

Khula in Pakistani Law: Evolution, Present Position and the Unresolved Conflict in Supreme Court Authority (1952–2026)

Adv. Syed Zeshan Hashmi, Advocate High Court, The Arbitrator & Law Associates, Peshawar

Abstract

Khula, the wife's right to be released from marriage on returning consideration, has changed from a consent-based arrangement (1952) into a judicially enforceable right (1959, 1967), and is now regulated by the Family Courts Act, 1964. Since 2024 the Supreme Court has added a further layer: khula is the wife's own election and a court may not substitute it for a dissolution suit she brought on other grounds. At the same time, an older line of authority (*Muhammad Arif*, 2015, followed in *Wajiha Rasheed*, 2025) holds that where cruelty is not proved the marriage ends in khula with forfeiture of dower. This paper traces the doctrine in phases, analyses sixty-seven reported and reportable judgments of the Supreme Court, the Federal Shariat Court and the Peshawar High Court, identifies the points on which the authorities agree and conflict, and offers a practical drafting guide. Annexure A gives the judgments in question-and-answer form for quick reference.

Keywords: khula, dissolution of marriage, Family Courts Act 1964 section 10(4), badl-e-khula, dower, DMMA 1939, Peshawar High Court.

1. Introduction

A Muslim wife in Pakistan has three routes out of a marriage that has failed: dissolution on a ground proved under the Dissolution of Muslim Marriages Act, 1939 ("DMMA"); khula; and, if the husband agrees, mubarat or talaq. The choice matters because the financial result differs. A decree on a proved DMMA ground leaves dower untouched (section 5 DMMA), while khula ordinarily carries the return of benefits, with a cap in Punjab. For a practitioner in Khyber Pakhtunkhwa, a further difficulty is that several of the Supreme Court's recent corrections have come in appeals from the Peshawar High Court, so the local case law has moved quickly.

2. Sources and Method

The judgments discussed were read on the Pakistan Law Site (full text for most, headnote only for a few, noted in Annexure A). Each citation, bench, date and holding stated in this paper is taken from that text. Three limits should be stated:

- Where the site gave only a headnote, the entry in Annexure A is limited to what the headnote shows.
- *Sayeeda Khanam* (1952) could not be located on the site and is described from later judgments that cite it.
- *Selab Akhtar v. Quwat Khan* (May 2026) was not yet reported; it is described from press reports and flagged accordingly.

3. Statutory Framework

- **Qur'an**, Surah Al-Baqarah 2:229: release against what the wife gives, where the spouses fear they cannot keep the limits of Allah.
- **Family Courts Act, 1964:** Family Courts have exclusive jurisdiction (section 5 and Schedule). Section 10(3) requires reconciliation efforts; under **section 10(4)** the court, on failed reconciliation, decrees dissolution forthwith and, under the proviso (added in 2002 and substituted by Act XI of 2015), may direct the wife to return dower. In Punjab **section 10(5)** caps the surrender at 50% of deferred or 25% of admitted prompt dower. Section 14 limits appeals.
- **DMMA, 1939:** section 2 grounds (including the second marriage in contravention of the MFLO, clause (ii-a), and cruelty, clause (viii)); section 5 preserves dower.

- **MFLO, 1961:** section 6 (second marriage needs permission), section 7 (talaq notice), section 8 (dissolution otherwise than by talaq).

4. The Phases of the Doctrine

Phase 1 (1952): Khula as an agreement

Sayeeda Khanam v. Muhammad Sami (PLD 1952 Lahore 113) treated khula as dissolution by agreement needing the husband's consent. A wife's hatred, without his agreement, gave her no remedy.

Phase 2 (1959–1971): Khula becomes a right

A Full Bench in *Balqis Fatima v. Najm-ul-Ikram Qureshi* (PLD 1959 (W.P.) Lahore 566) held that a court may release the wife even if the husband refuses. The Supreme Court confirmed this in *Khurshid Bibi v. Baboo Muhammad Amin* (PLD 1967 SC 97), a five-member decision (S. A. Rahman, Fazle-Akbar, Hamoodur Rahman, Muhammad Yaqub Ali and S. A. Mahmood JJ.), in which the lead judgment held the wife entitled to separation by khula; the appeal was remanded to determine the benefits to be returned. *Ghulam Sakina v. Umar Bakhsh* (PLD 1964 SC 456) had already distinguished khula (aversion on the wife's side, consideration needed) from mubarat (mutual aversion). Importantly for the present debate, in *Muhammad Siddiq v. Ghafuran Bibi* (PLD 1971 SC 192) the Court held that a High Court should not itself grant khula in a suit brought on cruelty and non-maintenance; the case was remanded for amendment of the pleadings and an issue on khula.

