



From Reverence to Routine: Rethinking Oath Taking in Trial Courts by Muslims

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In the sacred court rooms for justice, oaths were once expressed with respect and deep deference for religion. They were sufficient evidence in a case. Yet, in the modern culture of courts proceedings in Pakistan, this sacred exercise has become a mere formality. It has lost its true worth. During trial proceedings oaths are now sworn informally and often, frivolously, without thinking about their moral, social and religious consequences. This paper aims to highlight the place of oaths in Islamic legal jurisprudence. Through analysis of the injunctions laid down by the Quran, Sunnah, this work explains the real role of oaths in a trial proceeding. Furthermore, this research aims to enhance the awareness regarding the reverential status of oaths among all stakeholders of justice system in Pakistan, such as police officers, prosecutors, judges, and private litigants. This paper will provide them essential reasoning and the necessary knowledge to restore the proper place and weightage that an oath deserves in trials. To build a just and peaceful society, where citizens have firm confidence in courts, it is indispensable to restore the sanctity of oaths within our justice system and curb the menace of false oaths.

Keywords: Oaths, False Oaths, the Oaths Act, 1873, Oaths in Islam.

1. Introduction

Administration of justice is duty of courts. It is their responsibility to ensure that the litigants looking for justice in their courtrooms receive it. To administer justice, courts use the procedures of trials. The success of trials depends on evidence; the evi-



dence is dependent on oaths. Oaths play a pivotal role in justice. They are the most essential aspect of a trial. After the oath, the testimony or deposition or any statement of a witness before the judge in a court of law converts into evidence. In the absence of an oath, any statement or fact brought before the court lacks the status of evidence. So, evidence depends on the oaths of persons standing in the dock before a court of law. Without evidence, the trial would be a futile exercise. Without evidence, the judge would not be able to reach the truth. Truth equates to justice. Without evidence, the entire legal system, along with its laws and procedural guidelines, is rendered useless. However, one cannot overlook the fact that evidence depends on an oath. Therefore, it shows that oath is the bedrock of justice.

In Pakistan, there are two main kinds of trial cases: civil and criminal. These two branches serve as the primary categories for trial purposes, encircling all other cases. Pakistan has two procedural laws – the Code of Civil Procedure¹ and the Criminal Procedure Code². Both of these laws outline the procedures for trial courts to operate, administer, and ultimately resolve a case. In a criminal trial whether to acquit or convict the accused, and in a civil trial whether to decree or dismiss the suit. However, in both types of trials, evidence is obtained under oath. During a trial, a judge in Pakistan records evidence under the law of evidence³. This law binds the judge to record evidence in three phases: first, examination-in-chief; second, cross-examination; third, re-examination⁴. In these three phases, witnesses testify before the judge after taking an oath.

The law that covers the subject of oaths is the Oaths Act⁵. But this law does not provide the definition of an oath, and it also does not specify the words that a witness is obligated to state while taking an oath before the judge. It is defined in the General Clauses Act⁶, where it is stated that the oath shall include affirmation and declaration in the case of persons by law allowed to affirm or declare instead of swearing. But the law does not provide the difference in oath and affirmation. There is confusion between these words.

¹ “The Code of Civil Procedure, Dinshah Fardunji Mulla, 1908”.

² “The Code of Criminal Procedure (Lahore: Nadeem Law book house, 1898), 29.

³ “The Qanun-e-Shahadat Order, President Zia-ul-Haq, 1984”.

⁴ The Qanun-e-Shahadat Order, 1984, A, 132, 133, 134.

⁵ Mian Ghulam Hussain, The Oaths Act (New delhi: Universals, 1873), 36.

⁶ “The General Clauses Act, M. Abdul Basit (New delhi: Universals, 1897), 65.

Basically, an oath is a solemn declaration, go together with by a swearing to God or a respected thing. It asserts that one's declaration is true. The individual making the oath indirectly invites penalty if the declaration is fallacious. The legal aftermath of an untrue oath is penalties for perjury. For a witness, an oath is a declaration or narration of facts made before court. There is a form of special words that are used for such a declaration. These words are formal in nature. These are made solemnly without swearing to God or a revered person or thing. And at times, the term "oath" is used interchangeably with "affirmation." An affirmation involves solemnly declaring rather than swearing under oath, testifying, or declaring by affirmation. It is a solemn vow corresponding to an oath, but without position to a supreme being or vowing. It is a solemn declaration completed under consequence of perjury, but without an oath. Whereas an oath is "sworn to," an affirmation is simply "affirmed," yet whichever type of vow may expose the individual making it to consequences for perjury.⁷

