

## THE SIGNIFICANCE FOR A MUSLIM OF SWEARING OR REFUSING TO SWEAR AN OATH ON THE QUR'AN

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I was recently asked to advise on the significance for a Muslim of swearing or refusing to swear an oath on the Qur'an and in particular to answer three questions:

- (i) What is the significance of the Qur'an in the context of swearing an oath?
- (ii) What is the consequence of a believer refusing to take an oath on the Qur'an?
- (iii) Are there any circumstances in which a believer should not swear on the Qur'an?

After giving my advice, I was asked to make it more generally available. Here it is:

### General Context :

The Arabic word *Islam* means 'peace', 'safe and sound', 'submission' to the will of God. Muslims believe (the *shahada*) that there is only one God and that the Prophet Muhammad, blessings and peace be on him, was the last Messenger sent by God to man. The Arabic word *Allah* literally means 'the God'. Muslims believe that by following the example of the Messenger of Allah and his companions and sincere followers and by obeying what is commanded in the *Qur'an*, the divine revelation revealed to him via the Angel Gabriel, they are thereby submitting to God's will – and will therefore be at peace and safe and sound both in this world and in the next. Muslims believe that it is necessary to worship God as if you see Him, knowing that although you do not see Him, He sees you.

There are two key terms which it is necessary to understand: *firstly*, the practice of the *Sunnah* – which can be defined briefly as: 'the customary practice of a person or group of people. It has come to refer almost exclusively to the practice of the Messenger of Allah and to the first generation of Muslims;' and *secondly*, the requirements of the *Shari'a* – which can be defined briefly as: 'lit. road, the legal modality of a people based on the Revelation of their Prophet. The final *Shari'a* is that of Islam.' Islam can briefly be defined as: 'submission to the will of Allah, the way of life embodied by all the Prophets, given its final form in the guidance brought by the Prophet Muhammad, may Allah bless him and grant him peace. The five pillars of Islam are: the affirmation of the *shahada*, performing the prayer or *salat*, paying the *zakat* or wealth tax, fasting the month of Ramadan, and performing the *Hajj* or pilgrimage once in a lifetime if you are able to do so.'

The *Shari'a* requires Muslims to treat as permitted what Allah has permitted and to treat as forbidden what Allah has forbidden. The *Sunnah* shows Muslims how to do this. The requirements of the *Shari'a* are obligatory and it is not permissible for Muslims to redefine what Allah has permitted and what Allah has forbidden. The norms of the *Sunnah* are followed because it is believed that there is no better way of doing things than following the example of the Prophet Muhammad. Thus sincere Muslims feel obliged to follow the *Shari'a* and are unwilling not to follow the *Sunnah*.

As well as the direct human transmission of the teachings and practice of Islam from person to person, the main written sources of Islamic law and customary practice are first and

foremost the *Qur'an* – which can be defined briefly as: ‘the Holy Book, the Living Miracle, revealed from Allah as a guidance to mankind via the angel Jibril to the Prophet Muhammad, may Allah bless him and grant him peace. The Revelation began in 610 and continued until shortly before the death of the Prophet in 11/632;’ and then the *hadith* – which can be defined briefly as: ‘reported speech of the Prophet.’

### Introduction

In fact it is necessary to consider the above matters in the primary context of swearing or refusing to swear an oath “by Allah”. Whether or not such an oath is taken “on the Qur’an” is a secondary issue. This advice considers both issues.

The two key Arabic terms which feature in the Qur’anic passages and hadith quoted below are ‘*qasama*’, meaning ‘to swear an oath’ and ‘*ahd*’, meaning a solemn covenant or promise. In swearing an oath a Muslim makes a solemn covenant or promise in the presence of Allah – Who says of Himself in the Qur’an:

We created man and We know what his own self whispers to him.  
We are nearer to him than his jugular vein.

And the two recording angels are recording  
sitting on the right and on the left.

He does not utter a single word  
without a watcher by him, pen in hand!

The throes of death come revealing the truth.  
That is what you were trying to evade!

(*Qur'an* : 50.16-19)

One of the epithets of the Prophet Muhammad, may Allah bless him and grant him peace, is Abu'l-Qasim, meaning “the father of Qasim”, the name of his first son, who died at the age of two. “Qasim” means “the one who differentiates, the one who divides, the one who distributes”. Its Arabic root, the letters *qaf-sin-mim* is exactly the same root as ‘*qasama*’, meaning ‘to swear an oath’ and indeed their meaning reflects the consequences of swearing an oath.

### The Significance for a Muslim of Swearing an Oath

The Qur’an stresses the importance of keeping one’s word:

Allah commands justice  
and doing good  
and giving to relatives.

And He forbids indecency  
and doing wrong  
and tyranny.

