtihad," *Al-Qisthu: Jurnal Kajian Ilmu-ilmu Hukum* 14, No. 2 (2016). Imam Fakhruddin, "Ihtikar dalam Pemikiran Imam Ghazali dan Yusuf Qardhawi," *Jurnal Annawa*, (2020).

<sup>21</sup> Yusuf Al-Qaradhawi, *Kaifa Nata'amal Ma'a Alquran*, (Translation), (Jakarta: Pustaka Al-Kautsar, 2016), p. 115-116.

pronouncing the triple *talaq* simultaneously as a sort of *talaq* that deviates from the commandments and guidelines of the *Shari'a*.<sup>22</sup>

Yusuf Al-Qaradawi argues that the practice of instant triple *talaq* is not in accordance with the principles of the Islamic law (*Shari'a*) and goes against the teachings of Allah. The perspective of Al-Qaradawi on this issue can be elucidated through the following quotation:

و من هذا نرى أن المسلم الذي يجمع هذه المرات الثلاثة في مرة واحدة أو لفظة واحدة قد ضاد الله فيما شرعة، وانحرف عن صراط الإسلام المستقيم.<sup>23</sup>

Based on this premise, we believe that a spouse who consolidates the triple divorces simultaneously or in a single declaration has really acted contrary to Allah's instructions and deviated from the true teachings of Islam.<sup>24</sup>

Yusuf Al-Qaradawi asserts that triple *talaq* is a form of divorce that is deemed permissible under some circumstances but is generally considered impermissible. Triple *talaq* is permitted under some circumstances, such as in the case of Umar ibn Al-Khattab's *ijtihad*, where it can be spoken all at once. According to Yusuf Al-Qaradawi, Umar's *Ijtihad* classified triple *talaq* as a *ba'in kubra*, although it was not considered a permanent law. Umar's *Ijtihad* is a type of *ta'zir* punishment that is delegated to the imam.<sup>25</sup> *Ta'zir* is a type of punishment that is solely within the authority of the ruler (*imam*). Its purpose is to teach the offender and deter them from committing similar offenses.<sup>26</sup>

Yusuf Al-Qaradawi further elucidated that during the initial period of Umar's administration, the practice of instant triple *talaq* was also deemed prohibited and was seen as a one-time occurrence. Ibn Taimiyyah maintains the viewpoint that the occurrence of triple *talaq* at once is a singular event.<sup>27</sup> Nevertheless, due to the prevalent practice of instantaneously pronouncing triple *talaq*, Umar believed that this act was equivalent to uttering the phrase of divorce three times in succession (*ba'in kubra*). Consequently, it was seen as a disciplinary measure for mocking the sacred verses of Allah SWT.<sup>28</sup>

Yusuf Al-Qaradawi believes that Umar bin Khattab's decision was a necessary requirement. Consequently, the presence of urgent circumstances results in the classification of three simultaneous divorces as three separate instances.

<sup>22</sup>Yusuf Al-Qaradhawi, *Tuntas Memahami Halal dan Haram*, (Translation), (Jakarta: Qalam, 2018), p. 327

<sup>23</sup>Yusuf Al-Qaradhawi, *Al-Halal wa Al-Haram fi Al-Islam*, (Kairo: Maktabah Wahbah, 1997), p. 191.

<sup>24</sup>Yusuf Al-Qaradhawi, *Al-Halal wa Al-Haram.*, p. 327.

<sup>25</sup>Yusuf Al-Qaradhawi, *Al-Siyasah Al-Syar'iyah*, (Translation), (Jakarta: Pustaka Al-Kautsar, 2019), p. 277.

<sup>26</sup>Ahmad Wardi Muslich, *Hukum Pidana Islam*, (Jakarta: Sinar Grafika, 2016), p. xi.

<sup>27</sup>Yusuf Al-Qaradhawi, *Al-Fatwa: Baina Al-Indhibath wa Tasayyub*, (Translation), (Jakarta: Gema Insani Press, 1997), p. 10.

<sup>28</sup>Yusuf Al-Qaradhawi, *Al-Siyasah Al-Syar'iyah*, p. 278.