People often casually make oaths in everyday conversations, like saying "I swear." This happens because they might not realize how decisive oaths are. However, breaking an oath can lead to serious consequences in the eyes of Islam and in our daily lives. It is similar to breaking a promise.⁸ Furthermore, at the present time, Courts worldwide necessitate witnesses to either swear an oath to a religious divinity or affirm to tell the reality before giving testimony. There is a extensively held belief that this process could result in undue bias against witnesses founded on their spiritual beliefs.⁹ The sole practical purpose of an oath is to intensify the moral responsibility of the person to whom it is administered. In our current system, oaths are mandatory during trial, and one could only take them conscientiously if hie or her beliefs aligned precisely with those of the legislators.

However, there is no system in place to inspect these beliefs. Those unable to conform to these beliefs are barred from all types of testifying in courts of law. Despite this not everyone could easily take an oath. It is asserted that philosophers like Confucius, Plato, or Pascal, had they lived in England or in our country at this time, they would have found themselves marginalized due to their inability to take specific oaths

⁷ Bryan A. Garner, *Black's Law Dictionary* (St. Paul, MN: West, 2009), 9th edition, p. 94 & 1204.

⁸ Musa Adeyemi Olaofe and Abdulazeez Balogun Shittu, Oath and Its Implications from Islamic Perspective, (*Al-lawh Journal of Arabic and Islamic Studies* 4, no. 1 ,2014), 191–202.

⁹ Colton Fehr, Re-Thinking the Process for Administering Oaths and Affirmations (*Dalhousie LJ* 43 ,2020), 637.

according to the present established forms of oaths. Simultaneously, a ward politician, indifferent to the sanctity of an oath, would have been allowed to swear as quickly as an officer could administer the oath. The entire premise relies on the good conscience of the individual taking the oath.¹⁰ This suggests that there is a distinction between those who understand the significance of the oath and those who are not steadfast in their beliefs. The former would hesitate to take an oath, while the latter would readily do so compared to those with knowledge and faith in God.

In the courtroom, where oaths used to be an important instrument to reach justice, and where oaths were regarded like a promise to God, they are now just words tossed around. This paper uses Islamic teachings to explain why oaths matter a lot in any justice system, and these teachings explain how they should be valued during trials in courts of law. It is an attempt to retell everyone involved, i.e judges, police, prosecutors, and litigants, that oaths are not just mere words, they are serious promises, and they have consequences. By restoring the sanctity of oaths in our justice system, and by tackling the problem of false oaths, we can move towards a just and peaceful society. Through this we can regain the lost trust of our citizens in the courts.¹¹ This work recommends Muslims to only swear when unequivocally necessary. Oaths are not just a way to assure a judge regarding a fact; rather, they have a serious impact in the trial as well as in the society.

2. Oath in Islam

Most Islamic legal schools believe that the oath serves the substantive right and it is a form of proof in court when there is no other evidence. Hanafites, however, do not see the oath as proof but as a temporary trial determination. Malikites argue that the oath strengthens evidence or secures aspects not sheltered by evidence. Shafites see the oath as a tool to prove something unprovable in the past or future, invoking God's name in the absence of evidence. Hanbalites view the oath as proof through Divine mention. If there is no evidence, most schools see the oath as a way to prove a right before the judge, and it may carry weight against other evidence. For instance, when two witnesses are required, many legal scholars accept an oath as a substitute for one witness, treating the oath as a second witness. In Islamic law, the oath serves both as part of the re-

¹⁰ Edward A. Thomas, Oaths in Legal Proceedings (The North American Review 135, no. 310, 1882), 220–29.

¹¹ Rashida Zahoor et al., A Comparative Study of Perjury in Legal System of Pakistan and Islamic Law (Journal of Business and Social Review in Emerging Economies 6, no. 4, 2020), 1571–79.

quired burden of proof and in determining the trial.¹² Nevertheless, this research does not focus on the diverse opinions of different schools regarding the status of an oath in a trial. Instead, the objective of this work is to emphasize and remind every stakeholder in trial proceedings of the sanctity associated with an oath. It highlights that the oath imposed by law under present justice system of Pakistan is distinct from the oath in Islam in its true nature and spirit.

