

## KHULA WITHOUT HUSBAND'S CONSENT: A CRITICAL ANALYSIS OF PAKISTANI LAW IN THE LIGHT OF ISLAMIC JURISPRUDENCE

Muhammad Irtaza Tahir<sup>\*1</sup>, Tahir Mehmood Khan<sup>2</sup>

<sup>\*1</sup>Advocate, LL.B. (International Islamic University, Islamabad)

<sup>2</sup>LL.M. (UK), Advocate High Court, M.Sc., M.A.

<sup>\*1</sup>[irtazakhan052@gmail.com](mailto:irtazakhan052@gmail.com)

Corresponding Author: \*

Muhammad Irtaza Tahir

DOI: <https://doi.org/10.5281/zenodo.20795734>

Received  
03 April 2026

Accepted  
12 May 2026

Published  
30 May 2026

### ABSTRACT

Marriage is a very important part of a Muslim's life. Islam clearly teaches us how to enter into the marriage contract and how to dissolve this sacrosanct. In this article the basic purpose is to find out that when the wife wishes to dissolve the marriage contract through court by way of Khula without the consent of husband, is that khula valid or void according to Islamic law? We will answer this question by referring to Quranic Verses and traditions of Holy Prophet (S.A.W.S) along with the view of Aima arba'a/4 schools of thought and other jurists as well. This research is aimed to solve the problem that has gained significant attention, in recent times, in Courts of Pakistan. But our Courts themselves conducted Judicial ijihad and misinterpreted various verses of Quran and Traditions of Holy Prophet (S.A.W.S). This misinterpretation has caused significant problems and is destroying our family system. Although this misinterpretation is due to lack of legislation in this regard. This article will prove that the consent of the husband is necessary for khula according to Quran, Hadith, traditions of caliphs and different schools of thought. We will also analyse PLD 1967 SC 97 and Haji Saif Ur Rehman v. Government of Pakistan (Shariat Petition No 16/1 of 2022) along with some other case laws and will give suggestions for islamization of current methodology of khula enforced in Pakistani Courts along with the necessary legislation needed in this regard.

**Keywords:**

### INTRODUCTION

#### Understanding khula

##### Literal meaning:

Khula literally means to 'take-off' or 'untie'. "Khula" is an Arabic word that came from "khal-un" which means to take off. Arabs use the word 'Khal-atun libas' which means to take off clothes. This word has been borrowed for separation of spouses because Quran has called Husband and wife as a single garment and by khula this fictitious personality of garments takes off.

#### Legal meaning in Islamic Jurisprudence:

"Khula is the right of wife to seek divorce/separation from her husband by giving up her financial rights."

According to Allama Ibn Hamam (رضي الله عنه) "Abolition of milk-a-Nikah by taking compensation using word of Khula".

#### Is khula also done through Offer and Acceptance?

Hanafi View:

Like marriage and other Shari'ah matters, Khula is also done through consent.

Maliki View:

Khula is done through Offer and Acceptance.

### Can Badl-e-Khula be more than original amount of dower?

Badl-e-Khula can be more than amount of dower if wife is guilty and it is better that badl-e-khula

should not exceed the amount of dower but if it is agreed between husband and wife that amount of Badl-e-Khula will be more than dower amount, the wife shall pay it.

It is also in the meaning of the following Quranic Verse

الطلاق مرتان فامسك بمعروف او تسريح باحسان ولا يحل لكم ان تاخذوا مما اتيتموهن شيئا الا ان يخافا الا يقيما حدود الله فان خفتم الا يقيما حدود الله فلا جناح عليهما فيما افتدت به تلك حدود الله فلا تعتدوها ومن يتعد حدود الله فاولئك هم الظالمون

“A divorce may be [revoked] twice, whereupon the marriage must either be resumed in fairness or dissolved in a goodly manner. And it is not lawful for you to take back anything of what you have ever given to your wives unless both [partners] have cause to fear that they may not be able to keep within the bounds set by God: hence, if you have cause to fear that the two may not be able to keep within the bounds set by God, there shall be no sin upon either of them for what the wife may give up [to her husband] in order to free herself. These are the

bounds set by God; do not, then, transgress them: for they who transgress the bounds set by God-it is they, they who are evildoers”.

So, from the above verse the words (فِيمَا أَفْتَدْتُمْ بِهِ) shows that there is no sin on wife to offer fidiya to her husband and there is no sin on husband to accept that. So, these words not set any specific amount for fidiya as it is left to the spouse's consent.

### Khul'a from Quran:

#### Verse of Khula:

الطلاق مرتان فامسك بمعروف او تسريح باحسان ولا يحل لكم ان تاخذوا مما اتيتموهن شيئا الا ان يخافا الا يقيما حدود الله فان خفتم الا يقيما حدود الله فلا جناح عليهما فيما افتدت به تلك حدود الله فلا تعتدوها ومن يتعد حدود الله فاولئك هم الظالمون



“A divorce may be [revoked] twice, whereupon the marriage must either be resumed in fairness or dissolved in a goodly manner. And it is not lawful for you to take back anything of what you have ever given to your wives unless both [partners] have cause to fear that they may not be able to keep within the bounds set by God: hence, if you have cause to fear that the two may not be able to keep within the bounds set by God, there shall be no sin upon either of them for what the wife may give up [to her husband] in order to free herself. These are the bounds set by God; do not, then, transgress them: for they who transgress the bounds set by God-it is they, they who are evildoers”.

misconception here is that our Courts thinks that if the spouses will not able to maintain the prescribed limits of Allah than the Courts can grant khula without the consent of husband. But from the study of above verse, it is evident that no such authority is given to Courts etc to grant khula without husband's consent.

The verse says that “ unless spouses fear that they may not live together within the prescribed limits of Allah, so if you fear that spouses may not be able to keep within bounds set by Allah then there is no sin upon them for what wife give to her husband to free herself ”. If we accept for a moment that words (فَإِنْ خِفْتُمْ) addresses authority (hukam), but how does it prove that authority can grant khula forcefully without husband/spouse's consent. Because if the purpose of verse is to give authority/hukam the powers to grant khula then the verse should be like this “So if you (authority) fears that the spouses may not be able to keep within the bounds set by Allah, so you have powers

There is misconception that in the above-mentioned verse of Quran that these wor (فَإِنْ خِفْتُمْ أَلَّا يُقِيمَا حُدُودَ اللَّهِ) gives authority to Hukum and Qazi/Ulul-Amar to grant khula. However, the question is that where in these words the authority to grant khula forcefully without husband's consent is given to Hukum/Qazi. The

to dissolve the marriage between them or there is no sin upon you for dissolving the marriage between them. Instead of this the verse says that “In this situation there is no sin upon spouses to dissolve marriage (by khula). We may better understand this with the help of following examples:

Suppose that a case came before a judge in which wife doesn't want to take khula because she will have to return dower and husband doesn't want to give khula as he wants to live with her wife. But judge/authority/hukam fears that the spouses may not be able to keep within the bounds set by Allah then in this case, can the Judge/authority/hukam will grant khula forcefully? Because neither husband nor wife wants to dissolve marriage by way of khula. Obviously, the answer is no.