Phase 3 (1980s–1990s): The controlled right and the writ cases

Abdul Rahim v. Shahida Khan (PLD 1984 SC 329) called khula a controlled right: it succeeds if the court concludes that the spouses cannot live within Allah's limits, and then even an unwilling husband cannot stop it. A large number of leave-refusing orders followed (1987–1998), most dealing with three recurring matters: that a finding of aversion is a finding of fact not disturbed in writ (*Parvez, Falak Sher, Abdullah*); that a husband must press his claim for return of benefits at trial (*Saeed, Dilshad, Muhammad Sher, Jan Muhammad*); and that the wife's own statement can be enough (*Amanullah, Abdul Aziz, Saleem Jahangir*). *Abdul Riaz* (1994 SCMR 2019) added that where fault grounds are proved there is no need to rest the decree on khula or to attach a condition for return of property.

The Peshawar High Court's decisions of the period are consistent with this. *Shagufta Jabeen* (PLD 1989 Peshawar 1) required the wife's demand and consent to return benefits; *Gul Shahbah* (PLD 1992 Peshawar 13) listed the conditions (assertion by the wife, court's apprehension of breach of Allah's limits, readiness to restore benefits); *Jan Ali* (PLD 1994 Peshawar 245) allowed khula to be made out on evidence though not pleaded.

Phase 4 (2000–2014): Consolidation and statutory review

Muhammad Rafiq (2000 SCMR 1563) restated the controlled-right formula. *Naseem Akhtar* (PLD 2005 SC 293) held that hatred cannot be measured and the question is whether the spouses can perform their marital obligations. *Mukhtar Ahmed v. Ansa Naheed* (PLD 2002 SC 273) held that a wife whose marriage is dissolved on several grounds including khula keeps her dower and dowry. *Malik Ghulam Nabi Jilani* (PLD 2004 SC 129) held that res judicata does not bar a fresh khula claim and that a nikahnama condition barring it was not given effect. The Federal Shariat Court held the summary procedure of section 10(4) valid in *Saleem Ahmad* (PLD 2014 FSC 43, decided 2009), and later dismissed repeat challenges (*Khurram Shehzad*, PLD 2023 FSC 286).

During this period the Peshawar High Court developed the approach that, if cruelty was not proved but the wife would not live with her husband, the court should grant khula even if she had not asked for it (*Muhammad Faisal Khan*, PLD 2013 Peshawar 12; *Shazia Haider*, PLD 2014 Peshawar 194), with the consequence that she returned her dower (*Syed Rashid Ali Shah*, PLD 2014 Peshawar 226). *Karim Ullah* (PLD 2003 Peshawar 146) is the main softening authority: where cruelty compelled her to seek khula the court may refuse return of dower.

Phase 5 (2015): Muhammad Arif v. Saima Noreen

In *Muhammad Arif* (2015 SCMR 804), a two-member Bench (Sarmad Jalal Osmany and Qazi Faez Isa JJ.), on appeal from the Peshawar High Court's Abbottabad Bench, held that where cruelty was not proved the DMMA decree was unavailable and the only way out was khula; the wife forwent her dower. The decision gave the Peshawar practice of Phase 4 the Supreme Court's authority.

Phase 6 (2024–2026): Khula must be elected

Beginning with *Ibrahim Khan v. Saima Khan* (PLD 2024 SC 645), a series of Supreme Court judgments, most arising from the Peshawar High Court, have held that khula is the wife's own right and cannot be imposed:

- *Ibrahim Khan* (15 February 2024; Yahya Afridi, Amin-ud-Din Khan and Ayesha A. Malik JJ.): a court cannot convert a DMMA suit into khula on its own motion; relying on *Muhammad Siddiq* (1971) and *Mukhtar Ahmed* (2002), it contrasted khula (no ground; decree after failed reconciliation) with a DMMA decree (ground proved; dower unaffected).
- *Faryal Maqsood* (PLD 2025 SC 262, 23 October 2024; Syed Mansoor Ali Shah, Jamal Khan Mandokhail and Athar Minallah JJ.): khula cannot be granted when not sought, expressly or by necessary implication; *Arif* did not consider the five-member Bench in *Khurshid Bibi*.
- *Seema Hanif Khan* (PLD 2026 SC 91, 19 September 2025; Ayesha A. Malik and Naeem Akhter Afghan JJ.): filing for dissolution is not seeking khula; the husband's second marriage without permission justified dissolution without loss of dower. The Court said the earlier precedents relied on by the husband pre-dated the present authority.
- *Naila Javed* (PLD 2026 SC 302, 12 January 2026; Yahya Afridi CJ and Musarrat Hilali J.): same principle; dissolution on the ground of talaq; dower of Rs. 12,00,000 awarded.
- *Selab Akhtar v. Quwat Khan* (May 2026): reported to require the wife's consent or clear election and to have remanded for her election within 30 days (press reports only).

5. Analysis by Theme

5.1 Is khula absolute or controlled?

Two formulae coexist. The Supreme Court says "controlled" (*Abdul Rahim, Muhammad Rafiq*): the court must be satisfied. The Federal Shariat Court in *Saif-ur-Rahman Shaheen* (PLD 2024 FSC 9) called it an absolute right requiring only the wife's statement and willingness to return mahr, with no allegation of maltreatment needed. In practice the difference is small: courts accept the wife's own statement after failed reconciliation (*Naseem Akhtar, Amanullah, Abdul Aziz*), and refuse khula only where it was not genuinely claimed.