Oaths in Islam hold immense status and weight. Oaths draw their sanctity from both the Quran and the Sunnah. Verses in the Quran highlight the seriousness of oath-taking, while Prophet Muhammad's (ﷺ) teachings and actions further emphasize their importance. Oaths serve as powerful reminders of accountability for the one who is taking within the Islamic faith. Both Quran and Sunnah together establish oaths as a sacred act. Both sources of Islamic law demand careful consideration and commitment in oath taking.¹³

2.1. Oath in Quran

In the Quran, various words are used to refer to oaths, and "Al-Yamin" is one of them. From a technical standpoint, Al-Yamin can be understood as a solemn declaration made in the name of Allah or His Attributes. It is made to affirm the truthfulness of one's declaration before a court.¹⁴ In the Hanafi School, Al-Yamin is seen as an affirmation or a powerful commitment used to settle disputes or disagreements between parties. It is called a strong commitment due to the solid intention or purpose expressed in the statement. An oath involves stating some statements or reinforcing it by citing Allah's name or one of His characteristics.¹⁵

Oaths carry significant sanctity in Quran:

“God will not call you to account for what is futile in your oaths, but He will call you to account for your deliberate oaths. . . But keep to your oaths”¹⁶

In the context of taking an oath, Muslim Jurists, from the time of Prophet Muhammad (ﷺ) to the present, unanimously agree that an oath imposes a duty on the person making

¹² Guy Bechor, God in the Courtroom: The Transformation of Courtroom Oath and Perjury between Islamic and Franco-Egyptian Law, in God in the Courtroom (Brill, 2011).

¹³ M. Zaky Ibrahim, Oaths in the Qur'an: Bint al-Shāfi's Literary Contribution (Islamic Studies, 2009), 475–98.

¹⁴ Dato Seri Laila Jasa Anwarullah, Principles of Evidence in Islam (Noordeen, 2004).

¹⁵ Muhammad Sabri bin Haron, Al-Yamin (The Oath) in Islam and Its Application in the Syariah Court in Malaysia (PhD Thesis, International Islamic University Malaysia, 1993).

¹⁶ “Al-Maidah: 89/5.

it when he uses the name of Allah Ta'ala or His Attributes. Consequently, breaking the oath is considered a failing to fulfill a promise and it requires expiation as a reparation for this lapse.¹⁷

The Quran aims primarily to bring benefits to people. It addresses all matters which are important for both their current and future well-being. It covers all essential aspects which vital for the people's religious and worldly affairs; oath is also one of them, and neglect of its commandments could lead to chaos and undesirable outcomes. These essential matters revolve around safeguarding five fundamental values crucial for human life: life, dignity, intellect, and the protection of property. In this context, an oath becomes a crucial element in protecting dignity. Islam provides guidelines to safeguard human dignity, prohibiting followers from falsely accusing others of misconduct and crimes. The general principle is that evidence is required for the person making an accusation, and an oath is for the person denying it. Following this principle, any accusation must be supported by evidence; otherwise, penalty will be imposed for untruthful accusations,¹⁸ which is 80 lashes.¹⁹ Along with receiving lashes as a punishment, those who commit such a crime are also subject to the curse of Allah SWT.²⁰ Allah SWT said,

“Verily! Those who purchase a small gain at the cost of Allah's covenant, And their oaths . . . (to) . . . they shall have a painful torment!”²¹

2.2. Oath in Sunnah

In the Sunnah as well, a significant sanctity has been accorded to oaths. It is narrated by 'Abdullah bin 'Amr (RA): A desert Arab came to the Prophet (ﷺ) and asked, "O Allah's Messenger, what are the major sins?" The Hadith includes the Prophet's response: "The false oath." When asked about the nature of the false oath, the Prophet (ﷺ) explained, "It is when one takes possession of the property of a Muslim person through an oath while lying."²² The Prophet (ﷺ) said, "Whoever takes a (false) oath in order to grab (others) property, then Allah will be angry with him when he will

¹⁷ “Al-Maidah: 89/5.

¹⁸ M. S. Mohd Ab Malek et al., In the Purview of an Oath from the Jurisprudential Method of Islamic Law of Evidence, in *Islamic Perspectives Relating to Business, Arts, Culture and Communication*, ed. Roaimah Omar, Hasan Bahrom, and Geraldine de Mello (Singapore: Springer, 2015), 463–74.

¹⁹ “An-Nur: 4/24.