1. Suppose that a case comes before a judge/authority/hukam in which wife is guilty. And husband doesn't want to divorce wife without taking dower back. But wife doesn't want to take khula. In this situation can a judge forcefully dissolve marriage by way of khula by giving dower back to husband? As the wife doesn't consent for khula. Obviously, the answer is no. Because no reasonable person can derive such powers to grant khula without spouses consent from the words (فَإِنْ حَفَّتُمْ).

Now we will discuss some more details that will prove our view in this regard

**Firstly**, we can easily understand these words (فَإِنْ حَفَّتُمْ) by understanding the social aspects of that time in which this verse was revealed. At that time Ulul-Amar not only mean Courts where people come for decrees, but it means the Ulama etc from where people take advices regarding their matters. Now we can easily understand these words that if someone comes to Ulul-Amar to seek advice regarding khula and he is of opinion that they (spouses) can't live together within prescribed limits of ALLAH then he may advise them for khula and tell them there is no sin on them if they do khula.

**Secondly**, if we accept for a moment that the words فَإِنْ حَفَّتُمْ أَلَّا يُقِيمَا حُدُودَ اللَّهِ means Ulul Amar and

it gives them authority to grant khula then why the words (فَلَا جُنَاحَ عَلَيْهِمَا) are used if the authority for granting khula is given to Ulul-Amar. Then the words (there is no sin on you) should have been used instead of the words (there is no sin on them). And also, these words are clearly indicating that the Quran is mentioning about that situation in which spouses are agreed for khula and they or anyone among them is in doubt, whether it is right or wrong according to Islam, for separation through Khula. So here from these words (there is no sin on them) ALLAH has cleared their doubt. Also, the words (فَلَا جُنَاحَ عَلَيْهِمَا) shows that it is addressing both husband and wife not only wife because if the intention is to address wife only then the words (فَلَا جُنَاحَ عَلَيْهَا) should be used instead of (فَلَا جُنَاحَ عَلَيْهِمَا). There may be a fear of sin in wife who wants to take khula by offering ransom/fidiya that is it right for her or not? And also, there may be a fear of sin in husband that is it right for him to grant khula by taking ransom/fidiya as badle-khula? So, Allah clears this doubt of both spouses by saying (فَلَا جُنَاحَ عَلَيْهِمَا فِيمَا افْتَدَتْ بِهِ) that there shall be no sin upon either of them for what the wife may give up (to her husband) in order to free herself.

**Thirdly**, it is also pertinent to note here the words فِيمَا افْتَدَتْ بِهِ in which Badle-Khula is regarded as “Fidya”. The payment of it by woman is termed as “Iftada”. In Arabic Fidya is that payment which is given for freedom of prisoners of war (POW). It is the necessary element of a contract that consent of both parties shall be necessary. Without consent the contract shall be void. So here fidiya is a contract in which one party (wife) offers something (return of dower etc) to other party (husband) now if the husband accepts that offer then he may give divorce by saying words of khula. But if the other party rejects offer of first party, then contract of fidiya shall not take place.

It is worth mentioning here that the key of Nikah is in the hands of man/husband. Nikah cannot be revoked without the consent of husband. According to Quran

وان طلقتموهن من قبل ان تمسوهن وقد فرضتم لهن فريضة فنصف ما فرضتم الا ان يعفون او يعفوا الذي بيده عقدة النكاح وان تعفوا اقرب للتقوى ولا تنسوا الفضل بينكم ان الله بما تعملون بصير.

“And if you divorce them before you have touched them and you have already specified for them an obligation, then [give] half of what you specified - unless they forego the right or the one in whose hand is the marriage contract foregoes it. And to forego it is nearer to righteousness. And do not forget graciousness between you. Indeed Allah, of whatever you do, is Seeing”.

This verse shows that the key/knot of Nikah is the hands of husband. In this verse Allah has used pronoun for wife/women by saying (إِلَّا أَنْ يَعْفُونَ )

means ‘if those women forgives’. But for husband Allah used words (بِيَدِهِ عُقْدَةُ النِّكَاحِ ) that is ‘if the person in whose hand is the marriage contract forgoes it’. Allah may also used these words instead, to address husband in this verse, like (أَوْ يَعْفُو زَوْجُهَا ) that means ‘her husband who divorced her, forgoes it but Allah used (بِيَدِهِ عُقْدَةُ النِّكَاحِ ) that signifies that the knot of marriage is the hands of man/husband.

Khula is Contract of Compensation in which consent of spouses/parties is necessary.

وفي تسميته صلى الله عليه وسلم الخلع فدية دليل على أن فيه معنى المعاوضة ولهذا اعتبر فيه رضا الزوجين

And the name of the Khula named Fidiya by the Holy Prophet (peace and blessings of Allah be upon him) is evidence that the meaning of compensation is found in it and that is why the consent of the spouses has been declared a mandatory condition in it.

Now we will see another verse of Quran that will further prove our point that is:

ولهن مثل الذي عليهن بالمعروف وللرجال عليهن درجة والله عزيز حكيم.

And due to the wives is similar to what is expected of them, according to what is reasonable. But the men have a degree over them [in responsibility and authority]. And Allah is Exalted in Might and Wise.

The words (وَلِلرِّجَالِ عَظِيمَةٌ) clearly show that in certain matters the husband has more authority than women. Now we will see some sayings of Jurists and commentators on the abovementioned verses

According to Abu Malik (رضي الله عنه)

وَلِلرِّجَالِ عَظِيمَةٌ دَرَجَةٌ قَالَ يُطَلِّقُهَا وَلَيْسَ لَهَا مِنَ الْإِمْرَاءِ مِثْلُهَا

“The meaning of Quranic verse (وَلِلرِّجَالِ عَظِيمَةٌ) is that husband can give divorce to wife, but wife has no authority/right in this regard”.

Imam Fakhar-ud-Din (shafi) while commenting on this verse wrote

ان الزوج قادر على تطليقها اذا طلقها فهو قادر على مراجعتها شاءت المرأة أم لم تشاء ، أما المرأة فلا تقدر على تطليق الزوج وبعد الطلاق لا تقدر على مراجعة الزوج ولا تقدر ايضاً على أن تمنع الزوج من المراجعة

Husband has the authority to divorce wife and after pronouncing divorce has the right to revoke divorce, but wife can neither divorce husband nor can revoke divorce and cannot stop husband from revoking divorce.

Imam Abu Abdullah Al-Qurtabi (Maliki) in commenting on (وَلِلرِّجَالِ عَظِيمَةٌ) writes  
له رفع العقد دونها

The authority to terminate the marriage contract is only available to man not woman.

**Background in which verse of Khula was revealed:**

Now we will see the background in which verse of khula (2:229) was revealed. Following are some traditions that will clear the context in which verse of khula was revealed.

Abdullah Ibn Abbas said:

عن ابن عباس: والمطلقات يتربصن بأنفسهن ثلاثة قروء ولا يحل لهن أن يكتمن ما خلق الله في أرحامهن الآية: وذلك أن الرجل كان إذا طلق امرأته فهو أحق برجعته، وإن طلقها ثلاثا، فنسخ ذلك فقال: الطلاق مرتان الآية.