According to Al-Qaradawi, Umar's judgment was considered a fatwa that was suitable for the specific period it was made in, but may not be suitable for the subsequent time and era. Al-Qaradawi believes that the *ijtihad* and fatwa regarding triple talaq can be modified based on the prevailing circumstances and era. Al-Qaradawi also cited Umar's *ijtihad* as a practical illustration of the *fiqh* principle that "*fatwa* adapt in response to alterations in circumstances and conditions".<sup>29</sup>

Furthermore, Al-Qaradawi expressed that in contemporary times, we come across certain laws that were initially met with resistance and deemed unconventional by the society. However, upon careful consideration, evaluation, and reflection, the validity of these laws and their benefits to society have become evident. Experience a sense of ease in his presence. The rationale behind this law is to bring forth advantages while rejecting any potential harm or corruption. Consequently, it is acknowledged after to rejection and deemed satisfactory following denial. For instance, modifications about family regulations are referred to as *al-ahwal asy-syakhsyyah*. For instance, if a divorce is not halted and does not aim to provoke the individual involved to take or refrain from any action, the triple talaqs might be pronounced simultaneously as a single *talaq* (the punishment for the triple *talaq* given at once is treated as a single *talaq*).<sup>30</sup>

The aforementioned *fiqh* rules have various applications, such as the punishment for wine drinkers being increased from 40 lashes to 80 lashes. Additionally, the distribution of *zakat* to converts has been suspended, and the law for thieves, which previously involved cutting off their hands, has been abolished during times of famine. Furthermore, there have been changes to the fatwa regarding triple talaq, which was initially considered to be valid only once but later expanded to three times during Umar's reign, specifically when *Ba'in Kubra* fell.<sup>31</sup> The modifications in the fatwa are contingent upon the temporal and spatial circumstances. In the issue of instantaneous triple *talaq*, Umar had to exercise *ijtihad* to evaluate the validity of triple *talaq ba'in kubra* due to certain underlying conditions. These conditions arose from the fact that people had started to recklessly impose instantaneous triple *talaq* without any valid reason, necessitating the need for punishment.<sup>32</sup>

Based on the preceding explanation, it is evident that Yusuf Al-Qaradawi acknowledges the existence of differing opinions concerning the legal validity of triple talaq, whether it occurs in a single instance or all at once. Nevertheless, Al-Qaradawi emphasized that both triple *talaq* and *talaq ba'in kubra* are not of a permanent nature. Consequently, the law of triple *talaq*, as determined by Umar Ibn Khattab's *Ijtihad*, is not enduring. Opinions and religious rulings on triple *talaq*, including triple *talaq (ba'in kubra)*, are subject to change based on the

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<sup>29</sup>Yusuf Al-Qaradhawi, *Madkhal li Dirasah Al-Syariah Al-Islamiyyah*, (Translation), (Bandung: Mizan Pustaka, 2018), p. 210.

<sup>30</sup>Yusuf Al-Qaradhawi, *Hadyul Islam Fatwa Mu'ashirah*, (Translation), (Jakarta: Gema Insani Press, 2008), p. 177.

<sup>31</sup>Yusuf Al-Qaradhawi, *Madkhal...*, p. 210-224.

<sup>32</sup>Yusuf Al-Qaradhawi, *Al-Siyasah Al-Syar'iyah*, p. 278-279.

circumstances and situations of the era, making them adaptable. Yusuf Al-Qaradawi emphasizes that the original law of triple talaq is prohibited, and it is only valid once, as it was during the time of the Prophet, Abu Bakr, and in the early days of Umar bin Al-Khattab's reign and caliphate.

### 1. Legal Proposition by Yusuf Al-Qaradhawi

The opinion expressed by Yusuf Al-Qaradawi is grounded in multiple legal propositions and his own methodologies for extracting legal principles. Yusuf Al-Qaradawi draws upon three principles from the historical hadith to establish the legal foundation and supporting arguments. The first hadith pertains to the historical account of Imam Muslim as narrated by Ibn Abbas.

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 أُنَاةٌ فَلَوْ أَمْضَيْنَاهُ عَلَيْهِمْ فَأَمْضَاهُ عَلَيْهِمْ.<sup>33</sup>

According to Ibn Abbas, throughout the time of Rasulullah sallallahu 'alaihi wasallam, Abu Bakr, and two years after Umar's caliphate, the act of pronouncing triple talaq (divorce) with a single phrase was still penalized with a single talaq (divorce). Umar bin Al-Khattab expressed his observation that people are engaging in activities for which they have been granted unrestricted freedom. What if we enacted legislation upon them? Undoubtedly, they will enforce the practice of triple talaq, which involves divorcing one's spouses three times with a single phrase. (Narrated by Muslim).