He warns you so that hopefully you will pay heed.

Be true to Allah’s contract when you have agreed to it,  
and do not break your oaths once they are confirmed  
and you have made Allah your guarantee.  
Allah knows what you do.

Do not be like a woman who spoils the thread she has spun  
by unravelling it after it is strong,  
by making your oaths a means of deceiving one another ... (Qur’an : 16.90-92)

The Qur'an warns those who do not keep their word:

Those who sell Allah's contract and their own oaths  
for a paltry price,  
such people will have no portion in the *akhira*  
and on the Day of Rising Allah will not speak to them  
or look at them  
or purify them.  
They will have a painful punishment.

(Qur'an : 3.76)

The Qur'an gives good news to those who keep their word:

It is the *muminun* who are successful:  
those who are humble in their *salat*;  
those who turn away from worthless talk;  
those who pay *zakat*;  
those who guard their private parts –  
except from their wives or those they own as slaves,  
in which case they are not blameworthy;  
but those who desire anything more than that  
are people who have gone beyond the limits –  
those who honour their trusts and their contracts;  
those who safeguard their *salat*:  
such people are the inheritors  
who will inherit *Firdaws*,  
remaining in it timelessly, for ever.

(Qur'an : 23.1-11)

[*akhira* : the next world – what is on the other side of death.]

*muminun* : the plural of *mumin*; a *mumin* is someone who possesses *iman*; *iman* is belief, faith acceptance of Allah and His Messenger. *Iman* consists of believing in Allah; His angels; His Books; His Messengers; the Last Day, the Garden and the Fire; and that everything, both good and bad, is by the decree of Allah.

*Firdaws* : Paradise, one of the highest parts of the Garden.]

In other words, Muslims believe that if they keep their oaths – for example, swearing by Allah to tell the truth – then this is a means to arriving in the Garden in the next life; and that if they do not keep their oaths – for example, swearing by Allah to tell the truth, but then stating untruths or lying – then this is a means to arriving in the Fire in the next life. For those believing Muslims who know that Allah has power over everything and that Allah knows everything and that after death there will come for each one of us the Day of Resurrection and Judgement and a place either in the Garden or in the Fire, this promise and this warning from Allah provide them with powerful incentives to keep their word and not to break it – because they know that even if a person can appear to 'get away with it' in this life, he or she certainly will not 'get away with it' in the next life:

Malik related to me from al-'Ala ibn 'Abd ar-Rahman from Ma'bad ibn Ka'b as-Salami from his brother 'Abdullah ibn Ka'b ibn Malik al-Ansari from Abu Umama that the Messenger of Allah, may Allah bless him and grant him peace, said, "Whoever cuts off the right of a Muslim by his oath, Allah forbids him the Garden and obliges the Fire for him." They said, "Even if it is something insignificant, Messenger of Allah?" He said, "Even if it is a tooth-stick, even if it is a tooth-stick," repeating it three times. (*Al-Muwatta* of Imam Malik : 36.8.11)

From this perspective, arrogance and ignorance (in Arabic, *kufi*) can be defined as the failure or refusal to recognise that all intentions and actions are witnessed by Allah and the recording angels in far greater detail than the most technologically advanced CCTV system – and that our intentions and actions will inevitably take us either to the Garden or to the Fire in the next world.

This perspective and awareness of the *akhira* used to be the basis of swearing an oath in the English courts, but as more and more people began to abandon the Jewish and Christian faith, including belief in God and in Heaven and Hell, the oath of affirmation was introduced as an alternative utilitarian solemn oath for those humanists and secularists who might believe in the moral excellence of being truthful, or fear the consequences of being caught out when lying, even though they did not believe in the existence of the Creator of the Universe and the *akhira*.

As regards the Shari'a of Islam, great importance is placed on the willingness or otherwise of parties to a dispute to swear an oath, especially where there is a lack of corroborative evidence, or where it is simply a question of one person's word against another's word:

Yahya said, "Malik said from Ja'far ibn Muhammad from his father that the Messenger of Allah, may Allah bless him and grant him peace, pronounced judgement on the basis of an oath with one witness."

It is related from Malik from Abu'z-Zinad that 'Umar ibn 'Abd al-'Aziz wrote to 'Abd al-Hamid ibn 'Abd ar-Rahman ibn Zayd ibn al-Khattab who was the governor of Kufa, "Pronounce judgement on the basis of an oath with one witness."

Malik related to me that he heard that Abu Salama ibn 'Abd ar-Rahman and Sulayman ibn Yasar were both asked, "Does one pronounce judgement on the basis of an oath with one witness?" They both said, "Yes."

