

Dar-ul-Ifta

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بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

نحمده و نصلى على رسوله الكريم

KHULA

Praise is due to Allah who guided us to the righteous path, And Durood o Salaam Upon the Holy Prophet Muhammad "peace be upon him" and his Family and Companions.

We will discuss on the following contexts on Khula and its reality in the light of Shari'at & Fiqh.

- i. The literal meaning of Khula
- ii. The Shar'ee meaning of Khula
- iii. Khula and Quraan & Hadith
- iv. Khula and four Imam
- v. The result of Khula
- vi. Other context on Khula

1. LITERAL MEANING OF KHULA

Khula is an Arabic word that literally means "to take out" / "to take off".

For example: خلع ثوبه عن بدنه

(He took off his cloth from his body) (Fath ul Qadeer – Vol 4 – Pg 57)

The Second meaning of Khula is "to remove" (Al Izaalah) (Al fiqh a'laa Mazaahib il Arb'a 4/387)

2. KHULA IN THE LIGHT OF SHARIAH

الخلع ازالة ملك النكاح ببذل بلفظ الخلع

or

هو بذل المرأة العوض على طلاقها

To remove the union of Nikah in exchange of money by the word of Khula or A release for payment from the wife for divorce. (talaaq)

3. KHULA AND QURAAAN & HADITH

Allah the almighty says:

ولأ يحل لكم ان تأخذوا مما ءاتيتموهن شيئاً إلا ان يخافا ألا يقيما حدود الله فان خفتم ألا يقيما حدود الله فلا جناح عليهما فيما افتدت به

“It is unlawful for you (Men) to take back (Mehr etc . . .) from your wives, except when both parties fear they would be unable to keep the limits ordained by Allah. If you fear that they would be unable to keep the limits ordained by Allah, there is no blame on either of them if she gives something for her freedom”. (Baqarah – Aayat 229)

The above Aayat revealed on the occasion where a Woman namely Jamilah Binte Abdullah was in the Nikah of Saabit Bin Qais and disliked him deeply. She came to the Holy Prophet “Sallallahu Alaihi Wasallam” and said:

“Yaa Rasoolallah! I do not blame Saabit for defects in his character or his religion, but I, Being a Muslim, dislike to behave in an Islamic manner. The Holy Prophet “Sallallahu Alaihi Wasallam” said: “will you give back the garden which your husband has given you (as Mehr). She said yes. The Holy Prophet “Sallallahu Alaihi Wasallam” said to Saabit: “O Saabit! Accept the garden and divorce her once”. (Bukhari, Chap: Talaaq, Part: Khula – Hadith No: 5283) (Tafseer e Mazhari 1/343)

The Hadith Shareef is as following:

عن ابن عباس ان امرأة ثابت بن قيس أتت رسول الله صلى الله عليه وسلم فقالت يا رسول الله ثابت بن قيس ما أغيب عليه في خلق و لا دين ولكنى أكره الكفر في الإسلام قال رسول الله صلى الله عليه وسلم أتردين حديقته قالت نعم قال رسول الله صلى الله عليه وسلم أقبل الحديقة و طلقها تطليقة

4. KHULA & 4 IMAM: (Imam Abu Hanifa, Imam Maalik, Imam Shaafi', Imam Ahmad bin Hambal)

HANAFIYA:

إذا اتشاق الزوجان و خافا ألا يقيما حدود الله فلا بأس بأن تقتدى نفسها بحال يخلعها به

However, if there are some misunderstandings or wrongdoings between a couple and fear that they will not be able to keep the limits ordained by Allah, So, in that situation it is permissible for the wife to remove herself for her freedom by giving some financial payment. (Hidaya 280/2)

SHAAFI'YA:

الخلع هو اللفظ الدال على الفراق بين الزوجين بعوض

Khula is a word which can separate a couple by an exchange of Money.

HANAABILA:

الخلع هو فراق الزوج امرأته بعوض يأخذه الزوج من امرأته

Separation of husband from his wife, in exchange of a financial settlement that husband receives from his wife.

MAALIKIYA:

الخلع شرعا هو طلاق بعوض

Khula is talaaq in exchange of Money.

5. THE RESULT OF KHULA

حكمه وقوع الطلاق البائن

Khula is considered One Talaq e Baayin (Finalized cancellation of Nikah).

The Holy Prophet “Sallallahu Alaihi Wasallam” said:

الخلع تطليقة بائنة

“*Khula is one talaq e baayin*” (Badaa’i-us-Sanaayi’ – Vol 3 – Pg 151)

6. OTHER CONTEXT ON KHULA

i. If the husband beats the wife or he is at fault, then it is prohibited for him to demand money in return for divorce.

As mentioned in the above Aayat that “It is unlawful for you (Men) to take back (Mehr etc . . .) from your wives”

And if the husband is not at fault and the wife does not fulfill his rights correctly, then it is permissible for the husband to take money in return.

ii. In case of Khula, the wife will completely come outside from Nikah. The husband will have no chance to return.

iii. After Khula, If they want to live again together as husband & wife, So they must remarry again.

iv. In case of Khula, after the waiting period (Iddah) the woman can marry with another one. Yes, if the woman wants to return back to her husband, So it is allowed to remarry in the waiting period. It means no iddah for the woman.

v. In case of Khula, Halaalah is not necessary, Just only remarry.

vi. Khula is based on two rules:

- a. The exchange of Money from wife to husband.
- b. The consent of the Husband.

So, if the husband does not accept the money or no consent on Khula, So Khula will not carry on. ALLAH AND HIS BELOVED KNOW BEST

Jazaakallah

Mufti Muhammad Ishaq Qadri Razvi

Director of Dar ul Ifta

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