He above history was alluded to by Yusuf Al-Qaradawi and he presented it in relatively sufficient detail in his book entitled *Siyasah Al-Syar'iyah*.<sup>34</sup> Imam Al-Nawawi provided an explanation regarding the history above, namely that the ulama made an interpretation of the law of triple talaq at once. According to Imam Syafi'i, Malik, Abu Hanifah, Imam Ahmad, and a number of ulama from the *Salaf* and *Khalaf* circles declared the fall of triple *talaq*. Meanwhile, according to Thawus and some of the *Zahir* experts, three divorces at once only resulted in one divorce. Others do not see falling at all.<sup>35</sup>

According to Yusuf Al-Qaradawi, Umar's *Ijtihad* which imposed triple talaq with one pronouncement fell as triple *talaq* contrary to the hadith above. This means that during the time of Rasulullah PBUH, Abu Bakar, even during Umar's initial leadership, triple talaq was still enforced and only one talaq was imposed.<sup>36</sup>

<sup>33</sup>Abu Al-Husain Muslim Al-Hajjaj Al-Qusyairi, *Shahih Muslim*, (Riyadh: Dar al-Salam, 2000), p. 630.

<sup>34</sup>Yusuf Al-Qaradhawi, *Al-Siyasah Al-Syar'iyah*, p. 276.

<sup>35</sup>Imam Al-Nawawi, *Al-Minhaj Fi Syarh Shahih Muslim bin Al-Hajjaj: Syarh Al-Nawawi 'Ala Muslim*, (Riyadh: Bait al-Afkar al-Dauliyyah, t.t), p. 926.

<sup>36</sup>Yusuf Al-Qaradhawi, *Al-Siyasah Al-Syar'iyah*, p. 278-279.

Therefore, Yusuf Al-Qaradawi concluded that Umar's *ijtihad* was not a definite law, but emerged because there were preconditions behind it.

Another postulate that is used as the basis for Yusuf Al-Qaradawi's law is from Ibn Wahhab's history of Al-Nasa'i, as quoted in the previous chapter (on page 32). Ibn Hajar Al-Asqalani explained that the hadith is that its narrators can be trusted. It's just that the quality of the hadith is dhaif or weak. This is as stated by Al-Albani, that the narrators are indeed *tsiqah*, but the above hadith is through Makhramah narration from his father, even though he did not hear it from him.<sup>37</sup> However, Abdurrahman Al-Bassan actually stated that the above history is authentic. He quoted several experts, including Ibn Kathir, who stated that the hadith *sanad* was good. Then, Ibn Qayyim also explained that in the history above, Makhramah was a *tsiqah* person so there was no longer any doubt.<sup>38</sup>

In his commentary on the aforementioned hadith, Yusuf Al-Qaradawi elucidated that the Prophet Muhammad's declaration of triple *talaq* simultaneously, which he deemed as a mockery of the book of Allah, served as a means of emphasizing his point. Triple *talaq*, whether pronounced at once or in a single instance, is against the principles of *Shari'a*, which stipulate that *talaq* should be given separately. The right of divorce for a spouse is limited to three instances, which can be utilized independently, followed by an *iddah* period, reconciliation, and subsequently a second divorce, and so on. These divorce steps must also be implemented in the event that a circumstance arises where the husband becomes incapable of effectively managing and operating the household. Yusuf Al-Qaradawi believes that according to the right of *talaq*, a man or a husband should use the three allotted occasions for divorce in a gradual manner, rather than all at once, as prescribed by the *Shari'a*. The implementation should follow a sequence of *iddah*, followed by reconciliation, followed by a second divorce, and so on.<sup>39</sup>

Yusuf Al-Qaradawi relies on a hadith reported by Abu Dawud from Nafi' to support his third argument on divorce "الْبَتَّةُ" as mentioned in the preceding chapter on page 32. The term signifies "complete separation" or "instantaneous *talaq*"<sup>40</sup>. According to Ibn Hajar, he provided an explanation of the legal concept of triple *talaq* being pronounced in a single instance. As per his statement, the term "three" signifies "*al-battah*" (eternity), as indicated in the *Rukanah* hadith. This information is derived on the historical accounts of Ibn Abbas ra. This perspective is robust and is reinforced by the stance of Imam Bukhari, who incorporated *atsar* (narrations) alongside the term "*al-battah*" in addition to *hadiths* that employ the phrase "triple *talaq*" simultaneously. Based on Ibnu Hajar's analysis, Imam Bukhari appears to suggest that there is no distinction between the terms "triple *talaq*" and

<sup>37</sup>Ibn Hajar Al-Asqalani, *Bulughul Maram Min Adillatul Ahkam*, (Translation) (Jakarta: Pustaka Imam Az-Zahabi, t.t), p. 527-528.