5.2 Whose choice is it?

Here the authorities line up in two groups.

Khula must be the wife's election: *Muhammad Siddiq* (1971); *Shagufta Jabeen* (1988); *Ibrahim Khan* (2024); *Faryal Maqsood* (2024); *Seema Hanif Khan* (2025); *Naila Javed* (2026); *Selab Akhtar* (2026, press).

Khula may follow from the failure of other grounds: *Jan Ali* (1994); *Muhammad Faisal Khan* (2012); *Shazia Haider* (2013); *Muhammad Arif* (2015); *Wajiha Rasheed* (27 August 2025).

The cases in the second group were all decided on the footing that, once the wife will not return and cruelty is unproved, khula is the only lawful way out. The first group holds that dissolving on khula without her election takes away a financial right she never surrendered.

5.3 The conflict

Wajiha Rasheed (PLD 2026 SC 319, Yahya Afridi CJ, Muhammad Shafi Siddiqui and Miangul Hassan Aurangzeb JJ.) was decided after *Ibrahim Khan* and *Faryal Maqsood* and followed *Arif* without referring to either; the respondents were not represented. *Seema Hanif Khan*, decided three weeks later, followed the other line. No larger Bench has resolved the divergence, so counsel may find both lines cited against the client. In my view the stronger position is that

of *Ibrahim Khan* and *Faryal*: it rests on *Khurshid Bibi*, a five-member decision, and on *Muhammad Siddiq*, and a two-member bench could not depart from the former without referring the question. Counsel for a husband seeking return of dower will rely on *Arif* and *Wajiha Rasheed* and on the Federal Shariat Court's statement in *Muhammad Hassan* (PLD 2018 FSC 1) that khula is always subject to return of dower unless the husband waives it.

5.4 Benefits, dower and their quantum

- The husband must plead and prove what he gave; otherwise return is not ordered or cannot be raised later (*Saeed, Jan Muhammad, Dilshad, Muhammad Sher*).
- Where dissolution rests on proved fault, there is no return (*Abdul Riaz; Mukhtar Ahmed; Seema Hanif Khan*).
- Where cruelty compelled khula, the court may refuse return (*Karim Ullah; Faisal Khan*).
- Quantum is for the court (*Sarwat Begam*: reduced from 9 to 5 tolas).
- In Punjab the section 10(5) cap governs (*Amir Raza; Rafia Yaqoob*, where non-consummation did not lift the cap). There is no equivalent in Khyber Pakhtunkhwa.
- Child custody cannot be consideration (*Beena*); nikahnama clauses fixing a khula penalty or barring a khula suit have not been enforced (*Jilani; Bashir Ali Siddiqui*).

5.5 Procedure, forum and appeal

- Reconciliation is mandatory under section 10; if the wife persists the court must decree (*Faisal Khan; Sohail Ahmed*).
- A wife abroad may sue where the Rules give her the option of forum (*Sohail Ahmed*).
- A bare khula decree is not appealable (*Wahid Gull*); but conditions on dower or the mode of dissolution are open to challenge (*Tayyaba Yunus; Abid Hussain; Fazal Rahman*).
- The writ jurisdiction does not reopen findings of fact (*Parvez; Abdullah; Mass Nawaz*) or claims not pressed at trial (*Saeed; Dilshad*).
- In Malakand Division the 1994 Regulations govern procedure (*Fazal Muhammad*).

6. Practical Guide

For the wife

- 1 State in the plaint which remedy is sought. If dower matters, plead the DMMA ground (including section 2(ii-a) and section 6 MFLO for a second marriage) and say that khula is not sought.
- 2 If khula is wanted, say she cannot live within Allah's limits and set out what, if anything, she is prepared to return.
- 3 At the reconciliation stage, record her position clearly.
- 4 If the Family Court converts the suit, challenge the conversion with *Ibrahim Khan, Faryal Maqsood, Seema Hanif Khan* and *Naila Javed*.

For the husband

- 1 Plead and prove each benefit given; claim return at trial, not for the first time in writ.
- 2 Where cruelty is unproved and the wife will not return, rely on *Arif* and *Wajiha Rasheed* but expect the other line to be cited.
- 3 In Punjab, check the section 10(5) cap before calculating the claim.

7. Open Questions

- Which line prevails until a larger Bench decides: *Arif* and *Wajiha Rasheed*, or *Ibrahim Khan* and its successors?

- What does a "clear election" require in practice: a separate statement or application, or an express prayer?
- How should courts treat the wife whose fault grounds fail and who declines khula: dismissal of the suit or an invitation to amend, as in *Muhammad Siddiq*?

8. Conclusion

The thread through seventy years of cases is that the court may release a wife who cannot live within the limits of Allah, whatever the husband says. What has changed, and is still changing, is who decides that khula is the remedy. From 2024 the Supreme Court has returned to the position of *Muhammad Siddiq*: the wife decides. A conflicting line remains on the books, so careful pleading is the best protection for either side.