Malik said, "The precedent of the sunna in judging by an oath with one witness is that if the plaintiff takes an oath with his witness, he is confirmed in his right. If he draws back and refuses to take an oath, the defendant is made to take an oath. If he takes an oath, the claim against him is dropped. If he refuses to take an oath, the claim is confirmed against him."

Malik said, "This procedure pertains to property cases in particular. It does not occur in any of the hadd-punishments, nor in marriage, divorce, freeing slaves, theft or slander ..." (*Al-Muwatta* of Imam Malik : 36.4.5-7)

This procedure is only effective for those believers who know that swearing a false oath may well take them to the Fire:

'Abdullah ibn Masud reported that the Messenger of Allah, may Allah bless him and grant him peace, said, "Whoever swears an oath and he is a liar in it in order to take the property of a Muslim by unfair means will meet Allah while He is angry with him." Al-Ash'ath said, "I swear by Allah that he said this about me. There was a piece of my land and a Jew disputed its ownership, so I took him to the Prophet, may Allah bless him and grant him peace, who asked me, 'Have you any proof?' I replied, 'No.' He said to the Jew, 'Take an oath.' I said, 'Messenger of Allah, now he will take an oath and take my property.' So Allah, the Exalted, revealed the verse, "Those who sell Allah's contract and their own oaths for a paltry price, such people will have no portion in the *akhira* ... (*Qur'an* : 3.76)."" (*Sunan* of Imam Abu Dawud: 15.1215.3237)

As regards the practice in Madina of swearing an oath in order to substantiate a claim, the consequences of swearing a false oath by the *mimbar* (the steps on which an Imam stands to deliver a sermon) of the Prophet Muhammad are clear:

Yahya said, "Malik related to us from Hisham ibn Hisham ibn 'Utba ibn Abi Waqqas from 'Abdullah ibn Nistas from Jabir ibn 'Abdullah al-Ansari that the Messenger of Allah, may Allah bless him and grant him peace, said, 'If someone swears a false oath near this mimbar of mine, he will take his seat in the Fire.'" (*Al-Muwatta* of Imam Malik : 36.8.10)

And accordingly the inference to be drawn if a party to a dispute refuses to swear an oath near the mimbar in order to substantiate a claim is clear:

Yayha said that Malik had said from Da'ud ibn al-Husayn that he heard Abu Ghatafan ibn Tarif al-Muriyi say, "Zayd ibn Thabit al-Ansari and Ibn Muti' had a dispute about a house which they shared. They went to Marwan ibn al-Hakam who was the Amir of Madina. Marwan decided that Zayd ibn Thabit must take an oath on the mimbar. Zayd ibn Thabit said, 'I swear to it where I am.' Marwan said, 'No, by Allah! only in the place of sorting out claims (i.e. the mimbar).' Zayd ibn Thabit began to take an oath that his right was true, and he refused to take an oath near the mimbar. Marwan ibn Al-Hakam began to wonder at that.' (*Al-Muwatta* of Imam Malik : 36.9.12)

The inference to be drawn was that Zayd ibn Thabit was not completely sure as to the veracity of his claim and therefore in order to avoid the possibility of taking his seat in the Fire, he avoided taking his oath by the mimbar of the Prophet, may Allah bless him and grant him peace.

By extension, some fourteen centuries later, at a time when Islam has spread to almost every country on earth, a similar inference can be drawn if a Muslim avoids swearing an oath by Allah that he or she is telling the truth – namely that the reason for not swearing the oath is that he or she knows that he or she will be either stating an untruth or telling a lie and that he or she knows that swearing a false oath may well take him or her to the Fire.

It is also clear from the hadith that a Muslim who is swearing an oath should only swear by Allah:

Yahya related to me from Malik from Nafi' from 'Abdullah ibn 'Umar that one time the Messenger of Allah, may Allah bless him and grant him peace, was speaking to 'Umar ibn al-Khattab while he was travelling with a troop and 'Umar swore by his father and he (the Messenger) said, "Allah forbids you to swear by your fathers. If anyone swears, let him swear by Allah or keep silent." (*Al-Muwatta* of Imam Malik : 22.9.14)

Two points are clear from this hadith: *firstly*, when a Muslim is swearing an oath it is not necessary for him or her to hold a Qur'an, since the oath is "by Allah" and not "on the Qur'an"; and *secondly*, a Muslim should only swear by Allah. It follows that if a Muslim elects to swear an oath by way of affirmation in an English court, the only two possible inferences that can be drawn are either that he or she fears or knows that he or she is not going to tell the whole truth and fears the consequences in the next world – or that he or she no longer considers him or her self a Muslim.