<sup>38</sup>Abdullah bin Abdurrahman Al-Bassam, *Taudihul Ahkam min Bulughul Maram: Syarh Bulughul Maram*, (Translation), Jilid 5, (Jakarta: Pustaka Azzam, t.t), p. 569.

<sup>39</sup>Yusuf Al-Qaradhawi, *Tuntas Memahami Halal dan Haram*, p. 327-328.

<sup>40</sup>Abdus Sami' Ahmad Imam, *Pengantar Studi Perbandingan Mazhab*, (Translation), (Jakarta: Pustaka al-Kautsar, 2016), p. 180.

"*al-battah talaq*." Essentially, when the term "*al-battah*" is employed without any conditions, it refers to "triple *talaq*" unless the individual issuing the *talaq* intends to convey only one *talaq*. Some narrators interpret the term "*al-battah*" as referring to a triple divorce due to its similarities with the concept.<sup>41</sup>

The aforementioned hadith's historical background serves as a supporting evidence for Yusuf Al-Qaradawi's stance on the legal aspect of triple *talaq*, which states that it should only be practiced once under regular circumstances. During Umar's reign, his interpretation of *ijtihad* regarding triple *talaq*, as well as Al-Qaradawi's interpretation, violated the existing regulations during the time of Rasulullah SAW and Abu Bakar, even in the early days of Umar ibn Khattab's rule. While Umar's *ijtihad* diverged from the original practice during the time of Prophet Muhammad, Yusuf Al-Qaradawi did not outright reject the validity of the law of triple *talaq*.<sup>42</sup> He acknowledged that fatwas might evolve and alter with time. Therefore, it is conceivable that a legal viewpoint may alter in response to shifts in location and temporal context. Yusuf Al-Qaradawi believes that Umar's *ijtihad* and fatwa, which advocated for triple *talaq* and triple divorce, serve as an illustration and embodiment of the principles of *fiqh* mentioned before.<sup>43</sup>

Yusuf Al-Qaradawi employed the *istinbath* technique of *ta'lili* law in his legal arguments, as shown from the arguments he formulated. The *ta'lili* or *ta'liliyyah* technique is a systematic approach to examining the laws found in the Qur'an or the Sunnah of the Prophet Muhammad. It involves identifying the legal *illats*, or underlying causes, that support the propositions stated in the text.<sup>44</sup> The *istinbtah ta'liliyyah* approach is a technique used to identify the *'illat*, or effective causes and logical explanations, that underlie the implementation of a law, whether it is a command or a prohibition. This technique operates under the premise that the provisions of Allah SWT are guided by logical reasoning or wisdom.<sup>45</sup>

Yusuf Al-Qaradawi employs the *ta'lili* method to elucidate the provisions of a hadith from Imam Al-Nasa'i. This hadith narrates the Messenger of Allah's displeasure upon receiving news of a man divorcing his wife through the triple *talaq* at once. The Prophet Muhammad's state of anger served as an indication, referred to as "*illat*" or a logical basis, which guided Al-Qaradawi to the conclusion that divorce is unequivocally forbidden in Islam. The immediate prohibition of triple *talaq* is not only incongruous with the historical practice during the time of the Prophet and Abu Bakr, as well as at the onset of Umar's rule, but it also contradicts the legal framework of divorce, which entails the emergence of new laws known as *iddah* and reconciliation with each occurrence of *talaq*. Upon the

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<sup>41</sup>Ibn Hajar Al-Asqalani, *Fathul Bari Syarh Shahih Al-Bukhari*, (Translation), Jilid 26, (Jakarta: Pustaka Azzam, t.t), p. 70.

<sup>42</sup>Yusuf Al-Qaradhawi, *Al-Siyasah Al-Syar'iyah*, p. 276.

<sup>43</sup>Yusuf Al-Qaradhawi, *Madkhal...*, p. 210-224.

<sup>44</sup>Al Yasa' Abubakar, *Metode Istislahiah: Pemanfaatan Ilmu Pengetahuan dalam Ushul Fiqh*, (Jakarta: Kencana Prenada Media Group, 2016), p. 19.