Annexure A: Sixty-Seven Judgments in Question-and-Answer Form

Each entry gives the citation (with bench and date where read in full text), a short question and its answer. Entries are in date order within each part. Where a headnote only was available, the answer is limited to it.

Part I: Before 2000, Supreme Court

No.	Citation	Question	Answer
1	Mst. Sayeeda Khanam v. Muhammad Sami, PLD 1952 Lahore 113	Could a wife obtain khula against her husband's will in the early law?	No. The Lahore High Court treated khula as dissolution by agreement, needing the husband's consent and consideration. (Source: later judgments citing it; not located on the Pakistan Law Site search.)
2	Mst. Balqis Fatima v. Najm-ul-Ikram Qureshi, PLD 1959 (W.P.) Lahore 566 (Full Bench)	Does khula depend on the husband's consent?	No. A wife may obtain khula from the court even if the husband refuses, where the spouses cannot remain within the limits of Allah. This overruled the consent-based view.
3	Mst. Ghulam Sakina v. Umar Bakhsh, PLD 1964 SC 456 (Cornelius CJ and Hamoodur Rahman J, 2.4.1964; from the Peshawar Bench of the West Pakistan High Court)	How does khula differ from mubarat?	In khula the aversion is on the wife's side and she gives consideration; in mubarat the aversion is mutual. Where the wife's suit failed and the husband's restitution suit was decreed, the divorce later agreed was mubarat, not khula.
4	Mst. Khurshid Bibi v. Baboo Muhammad Amin, PLD 1967 SC 97 (five-member Bench, 12.10.1966)	Is khula a right the wife can enforce without the husband's agreement?	Yes. A wife who satisfies the court that she cannot live with her husband within the limits of Allah is entitled to separation by khula. The case was remanded to fix compensation (benefits received). This is the leading authority.
5	Muhammad Siddiq v. Mst. Ghafuran Bibi, PLD 1971 SC 192 (Hamoodur Rahman CJ, 11.11.1970)	Can a High Court grant khula in a case where the wife sued for cruelty and non-maintenance?	No. It was improper to grant khula in second appeal on such a suit. The case went back so that pleadings could be amended, a khula issue framed and compensation determined. This is the root of the 2024-2026 line.
6	Mst. Ghulam Fatima v. Abdul Qayyum, PLD 1981 SC 460 (Dorab Patel and Muhammad Haleem JJ, 4.3.1981; from the Peshawar High Court)	Is a talaq pronounced in a settlement treated as mubarat or khula?	Not unless the facts show mutual consent or a khula claim. Where the wife never sued for khula and no notice was given under section 7(1) MFLO, the talaq did not take effect and stood revoked.
7	Muhammad Jameel v. Mst. Sarwar Jehan, 1983 SCMR 398 (14.1.1982)	Can a husband attack a decree on non-maintenance by claiming it should have been khula?	No ground for interference where the parties were not at issue on khula and the decree rested on non-maintenance; the law gives such decrees finality.
8	Muhammad Siddique v. Mst. Kalsoom Bibi, 1984 SCMR 523 (Aslam Riaz Hussain and Nasim Hasan Shah JJ, 5.10.1983)	May a High Court decree khula where the Family Court refused it?	Yes, if satisfied that the unhappy relations leave no hope of the spouses living within the limits of God. Leave to appeal was refused.
9	Abdul Rahim v. Mst. Shahida Khan, PLD 1984 SC 329 (Aslam Riaz Hussain, Nasim Hasan Shah and M.S.H. Quraishi JJ, 2.6.1984)	Is the wife's right to khula absolute?	No. It is a controlled right: the court must conclude that the spouses cannot live within Allah's limits; if it does, it may decree khula even if the husband is unwilling.
10	Bibi Jamila Begum v. Muhammad Bashir, 1984 SCMR 1372 (Anwarul Haq CJ and Fakhruddin Ebrahim J, 18.6.1980; from the Peshawar High Court, Abbottabad Circuit)	What if both spouses accept there is strong aversion?	Leave to appeal was granted to examine whether the wife was then entitled to khula, relying on Balqis Fatima and Khurshid Bibi. (Leave order only.)
11	Muhammad Saeed v. Mst. Khalida Shaheen, 1987 SCMR 699 (2.2.1987)	Can the husband first claim refund of prompt dower in a writ petition?	No. If he did not plead or state in the Family Court that dower should be refunded on khula, the claim cannot be raised for the first time in writ jurisdiction.
12	Farhat Bano v. Muhammad Afzal, 1988 SCMR 1531 (4.6.1988)	What if the record shows no hope of reconciliation but khula was refused?	Leave was granted to examine whether a dissolution decree should have been passed for the wife, since the parties apparently could not keep the limits of God.
13	Muhammad Parvez v. Muhammad Yusuf, 1988 SCMR 2099 (8.5.1988)	Must the decree contain a finding that the parties cannot keep the limits of Allah?	Yes, it is an essential ingredient; but here both courts had addressed it and made findings of fact, so no interference in writ.