²⁰ “An-Nur: 23/24.

²¹ “Al-E-Imran 77/3.

²² AL-Hafiz Ibn hajar asqalani, *Bulugh Al-Maram* (Beirut: Dar al-islam, 1380 A.H),140.

meet Him.”²³ In the Sunnah, a false oath is clearly categorized as a major sin, particularly when it is used in trial cases or to wrongfully claim someone's property or deprive them of their rights.²⁴ The consequences of taking a false oath are severe, and in the end, it is indicated that those who engage in this act may face the punishment of hell.²⁵ Even it obligated upon Muslims that one must refrain from making a false oath even on a green tooth-stick.²⁶ For such an individual, paradise is prohibited.²⁷

3. Oath in Trial

The Oaths Act is the governing law that deals with the oath-taking in trials, however, surprisingly it stumbles on two fundamental pillars. Firstly, it offers no clear definition of what constitutes an oath, leaving the concept open to interpretation and potential ambiguity. Secondly, it fails to prescribe a specific formula for witnesses to recite during the oath-taking process, therefore, it raises concerns about consistency and validity of oaths at different times, in different courts and during different situations.²⁸ This lack of clarity in the Act is potentially undermining the very purpose of oaths in our legal system. Litigants and witnesses in our courts, as part of their daily routines, often lack awareness of the religious and social dangers associated with taking false oaths.²⁹ It is true that oaths can have a significant impact on a witness during a trial, but they should not be the sole criteria to determine whether the person is a liar or telling the truth.³⁰

Under the legal proceedings, oaths or affirmations must be taken by the following persons: (a) witnesses – referring to all persons who are eligible to be examined or required to give evidence in any court or before any authorized person; (b) interpreters

²³ Muhammad bin Ismail Bukhari, *Sahih Al-Bukhari* (Riyadh: Dar al-islam), Witnesses, 2673.

²⁴ Abu Essa Muhammad bin Essa, *Jami` At-Tirmidhi* ((Riyadh: Dar al-islam), Chapters on Tafsir, 3021.

²⁵ Abu Dawud Sulyman bin ashath, *Sunan Abi Dawud* (Lahore: Dar al-ialam) Oaths and Vows ,*Kitab Al-Aiman Wa Al-Nudhur*, 3242.

²⁶ Abu Dawud Sulyman bin ashath, *Sunan Abi Dawud*, 3246.

²⁷ Abu abdul rehman Ahmad bin shuaib al-nisai, *Sunan An-Nasa'i* (Beirūt: Dar al-islam, *The Book of the Etiquette of Judges*), 5419.

²⁸ Adugna Barkessa, *Oath in Oromia Courtrooms: A Critical Discourse Analysis* (*Oromia Law Journal* 10, no. 1 2021), 1–29.

²⁹ Karen A. Macfarlane, *Does He Know the Danger of an Oath?: Oaths, Religion, Ethnicity and the Advent of the Adversarial Criminal Trial in the Eighteenth Century* (*Immigrants & Minorities* 31, no. 3 November 2013), 317–45, <https://doi.org/10.1080/02619288.2013.802866>.

³⁰ Thomas Raeburn White, *Oaths in Judicial Proceedings and Their Effect upon the Competency of Witnesses*, (*American Law Register*, Philadelphia, PA: 1898), 1903, 373–446.

– those who interpret questions posed to witnesses and the evidence provided by them. Now, all Muslims are obligated to make an oath under the law.³¹

In the courtroom, during the trial, the form of oaths for Muslim witnesses sometimes raises concerns.³² While some refuse to swear by "Allah SWT" out of reverence, and there is a wider misconception which prevails – many litigants, lawyers, and even police officials believe the entire judicial oath system clashes with Islamic principles outlined in the Quran and Sunnah. This misperception, fueled by the assumption that this is a foreign system, a non-Islamic one which extends to the oaths themselves. So, sometimes, witnesses do not fear while taking false oaths. This is fundamentally incorrect and needs rectification. If judges and lawyers understood and communicated to witnesses that the courtroom oath draws its very essence from the Quran and Sunnah, it could effectively deter false testimonies. Dispelling this misconception and embracing the true Islamic nature of the judicial oath could significantly restore its sanctity and it could potentially even offer resolution to numerous cases.