“Ibn Abbas said: “And the divorced women shall wait for three menstrual cycles (quru’), and it is not lawful for them to conceal what Allah has created in their wombs” (the verse). This was because,

initially, when a man divorced his wife, he had the right to take her back, even if he had divorced her three times. However, this was abrogated, and it was stated: “Divorce is twice” (the verse).”

Hisham bin Urwah said:

عن هشام بن عروة، عن أبيه، أن رجلا قال لامرأته: لا أطلقك أبدا ولا أويك أبدا. قالت: وكيف ذلك؟ قال: أطلقك، حتى إذا دنا أجلك راجعتك، فأنت رسول الله ﷺ فذكرت ذلك فأنزل الله: الطلاق مرتان

“Hisham ibn Urwah, from his father, said that a man said to his wife: “I will never divorce you and I will never take you back.” She asked: “How is that possible?” He replied: “I will divorce you, and

when your waiting period is near, I will take you back.” She mentioned this to the Messenger of Allah ﷺ and Allah revealed the verse: “Divorce is twice.”

Hazrat Ayesha (رضي الله عنه) said:

عن عائشة قالت: لم يكن للطلاق وقت، يطلق الرجل امرأته ثم يراجعها ما لم تنقض العدة، وكان بين رجل من الأنصار وبين أهله بعض ما يكون بين الناس فقال: والله لأتركك لا أيما ولا ذات زوج، فجعل يطلقها حتى إذا كادت العدة أن تنقضي راجعها، ففعل ذلك مرارا، فأنزل الله فيه: “الطلاق مرتان فإمساك بمعروف أو تسريح” بإحسان فوقت الطلاق ثلاثا لا رجعة فيه بعد الثالثة

“Aisha (may Allah be pleased with her) said: There was no fixed limit for divorce. A man could divorce his wife and then take her back as long as her waiting period (‘iddah) had not ended. There was a man from among the Ansar who had some issues with his wife, as can happen between people. He said to her, “By Allah, I will leave you neither fully divorced nor properly married.” So, he began divorcing her, and just as her waiting

period was about to end, he would take her back. He repeated this several times, and then Allah revealed concerning him:

“Divorce is twice. Then, either keep [her] in an acceptable manner or release [her] with good treatment.” Thus, the limit for divorce was set at three times, after which there is no possibility of taking the wife back”.

In the light of abovementioned traditions Imam Ibn Kathir said:

قال الامام ابن كثير هذه الآية الكريمة رافعة لما كان عليه الأمر في ابتداء الإسلام، من أن الرجل كان أحق برجعة امرأته، وإن طلقها مائة مرة ما دامت في العدة، فلما كان هذا فيه ضرر على الزوجات قصرهم الله إلى ثلاث طلاقات، وأباح الرجعة في المرة والثنتين، وأبانتها بالكلية في الثالثة، فقال: الطلاق مرتان فإمساك بمعروف أو تسريح بإحسان

“Imam Ibn Kathir said: This noble verse abrogated the previous practice during the early stages of Islam, where a man had the right to take back his wife even if he divorced her a hundred times, as long as she was still in her waiting period (‘iddah). Since this was harmful to wives, Allah limited divorce to three occurrences. He allowed reconciliation after the first and second divorces but made the third divorce a complete separation. Allah says: “Divorce is twice. Then, either keep [her] in an acceptable manner or release [her] with good treatment.”

From these above traditions it is clear that the verse (2:229) was revealed to end the practice that is a man divorces his wife several times and then takes her back before the end of her iddah. The verse ends this practice by saying that a man cannot take her wife back after three divorces. Now here a question arises that if we accept for a moment that khula is the right of women/wife and the Courts/Hukam can grant it without the husband’s consent, so why Allah says (الطلاق مرتان) to end this abovementioned practice. If Allah has given the right to wife to take khula from husband

without his consent at any time then what is the purpose to limit the right to divorce. Allah can simply give wives the right of khula instead of limiting the right of divorce for husband by (الطلاق) (مرتان). So, wife may simply take khula any time even if her husband is not divorcing her not taking her back. But this is not the case because Allah has

ended this practice in which husband neither divorces his wife nor takes her back by revelation of verse (الطلاق مرتان) after which husband cannot take her wife back after three divorces. The background of the verse (2:229) makes it very clear and easy to understand that khula is not valid without husband's consent.

#### Khul'a from Sunnah:

##### Hazrat Jameela's (رضي الله عنه) incident:

حَدَّثَنَا أَبُو هُرَيْرَةَ بْنُ جَمِيلٍ، حَدَّثَنَا عَبْدُ الْوَهَّابِ النَّعْفِيُّ، حَدَّثَنَا خَالِدٌ، عَنْ عِكْرَمَةَ، عَنِ ابْنِ عَبَّاسٍ، أَنَّ امْرَأَةً، ثَابِتِ بْنِ قَيْسٍ أَتَتْ النَّبِيَّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ فَقَالَتْ يَا رَسُولَ اللَّهِ ثَابِتُ بْنُ قَيْسٍ مَا أَعْتَبْتُ عَلَيْهِ فِي خُلُقِي وَلَا دِينِي، وَأَكْرَهُ الْكُفْرَ فِي الْإِسْلَامِ. فَقَالَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ "أَتُرِيدِينَ عَلَيْهِ حَدِيثَهُ" قَالَتْ نَعَمْ. قَالَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ "أَقْبِلِ الْحَدِيثَ وَطَلِّقِيهَا تَطْلِيقًا"

Narrated by Ibn Abbas: The wife of Thabit bin Qais came to the Prophet (ﷺ) and said, "O Allah's Messenger (ﷺ)! I do not blame Thabit for defects in his character or his religion, but I, being a Muslim, dislike to behave in un-Islamic manner (if I remain with him)." On that Allah's Messenger

(ﷺ) said (to her), "Will you give back the garden which your husband has given you (as Mahr)?" She said, "Yes." Then the Prophet (ﷺ) said to Thabit, "O Thabit! Accept your garden, and divorce her once."

The words of Nasai are

##### فأرسل إلى ثابت فقال له خذ الذي لها عليك واخل سبيلها قال نعم

"The Holy Prophet (PBUH) sent a message to Hazrat Thabit saying that whatever wealth she owed to you take it and leave her, He Said yes (ok)".

In both of the abovementioned traditions, Holy Prophet (s.a.w.s) asked Hazrat Thabit (رضي الله عنه) to divorce his wife that clearly indicates that without Hazrat Thabit's pronouncement khula will not take effect. If the right to grant khula is given to hukam then the Prophet had returned the garden to Thabit (رضي الله عنه) without asking his

wife and granted khula immediately to Jameela (رضي الله عنه) without asking Thabit (رضي الله عنه) to accept garden and give her divorce.

So, it is clear that the khula is with the consent of the Hazrat Thabit bin Qais as he uses the word (نعم) which means he gives his consent for khula. And Prophet (P.B.U.H) did not passed the order of khula to Thabit bin Qais but it was just an advice by Prophet (P.B.U.H) and it is also consensus of Ulama that it was just an advice that Thabit bin Qais had accepted.