No.	Citation	Question	Answer
14	Falak Sher v. Mst. Mehtab Bibi, 1988 SCMR 1288 (15.5.1988)	Can a husband block a khula decree by raising technical points?	No. Where the wife was found entitled to khula and the dissolution had no legal infirmity, leave was refused.
15	Muhammad Sanaullah v. Muhammad Ilyas, 1988 SCMR 1286 (11.5.1988)	Is the return of dowry/gold on khula a question of fact?	Yes. Where the appellate court reappraised evidence and set aside the Family Court's direction to return gold, the High Court rightly declined to interfere.
16	Nimat Ali v. Mst. Hafeez Bibi, 1988 SCMR 1283 (11.5.1988)	Is it useful to set aside a decree if khula would be granted anyway?	No. Where the circumstances would in any case justify khula, the Court declined to send the parties to another round of litigation.
17	Jan Muhammad v. Judge Family Court, 1989 SCMR 173 (9.5.1988)	Can a husband demand return of benefits (zar-e-khula) without proving what he gave?	No. He had not claimed in his statement that he gave any property to the wife, and the decree was supportable on non-maintenance as well. Leave was refused.
18	Shahbaz Ali v. Judge Family Court, 1989 SCMR 559 (11.5.1988)	Can a husband resist khula because he wants a finding about the child's legitimacy?	No. His past conduct, including serious allegations against the wife, showed the parties could not keep Allah's limits; he was held to have approached the courts with ulterior motive.
19	Dilshad v. Mst. Musarat Nazir, PLD 1991 SC 779 (Muhammad Afzal Zullah CJ and Muhammad Rafiq Tarar J, 23.4.1991)	Can the husband seek return of benefits in writ if he did not insist on it in the trial?	No. He may sue for it, but the discretionary writ jurisdiction is not the place to demand determination of benefits he did not press earlier.
20	Muhammad Sher v. Mst. Salma Bibi, 1994 SCMR 1124 (2.9.1992)	Can a new point on return of benefits be taken in the Supreme Court?	No. The wife had disclaimed her dower while seeking khula, and a point not raised below cannot be raised for the first time in the Supreme Court.
21	Abdul Riaz v. Mst. Hamidan Begum, 1994 SCMR 2019 (Muhammad Rafiq Tarar and Saeeduzzaman Siddiqui JJ, 27.11.1993)	If fault grounds are proved, must the decree be on khula with return of property?	No. The wife had proved non-maintenance, non-performance of marital obligations and cruelty; it was unnecessary to rest the decree on khula, and the High Court rightly set aside the condition to return land.
22	Amanullah v. District Judge, Gujranwala, 1996 SCMR 411 (31.10.1995)	Can the wife's statement that she hates her husband be rejected summarily?	No. Given her complaint of beating and her stay in Darul Aman, her assertion could not be dismissed; the intimate nature of marriage means no standard of proof for hatred.
23	Abdul Aziz v. Mst. Malika, 1997 SCMR 1599 (23.5.1997)	Must the wife lead many witnesses or specifically ask for khula?	No. Proof depends on quality of evidence, not quantity; the Family Court was right to decree dissolution where it was convinced the parties could not live harmoniously.
24	Saleem Jahangir v. Mst. Khatm-un-Nisa, 1997 SCMR 1601 (22.5.1997)	Can prolonged, bitter litigation itself show the wife's aversion?	Yes. Prolonged litigation full of allegations and counter-allegations was enough to find intense dislike; the High Court's khula decree was upheld.
25	Abdullah v. Mst. Abida, 1998 SCMR 954 (15.11.1995)	Will the Supreme Court revisit a Family Court's factual finding on khula?	Not ordinarily; here the petition was also 35 days late, and the finding rested partly on the husband's own admission in cross-examination.

Part II: Before 2000, Peshawar High Court

No.	Citation	Question	Answer
26	Wahid Gull v. Mst. Amtari, 1982 CLC 2026 (Peshawar)	Is a khula decree appealable, and does it need the husband's consent?	A khula decree is not appealable under section 14(2) of the Family Courts Act; the argument that the husband's consent is needed was held to be without substance, as it would make the ground meaningless.
27	Muslim Sher v. Mst. Qudrat Bibi, PLD 1984 Peshawar 91 (Abdul Karim Khan Kundi and Allah Bakhsh JJ, 20.12.1983)	What is the effect of non-maintenance and a conditional restitution decree?	Non-maintenance for two years entitles the wife to dissolution; a restitution decree conditioned on prompt dower and past maintenance cannot be executed until the conditions are met.
28	Mst. Shagufta Jabeen v. Muhammad Tariq, PLD 1989 Peshawar 1 (Sardar Fakhre Alam Khan CJ, 28.11.1988)	Can a Qazi dissolve a marriage by khula on his own?	No. A Qazi cannot dissolve on khula without the wife's demand and her consent to return the benefits received. This is the Peshawar High Court's early statement of the 'election' principle.
29	Said Rasool Khan v. Additional District Judge, Lakki Marwat, 1991 MLD 1732 (Peshawar)	What must the wife show, and what must she return?	That she has developed aversion and cannot live within limits of God; she returns tangible benefits, and where there is no agreement the court may allow khula in exchange for giving up unpaid dower.