Moreover, the law also allows for another type of oath, commonly known as a special oath,³³ where witnesses frequently place their hand on the Quran and swear again before the judge. However, this is an incorrect practice. The only valid form of oath in Islam is the one sworn in the name of Allah SWT.³⁴ Unfortunately, our courts and legislation are not acknowledging this fact. There is an urgent requirement to amend this law.

The principle regarding the special oath is that a party involved in a legal dispute can propose to the opposing party to either accept or reject a claim based on a special oath. However, they cannot force each other to undergo the special oath. If the offer is accepted by the opposing party, a binding agreement is established, and the party making the offer is legally not permitted to retract from it. When the Court communicates the offer to the opposing party and receives their agreement or refusal, it acts as an intermediary between the parties. Once the offer is accepted, the acceptance is conveyed to the party who proposed the special oath, finalizing the agreement between the parties, unless the offer is withdrawn before the opposing party's acceptance. If there is

³¹ Mian Ghulam Hussain, *The Oaths Act 1873*.

³² Syed Muhammad Jammal ud din Kazmi v. the Federation of Pakistan, PLD 2010 Federal Shariat Court 221.

³³ Muhammad Rafique v. Nasir Mehmood, PLD 2016 Lahore 428 (n.d.).

³⁴ Muslim bin hajaj, *Sahih Muslim* (Beirüt: Dar al-islam), *The Book of Oaths*, 1646 f, n.d.

an offer or proposal to be bound by the opposing party's oath, due to the mutual promise, the party making the offer cannot retract it after acceptance and the special oath. Unless there is a suitable or sufficient cause, the Law court is obliged to enforce the contract and record the account of the concerned party to make a decision in the situation accordingly.³⁵

4. Oath in Islamic Jurisprudence

Oaths are also covered in maxims or rules of Fiqh, which can be useful for the courts of law, in numerous cases. These maxims play a significant part in shaping Islamic legal framework. They serve as philosophies to derive many other Fiqh guidelines. These rules were not all compiled at the same time by a specific scholar but were settled by legal expert during the resurgence of Fiqh.³⁶ Among the most primitive legal expert who contributed to most of these principles are those of the Hanafi School, with one of their renowned references being Majallah al-Ahkam al-‘Adaliyyah. The basis or references for oaths in the Mejelle include the following: Evidence is comprised of presenting trustworthy testimony. Fully substantiated evidence involves statements from multiple individuals where it would be illogical to assume they agreed to lie. Offering the oath involves administering it to one party, while administering the oath to both parties entails putting both of them under oath³⁷.

Furthermore, in certain circumstances, before judgment and when evidence needs strengthening, the judge can offer witnesses the option to strengthen their testimony through an oath. The judge may say, "I will accept your evidence if you swear to its truthfulness, otherwise I will not." Witness testimony and the choice to accept or refuse such an oath can become grounds for judgment. Moreover, if the plaintiff cannot prove his claim with evidence, then he may request the defendant to take an oath. How-

³⁵ Sajid Mehmood v. Mst. Shazia Azad, 2023 SCMR 153 (n.d.).

³⁶ Malek et al., "In the Purview of an Oath from the Jurisprudential Method of Islamic Law of Evidence."

³⁷ Majallah Al-Ahkām Al-‘Adliyyah, "Codified Civil Law of Ottoman Caliphate, Turkey," Translated by CR Tyser, D. G Demetriades and Ismā‘īl Ḥaqqī Effendi (Lahore: Law Publishing Company, 1980), Aznan Hasan, "A Comparative Study of Islamic Legal Maxims in Majallat Al-Ahkam Al-‘Adliyyah, Jordanian Civil Code and United Arab Emirates Law of Civil Transaction (The Islamic Quarterly 48, no. 1 2004), 47–68; Md Habibur Rahman and Noor Mohammad Osmani, "An Appraisal of Majallat Al-Ahkam al-Adliyyah: A Legal Code of Islamic Civil Transactions by the Ottoman," INTERNATIONAL JOURNAL OF ACADEMIC RESEARCH IN BUSINESS AND SOCIAL SCIENCES 8, no. 9 (2018), https://www.academia.edu/download/101844431/An_Appraisal_of_Majallat_al-Ahkam_al-Adliyyah_A_Legal_Code_of_Islamic_Civil_Transactions_by_the_Ottoman.pdf.

ever, this is not necessary in all cases, such as when two individuals claim ownership of property held by a third party. And when an oath is administered, it must be taken in the name of God. It must be taken in the presence of the judge or their representative. Refusing an oath in another person's presence is irrelevant. In Islamic jurisprudence, oaths are typically administered upon request, but there are four exceptions: first, when someone claims a right against a deceased person's estate; second, when someone reclaims lost property and proves their claim; third, when a buyer seeks to return purchased goods due to defects; fourth before granting preemption right, the claimant must swear they have not invalidated their claim.³⁸ As the scope of this research work does not include a detailed discussion on the *usul fiqh* regarding oaths, it was necessary to briefly touch upon them. Therefore, this discussion cannot be extended further on this.