Hafiz Ibn Hajar in writing commentary for this hadith writes that:

هو أمر إرشاد وإصلاح لا إيجاب

"It was an order of guidance and correction, not a positive order".

Allama Badar-ud-din aeni and Allama Qustulani also said in their commentary on this hadith that this was an order of guidance. It is also pertinent to note here that if the consent of husband is not needed for khula than the Prophet (P.B.U.H) had

himself given khula to Hazrat Jameela instead of asking Thabit bin Qais (رضي الله عنه) to accept the return of dower (Garden) and give Hazrat Jameela Khula and which Hazrat Thabit accepted by saying words (نعم) Ok. So this shows Hazrat Thabit himself gave khula to Hazrat Jameela by accepting advice of Prophet (P.B.U.H).

Hazrat Abu bakar Jasas Razi wrote commentary on this Hadith by saying

- كان الخلع إلى السلطان شاء الزوجان أو أبيا إذا علم أنهما لا يقيمان حدود الله لم يستلهما النبي صلى الله عليه وسلم عن ذلك ولا خاطب الزوج بقوله اخلعها بل كان يخلعها منه ويرد عليه حديثه وإن أبيا أو واحد منهما لما كانت فرقة المتلاعنين إلى الحاكم لم يقل للملا عن خل سبيلها بل فرق بينهما

“If it were the powers of the Sultan, that when he saw that the spouses would not establish the limits of Allah, so he would divorce them, even if it was not the wish of the spouses.

So, the Holy Prophet (peace and blessings of Allah be upon him) would not have asked the two of them about the khula, He himself had given khula

to wife and return the garden to husband instead of saying husband for khula and asking him to accept his garden as Badl-e-Khula, even if both of them refuse or one of them refuses. Like the ruler has the authority to separate the spouses in Luan, so he does not ask the mala'in (husband) to leave his wife, but separates them himself”.

Now i am going to quote another hadith of Bukhari that will make our point more clear. That is

حدثنا إسحاق الواسطي : حدثنا خالد، عن خالد الحذاء، عن عكرمة «أن أخت عبد الله بن أبي بهذا ، وقال : تردين حديثه ؟ قالت نعم، فردتها وأمره يطلقها وقال إبراهيم بن طهمان عن خالد، عن عكرمة، عن النبي ﷺ : وطلقها

“Ishaq Al-Wasiti narrated to us: Khalid narrated to us, from Khalid Al-Hadha’, from Ikrimah: “The sister of Abdullah ibn Abi narrated the matter in this way, and he (the Prophet ﷺ) said, ‘Will you return his garden?’ She replied, ‘Yes,’ so she returned it, and he ordered him to divorce her.”

And Ibrahim ibn Tahman narrated from Khalid, from Ikrimah, from the Prophet ﷺ: “And he divorced her.”

This tradition made one thing very clear that is wife of Hazrat Thabit (رضي الله عنه) returned the

garden (dower) then the Prophet (P.B.U.H) asked Hazrat Thabit to divorce her by using word (يطلقها), then Hazrat Thabit (رضي الله عنه) divorced her that is shown by word (وطلقها). This makes our point very clear that the consent of both husband and wife is necessary for khula. Hazrat Thabit wife returned garden with her own will and Hazrat Thabit acted upon advice of Prophet (P.B.U.H) and divorced her with his own will.

Now we will see another hadith from abu-dawood that will help to understand our stance more clearly.

The hadith is

عن عائشة : أن حبيبة بنت سهل كانت عند ثابت بن قيس بن شماس؛ فضربها، فكسر بعضها، فأنت «رسول الله ﷺ بعد الصبح، فدعا النبي ﷺ ثابتا ، فقال : خذ بعض مالها و فارقها». فقال: ويصلح ذلك يا رسول الله ؟ ! قال: «نعم قال: فإني أصدقتها حديثين، وهما بيدها ! فقال النبي : خذها وفارقها»، ففعل

“Aisha (may Allah be pleased with her) reported that Habiba bint Sahl was married to Thabit bin Qais bin Shammass, and he struck her, breaking part of her (body). She came to the Messenger of Allah (peace and blessings be upon him) after Fajr prayer. The Prophet (peace be upon him) summoned Thabit and said, “Take some of her wealth and divorce her.”

Thabit said, “O Messenger of Allah, is that permissible?” The Prophet replied, “Yes.” Thabit then said, “I gave her two gardens as her dowry, and they are in her possession.” The Prophet said, “Take them and divorce her,” and so he did”.

This hadith also shows that Prophet (P.B.U.H) not himself gave khula to Hazrat Habiba, he asked Hazrat Thabit (رضي الله عنه) to divorce her. And Hazrat Thabit did as said. So here it is again

proved that khula was given by Hazrat Thabit not Holy Prophet (P.B.U.H).

Now referring back to verse of khula where words ( **فَإِنْ خِفْتُمْ** ) was used and then I discussed social aspects that where in that times people used to take advise from ulul-amar/Hukam. And i discussed that the situation where husband fears that is it right to take something from wife in order to give her khula. So, this hadith has proven my point that Hazrat Thabit (رضي الله عنه) said to Prophet (P.B.U.H) that is it right for him to take

his garden back. The Prophet (P.B.U.H) replied yes. So, from juxtaposing this hadith with verse of khula it becomes simple that Prophet (P.B.U.H) gave Hazrat Thabit (رضي الله عنه) advise to divorce Hazrat Jameela and accept his gardens back. And it is permissible for him to do so. Then Hazrat Thabit acted upon Prophet (P.B.U.H) advise and has taken his gardens back and divorced her.

One more point is that divorce is pronounced by Hazrat Thabit not Prophet (P.B.U.H) that makes clear that khula can't be granted without husband consent.

Now we will look one more hadith that will make clear that no one can separate spouses without husband's consent. The hadith is

عن ابن عباس رضي الله عنه قال : أتى النبي صلى الله عليه وسلم رجل فقال يا رسول الله، إن سيدي زوجني أمته وهو يريد أن يفرق بيني وبينها، قال: فصعد رسول الله صلى الله عليه وسلم المنبر فقال : يا أيها الناس ما بال أحدكم زوج عبده أمته ثم يريد أن يفرق بينهما ، إنما الطلاق لمن أخذ بالساق

Ibn Abbas (may Allah be pleased with him) reported that a man came to the Prophet (peace and blessings be upon him) and said, "O Messenger of Allah, my master married me to his slave girl, and now he wants to separate us." The Prophet (peace and blessings be upon him) ascended the pulpit and said:

"O people, what is the matter with one of you? He marries his slave to his slave girl and then wants to separate them. Divorce is only for the one who takes hold of the calf (i.e., the husband)."