No.	Citation	Question	Answer
30	Mst. Gul Shahbah v. Civil Judge-III/Judge Family Court, Haripur, PLD 1992 Peshawar 13 (Wali Muhammad Khan and Muhammad Bashir Khan Jehangiri JJ, 22.10.1991)	What are the conditions for granting khula?	The wife must assert her right to divorce on the basis of khula; the court must apprehend that the spouses cannot live within Allah's limits; and she must be ready to restore what she received. Mixing two reliefs in one judgment violates Order XX Rule 5 CPC.
31	Jan Ali v. Mst. Gul Raja, PLD 1994 Peshawar 245 (Muhammad Bashir Khan Jehangiri and Jalal-ud-Din Akbarji JJ, 24.5.1994)	Can khula be granted if it was not pleaded?	Yes, if the evidence makes out khula the court may consider it even if not taken in the plaint, provided it is satisfied the parties cannot keep Allah's limits. (Compare the 2024-2026 cases below.)
32	Tiladar v. Mst. Roheeda, 1995 MLD 1586 (Peshawar)	Does the husband's refusal bar khula?	No. The husband's consent is needed for mubarat, not khula; the court decides and the wife is released on restoring what she received.
33	Mass Nawaz v. Mst. Kai Pari, 1997 MLD 727 (Peshawar)	Will the High Court interfere in writ with a khula decree?	Not unless the lower forum acted without jurisdiction or in clear violation of law; where no appeal lies, writ jurisdiction is discretionary.
34	Fazal Muhammad v. Senior Civil Judge/Aala Illaqa Qazi, Swat, 1998 MLD 1276 (Peshawar)	Does the Malakand Division regulation procedure apply to khula?	Yes. The Nifaz-e-Nizam-e-Shariah Regulations, 1994 override the Family Courts Act procedure there, so referral to a mediator was lawful; and the wife was entitled to khula without the husband's consent.

Part III: After 2000, Supreme Court and Federal Shariat Court

No.	Citation	Question	Answer
35	Muhammad Rafiq v. Mst. Kaneez Fatima, 2000 SCMR 1563 (Irshad Hasan Khan CJ and Qazi Muhammad Farooq J, 28.4.2000)	Can the wife dissolve the marriage herself under khula?	No. It is a controlled right: it succeeds only if the Qazi concludes the spouses cannot live within the limits of God.
36	Abdul Fateh Babar Sani v. Mst. Naureen, 2003 SCMR 1551 (24.5.2001)	Can concern for the child bar the wife's khula?	No. A wife who makes out a case is entitled to khula, and the husband's apprehension about his son's future is not a valid ground to reverse concurrent findings.
37	Mukhtar Ahmed v. Mst. Ansa Naheed, PLD 2002 SC 273 (Nazim Hussain Siddiqui and Javed Iqbal JJ, 29.10.2001)	What if dissolution was granted on several grounds, including khula?	The wife is then entitled to dower and dowry; only where dissolution rests solely on khula is her offer of consideration examined. Cited in Ibrahim Khan.
38	Malik Ghulam Nabi Jilani v. Mst. Pirzada Jamila, PLD 2004 SC 129 (12.11.2003)	Can a nikahnama condition stop a wife suing for khula, and does res judicata apply?	No to both. Res judicata does not apply to a fresh khula claim after new circumstances, and a nikahnama condition restraining the wife from seeking khula was not given effect.
39	Mst. Naseem Akhtar v. Muhammad Rafique, PLD 2005 SC 293 (Javed Iqbal and Muhammad Nawaz Abbasi JJ, 3.12.2004)	How is hatred proved?	No yardstick exists; it is inferred from circumstances, especially the wife's statement. The only question is whether the spouses can live together and perform marital obligations.
40	Abid Hussain v. Additional District Judge, Alipur, 2006 SCMR 100 (18.10.2005)	Can a wife appeal where she is refused relief on her pleaded grounds but dissolution is granted on another?	Yes. Section 14(2)(a) is not to be read to deprive her of an appeal in such a case.
41	Nasir Ali v. Mst. Taj Begum, 2007 SCMR 1935 (12.10.2005)	Can the appellate court direct return of land on khula?	The High Court left the dispute over the 10 acres to a competent court because it was unclear whether the land was given as consideration of the marriage; the Supreme Court upheld that cautious course.
42	Dr. Nosheen Qamar v. Shah Zaman Khattak, 2006 SCMR 1944 (30.5.2006; from the Peshawar High Court)	Does a wife forced by ill-treatment to seek khula lose her dower?	Leave was granted to examine, among other questions, whether such a wife is liable to return dower and whether khula was in fact the basis. (Leave order only.)
43	Muhammad Bashir Ali Siddiqui v. Mst. Sarwar Jahan Begum, 2008 SCMR 186 (2.10.2006)	Is a nikahnama clause fixing a payment on khula binding?	The contention that the court must award Rs. 2,50,000 on khula was rejected as against the basic principle that parties are not to be held in marriage by stringent conditions.