5. Conclusion

Professor James Endell Tyler defines an oath as an outward pledge given by the juror, indicating that their attestation or promise is made with an immediate sense of responsibility to God. Therefore, in essence, the oath functions as an assurance of truthfulness. It acts as a deterrent against false testimony, and this is achieved by juxtaposing the individual's dishonest intentions with a sense of moral accountability and a fear of divine consequences.³⁹ However, there is a difference in the origin of oaths in the common law and Islamic law. The English judicial system and its common law tradition had the most direct and extensive impact on American oath practices. The English oath system can be traced back in the work of the Christian Church. English commentators acknowledge the influence of Christian principles in oath-taking practices. They recognize the Bible's significant role in shaping their legal framework.⁴⁰ Islamic criminal law differs significantly in its perspectives from the legal frameworks developed and established under Christianity.⁴¹ For Muslims, the Quran holds the utmost final au-

³⁸ Charles Robert Tyser, D. G. Demtriades, and Efendi Ismail, *The Mejelle: Being an English Translation of Majallah El-Ahkam-i-Adliya and a Complete Code on Islamic Civil Law*, 2001, <https://cir.nii.ac.jp/crid/1130282272526881280>.

³⁹ James Endell Tyler, *Oaths: Their Origin, Nature, and History* (Gale Ecco, Making of Modern Law, 2010).

⁴⁰ John Hudson, *The Formation of the English Common Law: Law and Society in England from King Alfred to Magna Carta* (Routledge, 2017), <https://www.taylorfrancis.com/books/mono/10.4324/9781315163031/formation-english-common-law-john-hudson>.

⁴¹ Tahir Wasti, *The Application of Islamic Criminal Law in Pakistan: Sharia in Practice*, in *The Application of Islamic Criminal Law in Pakistan* (Brill Nijhoff, 2009), <https://brill.com/display/title/14365>.

thority in religious, moral, legal, political, economic, and social matters. It serves as a comprehensive guide for life. Islam is not only a name of belief system but it also provides moral and practical laws derived from the Quran.⁴² However, it is noteworthy that due to the growing democratization of countries, oaths in these nations are employed in similar ways as in the Western context.⁴³ In Pakistan, oaths have become a societal practice and it is being utilized in courts without a comprehensive understanding of its implications.⁴⁴

Researchers have sought to examine the alterations made in the justice system of Pakistan under the banner of Islam, particularly in the area of evidence laws. Pakistan initiated an Islamization program that impacted various aspects of the law of evidence through legislation starting from 1979. However, the findings of their research indicate that while Pakistan has, in theory, departed from century-old laws, it continues to adhere, in practice, to the traditional legal framework within the new context of Islamic law. This similarity is especially apparent given the minimal differences observed between the practices in Pakistan, Bangladesh, and India.⁴⁵ Despite efforts to Islamize laws, the matter of oaths has been overlooked, and no substantial measures have been taken to restore its sanctity or enhance its positive application during trials.

Furthermore, there is also an issue concerning the form of oaths for Muslims during trial proceedings. Occasionally, when the word "Allah SWT" is used for an oath, some witnesses refuse to take the oath due to a fear of God. However, many litigants, lawyers, and police officials harbor a misconception that the oaths during trial proceedings are not in line with Islamic principles mentioned in the Quran and Sunnah. They believe that this system is non-Islamic, leading to the misconception that the oaths are also not Islamic. This is entirely untrue and needs correction. If litigants and lawyers can explain to witnesses that this oath is the same as the one enshrined by the Quran and Sunnah, it may prevent false testimony. Correcting this misconception could contribute to regaining the sanctity of oaths in our judicial system, potentially resolving

⁴² Muhammad Husayn Tabataba'i and Muhammad Husayn Tabataba'i, *The Qur'an in Islam: Its Impact and Influence on the Life of Muslims* (Kegan Paul International Ltd., 1988).

