

175765 - The difference between khula' and talaaq

the question

I had given back my husband a few months ago his dowry for my freedom he said shukron Jazaakalah, you are free to go so go. I left the next day to go to my sisters house where i had spend 2months and then came down with illness during that time, so the community decided to help, so they house me and place my children under the care of other Muslims until i got better. At that time i was pregnant and almost due to have the baby, he said that he wanted to take the responsibility of the baby and myself to ensure that i was safely delivered. Later he said to me that we are still married cause a khula is not an automatic divorce. Now today the Imam said that we are divorce. So do we have to get remarry to have an aqiqah or will it be harram for us coming together to have the Aqiqah for our newborn baby as divorce parents.

Detailed answer

Firstly:

Khula' is not regarded as a divorce (talaaq), but it is an annulment of the marriage. The wife cannot go back to the husband after khula' except with a new marriage contract.

One of the differences between annulment and divorce is that annulment is not counted as a talaaq, so if you go back to your husband now, he still has the option of three talaqs.

But if he has given you one talaaq and your 'iddah has ended, if he does a new marriage contract with you, he only has two talaqs left.

Any word that is indicative of separation, accompanied by payment of compensation on the part of the wife, is khula'.

If the husband utters words of talaaq along with the khula', such as if he says, "I divorce you on condition that you return the mahr to me," this is an annulment of the marriage

according to the correct opinion. In other words, the khula' is an annulment even if the husband utters the word of talaaq at the same time. For more information, please see question no. [126444](#)

Secondly:

You can celebrate the child's birth and do the 'aqeeqah even if you are separated, and there is no need to repeat the marriage contract for that purpose. But it should be noted that he is now a "stranger" (non-mahram) to you, with all the rulings that implies.

We advise you to think, pray istikhaarah and examine your former husband's situation; if you think that he is good and that there is some benefit in going back to him, that will be a good time to repeat the marriage contract.

And Allah knows best.