No.	Citation	Question	Answer
44	Tayyaba Yunus v. Muhammad Ehsan , 2010 SCMR 1403 (Iftikhar Muhammad Chaudhry CJ, Ch. Ijaz Ahmad and Ghulam Rabbani JJ, 12.2.2010; from the Peshawar High Court, Abbottabad Bench)	Can the wife appeal a refusal of dower where the marriage was dissolved by khula?	Yes. The bar in section 14(2)(b) applies only where the dower decree does not exceed Rs. 30,000; where none was granted, she could appeal.
45	Saleem Ahmad v. Government of Pakistan , PLD 2014 FSC 43 (decided 28.5.2009)	Is khula granted by the court without the husband's consent repugnant to Islam?	No. The Qur'an does not bar a competent court from decreeing khula where reconciliation fails and the husband does not agree (as summarised in PLD 2023 FSC 286).
46	Muhammad Arif v. Mst. Saima Noreen , 2015 SCMR 804 (Sarmad Jalal Osmany and Qazi Faez Isa JJ, 11.2.2015; from the Peshawar High Court, Abbottabad Bench)	What if cruelty is not proved but the wife will not live with the husband?	The DMMA decree is unavailable and the only way out is khula, so the wife forgoes her dower; the Court itself decreed khula. (The contra line.)
47	Muhammad Hassan v. Federation of Pakistan , PLD 2018 FSC 1 (27.9.2017)	Is return of dower a pre-requisite of khula?	The Federal Shariat Court held khula is always and invariably subject to return of dower unless the husband waives it as a matter of grace.
48	Mst. Beena v. Raja Muhammad , PLD 2020 SC 508 (Mushir Alam and Qazi Faez Isa JJ, 13.7.2020; from the Peshawar High Court)	Can giving up child custody be the price of khula?	No. Hizanat cannot be surrendered as consideration; such a stipulation is void as against public policy and the Injunctions of Islam.
49	Khurram Shehzad v. Federation of Pakistan , PLD 2023 FSC 286 (7.2.2023)	Can khula under section 10(4) be challenged again as un-Islamic?	No. The question was already decided in Saleem Ahmad; the Shariat petition was dismissed.
50	Syed Amir Raza v. Mst. Rohi Mumtaz , 2023 SCMR 1394 (Amin-ud-Din Khan and Syed Hasan Azhar Rizvi JJ, 5.5.2023)	How much can the wife be made to surrender in Punjab?	Under section 10(5), up to 50% of deferred dower or up to 25% of admitted prompt dower; the wife was held to have surrendered 50% of the deferred house.
51	Sohail Ahmed v. Mst. Samreena Rasheed Memon , 2024 SCMR 634 (Muhammad Ali Mazhar, Syed Hasan Azhar Rizvi and Irfan Saadat Khan JJ, 20.12.2023)	Where may a wife abroad sue for khula?	The proviso to Rule 6 of the Family Courts Rules gives the wife the option of forum; a Pakistani Family Court had jurisdiction though she lived in the USA.
52	Haji Saif-ur-Rahman Shaheen v. Islamic Republic of Pakistan , PLD 2024 FSC 9 (6.10.2023)	What are the principles of khula according to the Federal Shariat Court?	It is the woman's fundamental and absolute right; she need only show willingness to return mahr and state that she cannot live within Allah's limits; no allegation of maltreatment is necessary.
53	Ibrahim Khan v. Mst. Saima Khan , PLD 2024 SC 645 (Yahya Afridi, Amin-ud-Din Khan and Ayesha A. Malik JJ, 15.2.2024; Ayesha A. Malik J)	Can a court turn a DMMA suit into khula on its own?	No. Khula is the wife's own right, needs her clear election and no ground; a DMMA decree needs a ground and leaves dower intact (section 5). Relied on Muhammad Siddiq and Mukhtar Ahmed.
54	Dr. Faryal Maqsood v. Khurram Shehzad Durrani , PLD 2025 SC 262 (Syed Mansoor Ali Shah, Jamal Khan Mandokhail and Athar Minallah JJ, 23.10.2024; from the Peshawar High Court)	Can khula be granted where it was not sought?	No, not expressly or by necessary implication. The Court also noted that Muhammad Arif had not considered the five-member Bench in Khurshid Bibi.
55	Mst. Wajiha Rasheed v. Adeel Akhter , PLD 2026 SC 319 (Yahya Afridi CJ, Muhammad Shafi Siddiqui and Miangul Hassan Aurangzeb JJ, 27.8.2025; Miangul Hassan Aurangzeb J)	What if cruelty is not proved?	Following Muhammad Arif, the marriage is dissolved by khula and the wife returns her dower. The judgment, delivered with the respondents unrepresented, does not mention Ibrahim Khan or Faryal Maqsood.
56	Dr. Seema Hanif Khan v. Waqas Khan , PLD 2026 SC 91 (Ayesha A. Malik and Naeem Akhter Afghan JJ, 19.9.2025; from the Peshawar High Court)	Does filing for dissolution amount to seeking khula?	No. Converting without consent is contrary to law. Following Ibrahim Khan and Faryal Maqsood, the Court dissolved the marriage on the husband's second marriage without permission; the wife kept her dower, gold, money and plot.