⁴³ Belen Vicens, *Swearing by God: Muslim Oath-Taking in Late Medieval and Early Modern Christian Iberia* (*Medieval Encounters* 20, no. 2, 2014), 117–51.

⁴⁴ Jamila Hussain, *Islam: It's Law and Society* (Annandale: Federation Press, 2011), 1st edition.

⁴⁵ Begum Asma Siddiqua, *Development of the Law of Evidence in Pakistan and Bangladesh with Special Reference to Witness Testimony* (University of London, School of Oriental and African Studies (United Kingdom), 1994).

many cases. Nevertheless, the Lahore High Court confirmed the form of the oath through a Notification dated 26-11-1992, which was expressed as follows:

"I swear by Almighty Allah that I shall state the truth and if I lie or conceal anything, the wrath of Allah Almighty may fall on me".⁴⁶

It is imperative to dispel this misconception.

6. Recommendations

It is high time to reconsider and restructure the process of administering oaths to witnesses during trials.⁴⁷ Due to the erosion of sanctity associated with oaths, there are arguments suggesting that religious oaths should not be taken in courts, and instead, secular oaths should be considered.⁴⁸ Nevertheless, it is also true that for a morally upright individual, nothing is more sacred than the oath.⁴⁹ The Almighty Allah has decreed:

"O believers! Uphold justice and testify for the sake of Allah, even if it is against yourselves, your parents, or your relatives",⁵⁰

Further guidance from the Holy Qur'an and Sunnah emphasizes that a witness is (a) obligated to testify to what they know, whether it is in their favor or not; (b) the oath should be taken in the name of Allah; (c) the witness should not exceed the limits set by Allah; (d) transgressing these limits makes one an evildoer; and (e) concealing testimony is considered sinful.⁵¹

Following are the particular recommendations:

1. **Honor Sacred Oaths:** first recommendations is that we need to make it certain that litigants making oaths during court proceedings follow the importance and truthfulness taught in the Quran and Sunnah.
2. **Training for Truth:** We must start training of judges, lawyers, police, and officials on the vital role of oaths in our justice system. We need to remove any confusion and we need to align their understandings with Islamic principles.
3. **Explain Oath Weight to Witnesses:** Before a Muslim witness start recording its evidence, there must be a procedure which obliges court to fully explain the

⁴⁶ "Lahore High Court Rules and Orders, Vol. IV, Chap. 12-A," in Lahore High Court Rules and Orders.

⁴⁷ Fehr, Re-Thinking the Process for Administering Oaths and Affirmations.

⁴⁸ Michael Bennett, "The Right of the Oath," *Advoc. Q.* 17 (1995), 40.

⁴⁹ Will A. McTeer Sr, Administering the Oath (*Tenn. L. Rev.* 3 1924), 88.

⁵⁰ "An-Nisa 135/4.

⁵¹ Syed Muhammad Jammal ud din Kazmi, the Federation of Pakistan, PLD 2010 Federal Shariat Court 221.

value and meaning of an oath as explained in the Quran and Sunnah to him. We need to remind them that truthfulness comes before everything else.

4. **Stop False Oaths Campaign:** There is a dire need to launch a wide campaign to discourage lying during court proceedings. There is a dire need to make everyone aware of the legal and moral consequences of perjury.
5. **Punish False Oaths:** This is also high time to take legal action for perjury in every case, either civil, criminal or a family one. Those who lie in court must be held accountable.
6. **Amendments in Laws:** To achieve upgradation in rule of law position, our society demands amendments in laws relating to oaths. They must be amended with an aim to make them consistent with Islamic teachings. For this purpose, there is a requirement of input from all religious scholars, judges, and legal experts to update and improve these laws.
7. **One Oath for All:** There are many types of oaths prevailing in our justice system practices, and they are creating confusion regarding status of oath. We need a single, clear oath for everyone to take in court. This will simplify things and avoid confusion.
8. **Urgent Implementation:** Taking these recommendations as urgent and prioritizing their implementation is *sin qua non* to restore citizens' confidence in our judicial system.

Time for talk is done. We must act to save Pakistan's justice system. The path to justice is trembling; it has weakened by lost trust and lies. But there is a hope too. If we follow the above-mentioned recommendations, there is a chance that to make our legal system more effective and efficient. Let us rebuild our courts as places of truth, not of false oaths, where justice speaks loud and clear, and where everyone feels safe, knowing that justice is not only being done, but also appears to be done.