<sup>45</sup>Sofyan A.P. Kau & Zulkarnain Suleman, *Ushul Fiqh: Dari Nalar Kreatif Menuju Nalar Progresif*, Edisi I, (Malang: Iteligensia Media, 2020), p. 106.

legalization of instant triple *talaq*, the corresponding legislation that should be in place and enforced by women ceased to exist.

### **Review of the Law of Triple *Talaq* by *Sadd al-Ẓarī'ah* In the Present Context, as per Yusuf Al-Qaradawi's Perspective**

The author aims to examine the critique of *sadd al-Ẓarī'ah's* thesis on the law of triple *talaq*, together with Yusuf Al-Qaradawi's viewpoint, and assess their applicability in the present contexts. During the previous debate, the popularity and use of the *sadd al-Ẓarī'ah* theory in explaining and quantifying judicial events were emphasized. This theory investigates the underlying factors that lead to failure and difficulties. Based on this premise, it is imperative that the underlying cause, regardless of its nature, be effectively and securely sealed off by the appropriate means of communication, hence minimizing the likelihood of any potential harm (*al-Ẓarī'ah*) from transpiring

Regarding the law of triple *talaq*, Yusuf Al-Qaradawi fundamentally forbids a husband from using the method of triple *talaq* without considering the specific phases and procedures outlined by the law. According to Al-Qaradawi, the immediate pronouncement of triple *talaq* will result in detrimental consequences for both parties involved. Consequently, the prevention and restriction (*al-Ẓarī'ah*) of harm and damage can be achieved by explicitly forbidding or refusing to legalize instantaneous triple *talaq*.

Triple *talaq*, when considered in the present context, is becoming less significant as the current practice requires the divorce to be validated by a legal and procedural process. Consequently, the court only acknowledges a single divorce for couples who have never undergone divorce proceedings. The panel of judges lacks the jurisdiction to validate the immediate pronouncement of triple *talaq* by the husband, whether it occurs in his residence or elsewhere, against his wife. Furthermore, the court is unable to grant the husband's desire to divorce his wife instantly by triple *talaq* within the courtroom. The premise established in the court's divorce process is the dissolution of marriage or a one-time divorce. Subsequently, if the husband desires to restore harmony, the couple might seek reconciliation by means of a formal letter issued by an authorized organization, such as the Office of Religious Affairs (KUA). Subsequently, if the husband desires to terminate his marriage after attempting reconciliation, he retains the option to engage in another round of reconciliation, following the initial set of steps and protocols, until ultimately the divorce proceedings occur for the third time.

The divorce process and procedures, as they pertain to the present circumstance, are pertinent to the statements made by Yusuf Al-Qaradawi. As per his statement, the divorce procedure must be conducted in specific phases. In relation to this issue, the following comment provides a clear understanding: In Islam, a Muslim man is allowed to offer his wife three divorces on three separate occasions, as long as the divorce is initiated when the wife is in a state of purity and has not engaged in any sexual activity. Following a divorce, it is advisable to wait until the *iddah* time has elapsed. If there is a need to make reference to it

within the *iddah* period, then proceed to do so. If one chooses to reconcile with him after the completion of his *iddah* period, one must do so by entering into a new contractual agreement. However, in the absence of any remaining inclination to come back, the woman is permitted to enter into matrimony with a different man.<sup>46</sup>

If, following the process of reconciliation after the first divorce, it becomes evident that arguments and disputes resurface, despite the implementation of various strategies to address the issue between the couple proving unsuccessful, the husband has the option to initiate a second divorce. Nevertheless, in the case of this subsequent divorce, the husband retains the ability to make reference to it without a formal agreement during the *iddah* period, or with a fresh agreement if it occurs outside the *iddah* period.

If, following the process of reconciliation, the husband proceeds to divorce her for the third time, it is evident that the issue has escalated to a significant extent. Reconciliation between the two parties is now unattainable. Consequently, a spouse who divorces his wife for the third time is not allowed to make any reference to her. The lady is prohibited from being with him until she legally marries another man in accordance with the law. This marriage is intended for her new spouse and not merely to excuse remarriage with her first husband. Based on this rationale, we believe that a spouse who consolidates the three divorces simultaneously or in a single declaration is contravening Allah's set guidelines and deviating from the righteous path of Islam.<sup>47</sup>

Al-Qaradawi's perspective, as indicated by the quote, is that the divorce process must be executed in a gradual and systematic manner. The husband's right to divorce three times cannot be exercised simultaneously. The inclusion of the rule against issuing three divorces at once is a measure aimed at preventing injury to both parties involved, and it is a key aspect of the concept known as *sadd al-Ẓarī'ah*.