No.	Citation	Question	Answer
57	Mst. Naila Javed v. Nasir Khan, PLD 2026 SC 302 (Yahya Afridi CJ and Musarrat Hilali J, 12.1.2026; from the Peshawar High Court, Abbottabad Bench)	What follows from a second marriage without section 6 MFLO permission?	Courts cannot convert the suit into khula; the marriage was dissolved on the ground of talaq and the remaining dower of Rs. 12,00,000 was awarded.
58	Mst. Rafia Yaqoob v. Suleman Ayub, 2026 SCMR 561 (Shahid Waheed, Musarrat Hilali and Salahuddin Panhwar JJ, 23.1.2026)	Can a Punjab wife be made to return all prompt dower because the marriage was unconsummated?	No. The statutory cap in section 10(5) of 25% of admitted prompt dower applies.
59	Selab Akhtar v. Quwat Khan (Supreme Court, May 2026; Shahid Bilal Hassan J; citation awaited)	Should khula be granted without the wife's consent?	As reported in the press, not ordinarily without her consent or clear election; the case was remanded so she could elect within 30 days. Verify against the certified copy before citing.
60	Khawar Iqbal v. Federation of Pakistan, 2013 MLD 1711 (FSC)	Is delegated talaq (talaq-e-tafweez) valid and how does it relate to khula?	Valid and not repugnant to Islam; it checks a husband who neither maintains his wife nor agrees to release her.

Part IV: After 2000, Peshawar High Court

No.	Citation	Question	Answer
61	Karim Ullah v. Mst. Shabana, PLD 2003 Peshawar 146 (Malik Hamid Saeed and Shahzad Akbar Khan JJ, 16.1.2003; suit from Timergara, Dir)	Does a wife who sought khula due to cruelty lose her dower?	The court may refuse return of the dower property where the husband's cruelty forced her to seek khula.
62	Dr. Fakhr-ud-Din v. Mst. Kausar Takreem, PLD 2009 Peshawar 92 (three-member Bench, 21.5.2009)	What did the 2002 proviso to section 10(4) do?	It authorised the Family Court, on failed reconciliation, to dissolve the marriage and direct the wife to return the dower.
63	Mst. Sarwat Begam v. Farmanullah, PLD 2012 Peshawar 164 (28.2.2012)	How is badl-e-khula fixed when khula replaces a cruelty claim?	The court must fix it on the facts; here the High Court reduced it from 9 tolas to 5 tolas of gold in view of the short wedlock.
64	Muhammad Faisal Khan v. Mst. Sadia, PLD 2013 Peshawar 12 (Mian Fasih-ul-Mulk and Rooh-ul-Amin Khan JJ, 10.10.2012)	Must the court grant khula even if the wife did not plead it?	Held so; where she will not live with the husband the court must grant khula even if it was not claimed or other grounds failed. If it was the husband's conduct that compelled her, she keeps her benefits. (Difficult to reconcile with Ibrahim Khan.)
65	Mst. Shazia Haider v. Gul Islam, PLD 2014 Peshawar 194 (Mrs. Irshad Qaiser and Waqar Ahmad Seth JJ, 28.11.2013)	Can cruelty be unproved and khula still be granted although she did not use the word?	Held so; the court had no option but to dissolve on khula. (Difficult to reconcile with Ibrahim Khan and Seema Hanif Khan.)
66	Syed Rashid Ali Shah v. Mst. Haleema Bibi, PLD 2014 Peshawar 226 (Nisar Hussain Khan and Waqar Ahmad Seth JJ, 18.6.2014)	Is a second marriage a ground, and what follows for dower?	The Bench treated clause (ii-a) as no longer part of the DMMA and held the wife not entitled to dower after khula. The Supreme Court has since treated clause (ii-a) as operative (Seema Hanif Khan; Naila Javed), so this judgment should not be relied upon.
67	Fazal Rahman v. Mst. Fahmida, PLD 2021 Peshawar 184 (Ishtiaq Ibrahim and Wiqar Ahmad JJ, 24.3.2021)	Can an appellate court change the mode of dissolution?	Yes. A decree on khula with refusal of dower may be converted to dissolution on another available ground, because an appeal continues the original proceedings; a bare dissolution decree is not appealable but strings attached to it are.

Prepared by Adv. Syed Zeshan Hashmi, The Arbitrator & Law Associates, Opposite Prime Hospital, Ring Road, Peshawar, Tel: 0313-4859592, arbitratorandlaw.com. For general legal education; not legal advice. Citations were checked against the Pakistan Law Site; verify against the printed reports before citing in court.