This hadith makes one thing very clear that it is the right of husband to end marriage contract. Because master of slave has full control over him. Even a slave cannot marry without the permission of his master. But once a slave is married then even his master has no right to separate him from his

wife. In the above-mentioned hadith, a master married his slave with his own slave girl. Then the master wanted to separate them. The Prophet (P.B.U.H) the right to divorce is for the husband meaning that husband can only end the marriage. Although master has full right over his slave and in that particular case the wife of his slave is also the slave of the same master. But still, he can't separate them. So how a court/hukam can end marriage without husband's consent? Although the husband is not slave of court and, as, master of slave has no right to end his (slave) marriage without his consent so how a Court could assume such powers even the husbands are not the slave of Courts. This shows that the key/knot of marriage is in the hands of husband only and he has the right to end marriage.

### The Practice of Khula during the reign of Caliph Umar ibn al-Khattab: A historical and jurisprudential analysis

We will see here that how khula was done in the era of Hazrat Umar (رضي الله عنه). Now we will see a tradition from the era of Hazrat Umar (رضي الله عنه) that is

عن كثير مولى سمرة ، قال : أخذ عمر بن الخطاب امرأة ناشزا فوعظها فلم تقبل بخير ، فحبسها في بيت كثير الزبل ثلاثة أيام ، ثم أخرجها ، فقال: كيف رأيت ؟ فقالت: يا أمير المؤمنين، لا والله ما وجدت راحة إلا هذه الثلاث، فقال عمر : اخلعها ويحك ولو من قرطها

"Kathir, the freed slave of Samurah, reported: Umar ibn al-Khattab (may Allah be pleased with him) took a rebellious (disobedient) woman and admonished her, but she did not respond

positively. He then confined her in a house filled with filth for three days. After that, he brought her out and asked, "How did you find it?" She replied, "O Commander of the Believers, by Allah, I found

no comfort except during these three days.” Umar said, “Divorce her, woe to you, even if it is from her earrings!”

From this tradition it is proved that Hazrat Umar (رضي الله عنه) not gave khula to wife by himself although he was the ruler at that time. Even the wife wanted separation from her husband but still Hazrat Umar called her husband and said ‘woe to you’ by using words (ويحك) and then said leave her by using words (اخلعها) even if you have to take her earring. This shows that Hazrat Umar after seeing the hatred of wife for her husband called him and asked for his well-being to divorce his wife even for her earring as badl-e-khula. This makes very

Hazrat Umar’s (رضي الله عنه) quote:

Hazrat Umar (رضي الله عنه) said:

إذا أرادت النساء الخلع فلا تكفر وهن

#### **If women asks/demands for Khula don't refuse them (For Khula)**

It is very clear from this saying of Hazrat Umar that in khula the consent of Husband is necessary. So that’s why Hazrat Umar Said this to all husbands that if your wife wants khula don’t refuse it. If consent of Husband is not required so why Hazrat Umar is advising the Husbands to not refuse for khula if their wives ask for it. And secondly Hazrat

evident that the Caliph Umar may himself granted khula to the wife without calling the husband after seeing her hatred and wish not to live with her husband. But this is not the case as khula shall be with the consent of husband that’s why Hazrat Umar called her husband and asked him to divorce her even if you had to take earring as badl-e-khula. If khula is right of women and the power to grant it is given to hukam then Hazrat Umar had not asked her husband to leave her. Again, there is one thing that is Hazrat Umar asked her husband to leave her. This shows that if husband refuses to leave wife by way of khula the marriage will not be dissolved.

Umar was himself Hakim and Qazi at that time so if the Husbands consent is not needed then he (Hazrat Umar) can himself (on his own) can grant khula to wives instead of this he was advising husbands to not refuse for khula when your wife demands it. This clearly shows that consent of husband is necessary for khula and Hakim/Qazi can’t grant it without husband’s consent.

Allama Ibn Rushd said:

وأما ما يرجع الى الحال التي يجوز فيها الخلع من التي لا يجوز فإن الجمهور على أن الخلع جائز مع التراضي إذا لم يكن سبب رضا هما بما تعطيه إضراره بها

“Regarding the conditions in which redemption is permissible, the majority held that it is permitted with the mutual consent of the parties, unless consent to pay him is obtained by fear of injury to her”.

This statement of Allama Rushd makes his stance clear that khula is permitted only with the mutual consent of spouses and without mutual consent it’s not valid. As khula is fidiya so as i already

discussed the amount that is offered by wife is with her own will not under any pressure from husband (if husband is cruel and wants to leave wife by way of khula so that he may get his dower etc back, it is disliked). Same is the case no one can force husband to take specific amount except by his (husband) own will. So, the gist is that khula is a transaction which is done by the consent of both husband and wife.

Allama Ibn Hazam said:

وليس لهن أن يفرق بين الزوجين لا بخلع ولا بغيره

“Judges do not have the authority to separate (separate) between husband and wife with or without khula”. And after extensively commenting on this issue, he further said:

وليس في الآية ولا في شيني من السنن أن للحكمين أن يفرقا ولا أن ذلك للحاكم

“That is, it is not proved by any verse or any hadith that the judge has the authority to separate the husband and wife, nor is this authority proved for the ruler (judge)”.

#### **Jurists Opinions:**

Now we will look at opinions of different schools of thought on this issue regarding necessity of consent of Husband for khula.

#### **Hanafi view:**

I have already mentioned different Hanafi jurists' views above regarding this issue. Here I am going to give view of Imam Sarakhsi and this serves as the view of all Hanfi jurists.

والخلع جائز عند السلطان وغيره لانه عقد يعتمد التراضي

“And Khula is permissible with the Sultan (ruler), and besides. Because this is a contract whose whole basis is mutual consent (of spouses)”.

#### **Shafi view:**

Imam Shafi said:

لأن الخلع طلاق فلا يكون لأحد أن يطلق عن احد أب ولا سيد ولا ولي ولا سلطان

“Because khula is in the order of divorce, no one has the right to give divorce on behalf of another, neither does the father have this right, nor does the master, the guardian, nor the ruler have this right”.

Allama Abu Ishaq Sherazi Shafi said:

ولان رفع عقد بالتراضي جعل لدفع الضرر فجاز من غير ضرر كالا قالة في البيع

“Because it (khula) is the name of termination of marriage contract by mutual consent which is made to prevent harm, so where there is no harm to any party it is permissible like rescinding the sale contract”.

#### **Maliki View:**

Allama Abu Al-Waleed Baji Maliki in writing commentary of Mota Imam Malik said

وتجبر على الرجوع إليه إن لم يرد فراقها بخلع أو غيره

“Wife will be forced to go back to husband, if husband refuses for separation by way of khula”.

Allama Ibn Rushd states that

وأما ما يرجع الى الحال التي يجوز فيها الخلع من التي لا يجوز فإن الجمهور على أن الخلع جائز مع التراضي إذا لم يكن سبب رضاها بما تعطيه إضراره بها

“The question that under what circumstances khula is permissible and under what circumstances it is impermissible? The majority of the jurists agree that khula is permissible in a state of mutual consent, provided that the reason for

the woman's agreement to pay for the property is not because of harassment by the man”.