Al-Qaradawi asserts that *sadd al-Ẓarī'ah* is a measure aimed at preventing the occurrence of sinful actions. This idea is mandated by Allah SWT in the Qur'an and Sunnah. It is important to note that *sadd al-Ẓarī'ah* differs from *siyasat*, as the latter can potentially create possibilities for sin. The objective of *sadd al-Ẓarī'ah* is to ban any means that leads to prohibitions or harm. Al-Qaradawi's stance on the prohibition of instant triple talaq, when analyzed through the lens of *sadd al-Ẓarī'ah* theory, suggests that the aim of preventing husbands from issuing *talaq* lies in the prohibition set by Allah SWT and the Sunnah of Rasulullah PBUH, which explicitly forbids this practice. In the *sadd al-Ẓarī'ah* viewpoint, anything that is forbidden in the Qur'an and hadith is intended to prevent negative outcomes. Therefore, the adverse consequences of triple *talaq* include the suffering and damage endured by the woman as the wife, as well as the man as the husband. There is a possibility that both individuals still desire to establish a domestic partnership. The spouse expresses remorse, and they both aspire to cultivate a

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<sup>46</sup>Yusuf Al-Qaradhawi, *Tuntas Memahami Halal dan Haram*, p. 326-327.

<sup>47</sup>Yusuf Al-Qaradhawi, *Tuntas Memahami Halal dan Haram*, p. 326-327.

peaceful connection. This aspiration will indeed be impeded if triple *talaq* is deemed legally legitimate. According to Al-Qaradawi, the practice of instant triple *talaq* should be banned, and the law should only allow for a single occurrence, as was the case during the time of the Prophet, Abu Bakr, and the early part of Umar's rule.

According to Ibn Qayyim al-Jauziyah, the *sadd al-ẓarī'ah* thesis is closely connected to the prohibitions set by Allah SWT. This implies that the prohibitions set by Allah SWT in the Qur'an serve as a way to prevent and discourage wicked actions, known as *sadd al-ẓarī'ah*. The phrase indicates that upon careful examination of the Shari'a, it becomes evident that it prohibits any actions that are forbidden, thereby contradicting the specific method aimed at achieving those actions. Tactics refer to a range of methods and approaches that can lead to forbidden actions, while *sadd al-ẓarī'ah* is the antithesis of tactics. These two problems are inherently conflicting. Allah SWT, the originator of the Shari'a, has prohibited many methods that result in malevolence.<sup>48</sup>

The aforementioned phrase might be seen as suggesting that the restrictions imposed by Allah SWT in the Qur'an, as well as the restrictions set out by the Prophet PBUH in his Sunnah, serve as a mechanism to mitigate harm and wrongdoing. When it comes to the restriction of divorcing one's wife with triple *talaq*, it serves as a *wasilah*, or a method to prevent harm and negative consequences. This prohibition has the direct capacity to eliminate the avenues through which potential harm can be prevented, particularly for women in their role as wives. Similarly, husbands are also prohibited from divorcing their wives using triple *talaq* in order to ensure advantageous outcomes for them and to prevent any harm that may occur after marriage. It is possible that triple *talaq* was previously executed in a single instance when the husband was extremely upset, leading him to later regret his actions and seek reconciliation with his wife.

Legally, the instantaneous pronouncement of triple *talaq* will also invalidate the law of *iddah*, which is intended to be applicable to women. *Iddah* is a mandatory period of waiting that women are required to observe following their divorce from a male. Implementation of this triple *talaq* will result in the elimination of *iddah* laws and reconciliation laws, which are essential components of every *talaq* procedure. Hence, the immediate prohibition of triple *talaq* is a measure aimed at eliminating any potential loopholes and mechanisms that may cause harm, as well as abolishing the current Sharia regulations that come into effect following the *talaq* procedure.

Given the present circumstances, it is not feasible to execute triple *talaq* instantaneously, as the process necessitates involvement of the judicial system. The court will grant the husband a divorce solely in the form of a *talaq raj'i*, even if he has already issued a triple divorce outside the court. Therefore, the practice of

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<sup>48</sup>Ibn Qayyim al-Jauziyyah, *Manajemen Qalbu: Melumpuhkan Senjata Syaitan*, (Translation) (Jakarta: Darul Falah: 2005), p. 324.

instantly pronouncing triple talaq is not permissible and is deemed null and void, aligning with the traditional stance of Yusuf Al-Qaradawi.

## Conclusion

In light of the above debate, it may be inferred that Yusuf al-Qardhawi outrightly forbade the practice of triple talaq due to its non-compliance with the sharia guidelines about *talaq*. According to Al-Qaradawi, divorce should be conducted in a specific sequence, beginning with the initiation of the divorce, followed by the periods of iddah (waiting) and attempts at reconciliation, and finally, the second and third divorce proceedings. Simultaneous triple divorce undermines the sequential phases of divorce established by Allah SWT. Yusuf Al-Qaradawi's evidence comprises three hadith narrations, specifically the historical accounts of Imam Muslim from Ibn Abbas. These accounts clarify that the triple talaq that took place during the time of the Prophet, Abu Bakr, and the first two years of Umar's caliphate was considered as a single talaq. Additionally, there is the historical account of Al-Nasa'i from Ibn Wahhab, which recounts the intense displeasure of the Messenger of Allah upon receiving word of the simultaneous pronouncement of triple divorce. The third proposition entails a hadith transmitted by Abu Dawud from Nafi', which recounts the incident of Rukanah divorcing his wife and the news reaching the Prophet. The immediate prohibition of triple talaq is not only incongruous with the historical practice during the time of Rasul and Abu Bakr, as well as at the onset of Umar's rule, but also contradicts the legal principles of divorce, wherein each instance of talaq leads to the emergence of new laws known as iddah and reconciliation. Triple talaq instantaneously abolishes the laws about iddah (waiting period) and reconciliation. Based on the *al-ẓarī'ah* theory, Yusuf Al-Qaradawi's stance on the prohibition of instant triple talaq appears to be an attempt to conceal the negative consequences. Allowing triple talaq to occur simultaneously would eliminate the iddah laws and reconciliation laws that are essential in every talaq procedure. The immediate prohibition of triple talaq is aimed at bridging the disparity in legal recourse available to husbands and wives in cases of injury. Given the present circumstances, the immediate implementation of triple talaq is not possible since divorce proceedings take place in court, where talaq is recognized as a single occurrence.

## References

### Journals and Books

- Imam, Abdus Sami' Ahmad, *Pengantar Studi Perbandingan Mazhab*, (Translation), Jakarta: Pustaka al-Kautsar, 2016.
- Abubakar, Al Yasa', *Metode Istislahiah: Pemanfaatan Ilmu Pengetahuan dalam Ushul Fiqh*, Jakarta: Kencana Prenada Media Group, 2016.
- Aizid, Rizem, *Fiqh Keluarga Terlengkap*, Yogyakarta: Laksana, 2018.
- Al-Asqallani, Ibn Hajar, *Fathul Bari Syarh Shahih Al-Bukhari*, Jakarta: Pustaka Azzam, t.th.