#### **Hanbali view:**

The most prominent commentator of Hanbali school of thought allama mofiq-ud-deen bin Qadama hanbali states

ولأنه معاوضة فلم يفتقر إلى السلطان كالبيع والنكاح ولا نه قطع عقد بالتراضي أشبه الإقالة

“And because this is contract of compensation, it does not require a ruler/hakim, like sale and Nikah. Also, because Khula is the name for

terminating marriage contract by mutual consent so it is similar to rescinding sale contract (Aqala)”.

Allama Ibn Qayyim states

وفي تسمية صلى الله عليه وسلم الخلع فدية دليل على أن فيه معنى المعاوضة ولهذا اعتبر فيه رضا الزوجين

“And the name of the Khula named Fidiya by the Holy Prophet (peace and blessings of Allah be upon him) is evidence that the meaning of

compensation is found in it and that is why the consent of the spouses has been declared a mandatory condition in it”.

Zahiri View:

Allama ibn hazm states that

الخلع وهو لافتداء إذا كرهت المرأة زوجها فخافت ان لا توفيه حقه أو خافت أن يبغضها فلا يوفيهها حقه فلها أن . تفتدى منه ويطلقها إن رضى هوو إلا لم يجبر هوو لا أجبرت هي، انما يجوز بتراضيهما ولا يحل الا فتداء إلا باحد الوجهين المذكورين او اجتماعهما فان وقع بغير هما باطل ويرد عليها ماأخذ منها وهي إمراته كما كانت ويبطل طلاقه ويمنع من ظلمها فقط

“Khula' is the name of redeeming one's life by paying fidya, when a woman dislikes her husband and fears that she will not be able to fulfill her husband's rights or she fears that the husband will hate her and will not give her full rights. So, she has the right to give/pay some fidya to the husband and if the husband agrees, then he should give her khula, and if he doesn't agree so he should not be compelled nor wife will be compelled. Because khula is permitted only

mutual consent. And until the one of the above two situations are not present khula is not permissible/halal Therefore, if the khula is done apart from these situations in any way, it is invalid and the husband will return whatever property he has taken, and the woman will continue to be his wife and his divorce will be invalid and the husband will only be stopped from oppressing the woman”.

He wrote on another place that

ليس في الآية ولا في شيئي من السنن أن للحكمين أن يفرقا ولا ان ذلك للحاكم

“It is not proved by any verse or any hadith that the arbitrators have the authority to separate the husband and wife nor is this authority proved for the Hakim”.

Some supporting arguments

حَدَّثَنَا مُحَمَّدٌ، أَخْبَرَنَا عَبْدُ الْوَهَّابِ، حَدَّثَنَا خَالِدٌ، عَنْ عِزْمَةَ، عَنِ ابْنِ عَبَّاسٍ، أَنَّ رُوحَ، بَرِيرَةَ كَانَ عَبْدًا يُقَالُ لَهُ مُغِيثٌ كَأَنِّي أَنْظُرُ إِلَيْهِ يَطُوفُ خَلْفَهَا يَبْكِي، وَدُمُوعُهُ تَسِيلُ عَلَى لِحْيَتِهِ، فَقَالَ النَّبِيُّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ لِعَبَّاسٍ " يَا عَبَّاسُ أَلَا تَعْجَبُ مِنْ حُبِّ مُغِيثِ بَرِيرَةَ، وَمِنْ بُغْضِ بَرِيرَةَ مُغِيثًا ". فَقَالَ النَّبِيُّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ " لَوْ رَأَيْتَهُ ". قَالَتْ يَا رَسُولَ اللَّهِ تَأْمُرُنِي قَالِ " إِنَّمَا أَنَا أَشْفَعُ ". قَالَتْ لَا حَاجَةَ لِي فِيهِ

Narrated by 'Ikrimah, from Ibn Abbas: The husband of Bareerah was a slave named Mughith. It is as if i am seeing him now going behind her, weeping, with his tears flowing down his beard.

The Prophet (peace and blessings be upon him) said to Abbas, “O Abbas, are you not astonished by how much Mughith loves Bareerah, and how much Bareerah dislikes Mughith?” The Prophet

(peace and blessings be upon him) then said to Bareerah, "Why don't you take him back?" She replied, "O Messenger of Allah, are you commanding me?" He said, "I am only interceding." She said, "I have no need for him." This hadith shows that how much Hazrat Barrera had hatred for Hazrat Mughith. Hazrat Bareera and Hazrat Mughith both are slaves of the same master. Then their master freed Hazrat Barrera. In shariah when a slave woman becomes free so she has the option to either continue her marriage or revoke it. So Hazrat Bareera used that option and revoked her marriage with Hazrat Mughith. The hatred that Hazrat Barrera had for Hazrat Mughith a question that is why Hazrat Barrera has not taken khula from Hazrat Mughith if she hated him that much? If khula is the women right and power to grant it is given to Hukam/Qazi so the situation should be different. The situation should be like that Hazrat barrera had taken khula from her husband. But the situation is different she revoked her marriage because of the option that is given to slave girl if her master lets her free.

This hadith is a clear indication that Hukam/Qazi doesn't have the authority to grant khula without the consent of husband. Because if Qazi has this authority to grant khula without husband's consent so Hazrat Barrera had gone to Qazi at that time to take khula and she had not waited that long for separation from Hazrat Mughith.

It is also pertinent to note here that if the khula is the right of women and she can take khula at any time from her husband without his consent then what is the need of this rule of Shariah that gives right to women (that becomes free from their master) either to retain their marriage or revoke it. Because if the right of khula is without husband consent so those slave girls can take khula any time from their husbands. Now, i will make it simple for the better understanding of reader that slave man and slave women can only marry with the permission and consent of their master. So, if a slave girl not likes her husband so she can't take khula from Court/Qazi without husband's consent. So, Shariah gave her the right in that case of her master let her free she has the option to revoke her marriage or can retain it at her own will.

• Another point is that why that verses of ila' was revealed if the wife has right to take khula without the consent of the husband. She may simply go to court/Hukam and take khula from her husband if her husband vow that he will not have sexual intercourse with her. But this is not the case verses of ila' was revealed. Because husbands used to oppress their wives at that time by making a vow that they will not have sexual intercourse with their wives. If they break their vow within 4 months then the marriage will remain intact. But if they don't break their vow for four months or more then their marriage automatically stands terminated. If we assume that khula is the right of women and court has authority to grant it without the consent of husband they in case of ila' wife may simply go to Court/Qazi and take khula from them so that she may not be oppressed and then may remarry after khula.

But the verses of ila' clearly indicates that because the husband wants to oppress his wife and wife cannot take khula without husband consent so Allah has saved her from this oppression in that case where husband makes a vow to not have sexual intercourse and if he not breaks his vow for four months then the marriage will automatically stands terminated.

• Another question is that if the khula is absolute right of women and court can grant khula without the consent of husband. Then what is the purpose of talaq-e-tafweez. In talaq-e-tafweez a woman can divorce her husband if he has delegated the power to his wife. Because if khula is absolute right of women then there is no need for talaq-e-tafweez.

#### **Situations in which Judge can dissolve the Marriage:**

It is the consensus of all Muslim Jurists that Qazi can dissolve the Marriage in only five situations that is

1. If husband becomes insane.
2. If husband doesn't give maintenance to his wife.
3. If husband is impotent.
4. If husband becomes completely undetectable.
5. If husband becomes missing (ghermafqud).