- Al-Bassam, Abdullah bin Abdurrahman, *Taudihul Ahkam min Bulughul Maram: Syarh Bulughul Maram*, Jakarta: Pustaka Azzam, t.th.
- Al-Bukhārī, Muhammad bin Ismail, *Ṣaḥīḥ al-Bukhārī*, Riyadh: Bait al-Afkār, 1998.
- Al-Jauziyyah, Ibn Qayyim al-Jauziyyah, *Manajemen Qalbu: Melumpuhkan Senjata Syaitan*, (Translation), Jakarta: Darul Falah: 2005.
- Al-Nawawi, Imam, *Al-Minhaj Fi Syarh Shahih Muslim bin Al-Hajjaj: Syarh Al-Nawawi 'Ala Muslim*, Riyadh: Bait al-Afkar al-Dauliyyah, t.t
- Al-Qaradhawi, Yusuf, *7 Kaidah Utama Fikih Muamalat*, (Translation), Jakarta: Pustaka al-Kautsar, 2014
- Al-Qaradhawi, Yusuf, *Al-Fatwa: Baina Al-Indhibath wa Tasayyub*, (Translation), Jakarta: Gema Insani Press, 1997
- Al-Qaradhawi, Yusuf, *Al-Halal wa Al-Haram fi Al-Islam*, Kairo: Maktabah Wahbah, 1997.
- Al-Qaradhawi, Yusuf, *Al-Siyasah Al-Syar'iyah*, (Translation), Jakarta: Pustaka Al-Kautsar, 2019
- Al-Qaradhawi, Yusuf, *Fatwa-Fatwa Kontemporer*, (Translation), Jakarta: Gema Insani Press, 2008
- Al-Qaradhawi, Yusuf, *Hadyul Islam Fatwa Mu'ashirah*, (Translation), Jakarta: Gema Insani Press, 2008
- Al-Qaradhawi, Yusuf, *Kaifa Nata'amal Ma'a Alquran*, (Translation), Jakarta: Pustaka Al-Kautsar, 2016
- Al-Qaradhawi, Yusuf, *Madkhal li Dirasah Al-Syariah Al-Islamiyyah*, (Translation), Bandung: Mizan Pustaka, 2018
- Al-Qaradhawi, Yusuf, *Membumikan Islam: Keluasan dan Keluwesan Syariat Islam untuk Manusia*, (Translation), Bandung: Mizan Pustaka, 2018.
- Al-Qaradhawi, Yusuf, *Pengantar Politik Islam*, (Translation), Jakarta: Pustaka al-Kautsar, 2019
- Al-Qaradhawi, Yusuf, *Tuntas Memahami Halal dan Haram*, (Translation), Jakarta: Qalam, 2018
- Al-Qusyairi, Abu Al-Husain Muslim Al-Hajjaj, *Shahih Muslim*, Riyadh: Dar al-Salam, 2000
- Al-Zuhaili, Wahbah, *Fiqh Islam wa Adillatuhu*, (Translation), Jilid 9, Jakarta: Gema Insani Press, 2009.
- Amrin Amrin and Amirullah Amirullah, "Contemporary Legal Istimbat: Study on the Theory of Changes in Fatwa According to Yusuf Qardhawi," *Mizan: Journal of Islamic Law* 6, No. 1 (2022). DOI:10.32507/mizan.v6i1.1244.
- Anshor, Ahmad Muhtadi and Muhammad Ngizzul Muttaqin, "Pre-Marriage Course Based on Religious Moderation in Sadd Al-Ẓarī'ah Perspective," *Samarah: Jurnal Hukum Keluarga dan Hukum Islam* 6, No. 1 (2022). DOI: 10.22373/sjhk.v6i1.9111.
- Arfa, Faisar Ananda and Watni Marpaung, *Metode Penelitian Hukum Islam*, Jakarta: Prenada Media, 2018.
- Djawas, Mursyid, et.al., "Creating Family Resilience in Indonesia: A Study of Marriage Guidance Program in Aceh and South Sumatera," *Al-Ihkam*:

- Jurnal hukum dan Pranata Sosial* 7, No. 1 (2022). Doi.org/10.19105/al-lhkam.v17i1.6150.
- Fakhruddin, Imam “Ihtikār dalam Pemikiran Imam Ghazali dan Yusuf Qardhawi,” *Jurnal Annawa*, (2020). DOI:10.37758/annawa.v2i2.120.
- Kusnadi Kusnadi,” Perspektif Yusuf Al-Qardhawi dan Fazlu Rahman tentang Ijtihad,” *Al-Qisthu: Jurnal Kajian Ilmu-ilmu Hukum* 14, No. 2 (2016).
- Muslich, Ahmad Wardi, *Hukum Pidana Islam*, Jakarta: Sinar Grafika, 2016.
- Shaleh, Juwaini, et.al., “Marriage Guidance Towards Family Resilience in Aceh: A Study of Islamic Law Philosophy,” *Samarah: Jurnal Hukum Keluarga dan Hukum Islam* 6, No. 2 (2022). DOI: <http://dx.doi.org/10.22373/sjhc.v6i2.12448>.
- Sofyan A.P. Kau & Zulkarnain Suleman, *Ushul Fiqh: Dari Nalar Kreatif Menuju Nalar Progresif*, Malang: Iteligensia Media, 2020
- Syarifuddin, Amir, *Hukum Perkawinan Islam di Indonesia: Antara Fiqh Munakahat dan Undang-Undang Perkawinan*, Jakarta: Kencana Prenada Media Group, 2014.
- Trigiyatno, Ali, and Sutrisno Sutrisno, “Dharar as a Reason for Divorce Lawsuit in Fiqh and Legislation of Some Muslim Countries: Study on Indonesia, Bahrain, Sudan, Qatar, and Morocco,” *Istinbath: Jurnal Hukum Islam* 7, No. 1 (2022). DOI: <http://dx.doi.org/10.29240/jhi.v7i1.3368>.