### What will wife do If husband is cruel?

It is very clear in the light of above-mentioned reasons and proofs that if the husband is cruel and in result wife goes to court for Khula so, in this case Court doesn't has any authority to give her khula without husband's Consent. The only thing the Court could do is to punish husband for his cruelty.

#### Case laws:

##### • Pre Independence:

#### **Umar Bibi vs. Muhammad Deen**

In this case it was held by justice Harries and justice Abdul-Rehman that khula cannot take effect without the consent of husband.

##### • Post Independence:

#### **Saeeda Khanam vs. Muhammad Sami**

In this case justice A.R Cornelius, justice Muhammad Jaan and justice Khursheed Khan held that khula cannot be granted without the consent of husband. And the court cannot dissolve the marriage merely on the basis of hatred, disliking and personality conflict.

#### **Bilqees Fatima vs. Najam ul-Ikram**

Justice B. Z. Kaikaus, justice Shabeer Ahmed and justice Masood Ahmed khan held in this case that if court finds that spouses cannot establish the bounds set by Allah then in that case also the court can grant khula without the consent of husband.

#### **Khursheed Bibi vs. Baboo Muhammad Amin**

In this case justice S.A Rehman, justice Hamood ul-Rehman, justice Fazal Akbar, justice M. Yaqoob Ali and justice S.A Mehmood held that if the court finds that spouses will not be able to establish the bounds set by Allah then the court may grant khula to wife without the consent of husband. They held that khula is the right of women and if women want separation from husband even if there is no fault in husband so the court can grant khula to the wife.

This case is very important as this case has changed jurisprudence by misinterpretation of verses of Quran, Hadith and views of different schools of thought .

### Haji Saif ul-Rehman vs. Government of Pakistan

In this case two main points are taken into consideration that are that whether khula is an absolute right of women? And whether court can grant khula in the case where husband does not give his consent?

It is held that khula is the absolute right of women and the statement by women that she can no longer with her husband is enough ground for khula and the court has authority to grant khula without the consent of husband.

#### Need for Legislative Amendments:

The modes for dissolution of marriages are given in the Dissolution of Muslim Marriages Act,1939. The section 2(ix) gives Court the power to dissolve marriage on any other ground, along with other grounds as mentioned in the act, that is allowed in Islam. So, our Courts misinterpreted this section by considering khula as a ground without the consent of husband.

It is the need of time that proper legislation should be done that is where a wife seeks dissolution of marriage on the basis of khula it should be done with the consent of spouses. And badl-e-khula should also be determined by the consent of spouses. And where husband refuses to give khula to wife then court cannot grant khula on its own.

#### Suggestions:

1. Firstly, the ex-parte khula decree shall be stopped forthwith. Because ex-parte khula can't be granted. If husband doesn't appear before the court on notice duly sent to him then in that case the court may take coercive measures against him to make his attendance.
2. Secondly, if husband is cruel than in that case Court may adopt coercive measures against husband for cruelty along with punishments.

It is the need of time to bring current system of khula in accordance with Islam. Because it is not only destroying our family system but is also making wives sinners (who obtains khula without the husband's consent and consequently remarried to any other person). And the legislature should make legislative amendments while

keeping in view that it is very necessary to preserve our family system.

### Conclusion:

I conclude that the verse 229 of Surah Baqrah is very clear and it has not given any authority to Hakim/Qazi to give khula without husband's consent. And Hazrat Jameela incident as narrated by different narrators makes it clear that consent of husband is necessary for khula. Views of Muslim Jurists on this issue also shows the necessity of husband's consent for khula. And it is worth mentioning here Hazrat Umar's advise that he gave to husbands that "don't refuse for khula when your wives ask for it", this makes it in the light of verse 229 of Surah Baqrah and Hazrat Jameela's incident makes it clear that khula is only valid if husband gives his consent.

Pre-independence practice was that khula was not granted without husband's consent. There are also cases after independence that shows khula without the consent of husband in not valid under Shariah and law. But some cases like PLD 1967 SC 97 and Shariat Petition no 16/I of 2022 lays out that consent of husband is not necessary and khula is the absolute right of women.

So, the gist of discussion is that khula is valid only with the consent of spouses and proper legislation is needed in this regard.

### References :

- Abdul Razzaq. Musannaf. Hadith no. 12713.  
Al-Baji, Abu Al-Waleed. Al-Muntaqa. Vol. 7, Al-Sa'ada Press.  
Al-Bukhari. Sahih al-Bukhari. Hadith no. 5273.  
Al-Jassas. Ahkam Al-Qur'an. Vol. 1, Al-Bahiyah Press, 1347 AH.  
Al-Kasani. Bada'i' al-Sana'i'. Vol. 3. Matba'at Al-Jamaliya, Egypt, 1328 AH.  
Al-Marghinani, Burhan al-Din. Kitab al-Hidayah. Vol. 4. 364.  
Al-Mutarzi. Al-Maghrib. Vol. 1. Deccan, 1328 AH; and Fath-Al-Qadir. Vol. 3. Al-Mutaba'a Al-Amiriyya, 1316 AH.  
Al-Qurtubi, Abu Abdullah. The Compendium of the Rulings of the Qur'an. Vol. 3. Egyptian National Library, 1936.

- Al-Suyuti. Ad-Durr al-Manthur. Vol. 1, Dar al-Fikr.  
Bilqees Fatima vs. Najam ul-Ikram. PLD 1959 Lahore 566.  
Haji Saif ul-Rehman vs. Government of Pakistan. Shariat Petition no. 16/I of 2022.  
Ibn Abidin. Radd al-Muhtar. Vol. 2. Mustafa al-Babi.  
Ibn al-Hammam. Fath al-Qadir. Vol. 3.  
Ibn al-Qayyim. Zad al-Ma'ad. Vol. 2. Al-Maymaniyya Press, Egypt, 1324 AH.  
Ibn Hazm. Al-Muhalla. Vol. 10, Al-Muniriya Printing Department, 1353 AH.  
Ibn Kathir. Tafsir Ibn Kathir. Part 2. Riyadh: Darussalam.  
Ibn Qudamah. Al-Mughani. Vol. 7, Dar Ul-Manar, 1368 AH.  
Ibn Rushd. Bidayat al-Mujtahid. Vol. 2. Mustafa al-Babi, 1379 AH.  
Imam Al-Shafi. Kitab Al-Umm. Vol. 5, Collage Library Al-Azhariyah, 1381 AH.  
Imam al-Tirmidhi. Jami' at-Tirmidhi. Vol. 2, Chap. 16, Book 13, Riyadh: Darussalam Publishers.  
Khurshheed Bibi vs. Baboo Muhammad Amin. PLD 1967 SC 97.  
Muhammad Hassan Askari and Muhammad Shamim. Ma'ariful Qur'an. Vol. 1.  
Mufti Muhammad Taqi Usmani. Fiqhi Maka'lat. Vol. 2, 192-194.  
Saeeda Khanam vs. Muhammad Sami. PLD 1952 Lahore 113.  
Burhan al-Din al-Marghinani, Kitab al-Hidayah, vol. 4, 364.  
Al-Mutarzi, Al-Maghrib, 175, Vol. 1, Deccan, 1328 AH; and Fath-Al-Qadir, 199, Vol. 3, Al-Mutaba'a Al-Amiriyya, 1316 AH.  
Ibn al-Hammam, Fath al-Qadir, 199, Vol. 3.  
Al-Kasani, Bada'i' al-Sana'i', 145, Vol. 3, Matba'at Al-Jamaliya, Egypt, 1328 AH; and Ibn Abidin, Radd al-Muhtar, 606, Vol. 2, Mustafa al-Babi.  
Ibn Rushd, Bidayat al-Mujtahid, 68, Vol. 2, Mustafa al-Babi, 1379 AH.  
Bada'i' al-Sana'i', 150, Vol. 3; and Wal-Jar-al-Raiq, 83, Vol. 4.  
Quran, 2:229.

- Muhammad Hassan Askari and Muhammad Shamim, trans., Ma'ariful Qur'an, Vol. 1, 572-573, Quran 2:229.
- Ibid.
- Ibid.
- Quran, 2:237.
- Hassan Askari, Muhammad, and Muhammad Shamim, trans. Ma'ariful Qur'an, Vol. 1. Page 610. Commentary on Quran 2:237.
- Ibn al-Qayyim, Zad al-Ma'ad, 238, Vol. 2, Al-Maymaniyya Press, Egypt, 1324 AH.
- Quran, 2:228.
- Hassan Askari, Muhammad, and Muhammad Shamim, trans. Ma'ariful Qur'an. Vol. 1, 564. Commentary on Quran 2:228.
- Al-Suyuti, Ad-Durr al-Manthur, 277, Vol. 1. Tafsir Ibn Kathir, 248, Vol. 2.
- Al-Qurtubi, The Compendium of the Rulings of the Qur'an, 125, Vol. 3, Egyptian National Library, 1936.
- Abu Dawood, Hadith 2195, Chapter on the Abrogation of the Right of Return After Three Divorces.
- Al-Khattab, Nasiruddin, trans. Sunan Abu-Dawud: Hadith 2195. Vol. 3. Dar Ul-Islam Publisher, 29.
- Ibn Jarir, Tafsir, 2/276.
- Al-Albani said: "This is a sound, mursal (unattributed) chain of narration." (Irwa' al-Ghalil, Vol. 7, p. 122).
- Imam al-Tirmidhi, Jami' at-Tirmidhi, vol. 2, chap. 16, "The Revelation of Allah's Saying: 'Divorce is Two Times,'" book 13, The Book on Divorce and Li'an (Riyadh: Da-ul-islam Publishers), no. 1192.
- Tafsir Ibn Kathir, Vol. 1, 211.
- Ibn Kathir, Tafsir Ibn Kathir, part 2 (Riyadh: Dar-ul-Islam), 633.
- Tafsir Ibn Kathir, Vol. 1, 610.
- Ibn Kathir, Tafsir Ibn Kathir, part 2 (Riyadh: Dar-ul-Islam), 632-633.
- Al-Bukhari, Sahih, Hadith 5273.
- Muhammad Muhsin Khan, trans., The Translation of The Meanings of Sahih al-Bukhari, Hadith no. 5273, Dar-ul-Islam publishers.
- Al-Suyuti, Ad-Durr al-Manthur, 282, Vol. 1.
- Al-Hafiz Ibn Hajar, Fath al-Bari, 329, Vol. 9, Al-Behiyah Press, 1348 AH.
- Al-Jassas, Ahkam Al-Qur'an, 468, Vol. 1, Al-Bahiyah Press, 1347 AH.
- Al-Bukhari, Sahih, Hadith 5274.
- Muhammad Muhsin Khan, trans., The Translation of The Meanings of Sahih al-Bukhari, Darussalam publishers.
- Abu Dawood, Sunan, Hadith 2228 (authenticated as Sahih by Albani).
- Nasiruddin al-Khattab, trans., English Translation of Sunan Abu Dawud, Vol. 3, 49.
- Ibn Majah, Sunan, Hadith 2081 (classified as Hasan in Irwa al-Ghalil, 108/7, 109, 110).
- Nasiruddin al-Khattab, trans., English Translation of Sunan Ibn Majah, Vol. 3, 193.
- Abdul Razzaq, Musannaf, 12713.
- Ibid.
- Al-Suyuti, Ad-Durr Al-Manthur, 283, Vol. 1.
- Ibn Rushd, Bidayat Al-Mujtahid, 68, Vol. 2, Mustafa al-Babi, 1379 AH.
- Imran Ahsan Khan Nyazee, trans., The Distinguished Jurist's Premier, Vol. 2, 81.
- Ibn Hazm, Al-Muhalla, 87-88, Vol. 10, Al-Muniriya Printing Department, 1352 AH.
- Al-Sarakhsi, Al-Mabsut, 173, Vol. 6, Al-Sa'ada Press, Egypt, 1324 AH.
- Imam Al-Shafi, Kitab Al-Umm, 200, Vol. 5, Collage Library Al-Azhariyah, 1381 AH.
- Al-Shirazi, Al-Muhazib, 71, Vol. 2, Issa Al-Babi, 1376 AH.
- Abu Al-Walid Al-Baji, Al-Muntaqa, 61, Vol. 7, Al-Sa'ada Press.
- Ibn Rushd, Bidayat Al-Mujtahid, 68, Vol. 2, Mustafa al-Babi, 1379 AH.
- Imran Ahsan Khan Nyazee, trans., The Distinguished Jurist's Premier, Vol. 2, 81.
- Ibn Qudamah, Al-Mughani, 52, Vol. 7, Dar Ul-Manar, 1368 AH.
- Ibn al-Qayyim, Zad al-Ma'ad, 238, Vol. 2, Al-Maymaniyya Press, Egypt, 1324 AH.

Ibn Hazm, Al-Muhalla, 235, Vol. 10, Al-Muniriya  
Printing Department, 1353 AH.  
Ibid, 88, Vol. 10.  
Al-Bukhari, Sahih, Hadith 5283.  
Muhammad Muhsin Khan, trans., The  
Translation of The Meanings of Sahih al-  
Bukhari, Hadith no. 5283, Darussalam  
publishers.  
Quran, 2:226-227.  
Muhammad Hassan Askari and Muhammad  
Shamim, trans., Ma'ariful Qur'an, 563-  
564, Vol. 1.

Mufti Muhammad Taqi Usmani, Fiqhi Maka'lat,  
192-194, Vol. 2.  
Umar Bibi vs. Muhammad Deen, AIR 1945  
Lahore 51.  
Saeeda Khanam vs. Muhammad Sami, PLD 1952  
Lahore 113.  
Bilqees Fatima vs. Najam ul-Ikram, PLD 1959  
Lahore 566.  
Khursheed Bibi vs. Baboo Muhammad Amin,  
PLD 1967 SC 97.  
Haji Saif ul-Rehman vs. Government of Pakistan,  
Shariat Petition no. 16/I of 2022.