Bearing the above general points in mind, in my opinion the answers to the three specific questions set out above are as follows:

### **What is the significance of the Qur'an in the context of swearing an oath? :**

During the lifetime of the Prophet Muhammad, may Allah bless him and grant him peace, who could neither read nor write, the Qur'an had not been collated in written form. He and his wisest companions, may Allah be pleased with them, knew the Qur'an by heart. He and they would swear an oath "by Allah." Sometimes the Prophet would swear "by the One in whose hand the self of Abu'l-Qasim is" – "the One" being Allah, Who knows and sees the outward and the inward of every thing in His creation – and "Abu'l-Qasim" being, as has already been noted above, the Prophet Muhammad.

In the Qur'an itself Allah Himself swears by the Qur'an:

Qaf  
By the Glorious Qur'an! (Qur'an : 50.1)

It is clear therefore that an oath by or on the Qur'an is a serious oath.

The practice in an English court of law of a Muslim holding a Qur'an in his or her right hand when swearing by Allah to tell the truth is not part of the *sunnah* – nor is it a requirement of the Shari'a. It is most probably a practice which has been introduced by or in imitation of the English judicial system, based on the earlier, long established practice of Jews and Christians of holding in their right hands a copy of the Old Testament or of the Bible respectively when swearing by God to tell the truth.

Since Allah is always present, He knows exactly what was intended and exactly what happened and exactly what was said and therefore He knows whether or not the oath is sincere and whether or not the testimony is accurate or inaccurate, or true or false. Whoever knows that Allah knows, knows that there can be no greater oath than an oath "by Allah" – and that therefore holding a Qur'an or referring to the Qur'an while swearing the oath does not really add anything to the immensity of the oath.

Strictly speaking holding a Qur'an or referring to the Qur'an when swearing an oath "by Allah" is not necessary, but it would nevertheless be fair to say that for many Muslims, holding a copy of the Qur'an when swearing an oath by Allah is an outward demonstration to those who are present that they intend by this action to emphasise that their oath is a sincere and solemn oath.

When giving expert evidence in an English court, I always swear to tell the truth by Allah – and although I hold a copy of the Qur'an in my right hand because this is part of established and expected court procedure, this does not in any way affect my understanding that I am swearing a solemn oath "by Allah" – and that I better speak the truth, or else!

### **What is the consequence of a believer refusing to take an oath on the Qur'an?**

Provided that a believer swears by Allah, this is a valid oath for the purposes of the Shari'a and holding a Qur'an while swearing the oath is unnecessary.

It follows that if a believer refuses to take an oath "on the Qur'an", no adverse inference should be drawn from this, provided that the believer willingly swears an oath "by Allah".

If, however, a Muslim refuses to swear an oath by Allah (knowing that if he or she then

states an untruth or lies on oath, this may take him or her to the Fire), then the inference is that any testimony he or she gives (even if given after swearing by way of affirmation) is questionable. Indeed in a Shari'a court, such testimony would simply not be accepted – and if the other party to the dispute then swore an oath by Allah then his or her testimony would be accepted and judgement would be given to him or her.

The consequences therefore of a believer refusing to swear an oath “by Allah” are conclusive: his or her testimony is not accepted and judgement is given in favour of the other party provided that he or she has sworn an oath by Allah. If neither party is prepared to swear by Allah, judgement will go to the Claimant – but if he or she has in fact been lying, then the consequences in both this world and the next will not be pleasant.

### **Are there any circumstances in which a believer should not swear on the Qur'an?**

There are two circumstances in which a believer should not swear an oath by Allah to tell the truth:

*Firstly*, a believer should not swear an oath by Allah to tell the truth, if he or she is uncertain as to what the truth is – unless of course he or she states this as part of his or her evidence. It sometimes happens, for example, that a person is giving evidence about matters long past and can no longer remember exactly what happened or what was said. In this case a person can not assert that what he or she thinks is the truth is in fact the truth. It would be safer to preface any evidence by saying, “to the best of my recollection . . .” or “I believe that this is what happened and what was said, but I cannot be completely certain.”

*Secondly*, a believer should not swear an oath by Allah to tell the truth, if he or she knows that he or she is not going to do so.

In fact a true believer would never intentionally swear by Allah to tell the truth and then lie, simply because it is not in a believer's nature to do so:

Truly man was created headstrong –  
desperate when bad things happen,  
begrudging when good things come –  
except for those who do *salat*  
and are constant in it;  
those in whose wealth there is a known share  
for beggars and the destitute;  
those who affirm the Day of Judgement,  
those who are fearful of the punishment of their Lord  
(no one is safe from the punishment of his Lord);  
those who guard their private parts  
except from their wives and any slaves they own,  
in which case they incur no blame,  
but if anyone desires any more than that,  
they have overstepped the limits;  
those who honour their trusts and contracts;  
those who stand by their testimony;  
those who safeguard their *salat*;  
such people will be in Gardens, highly honoured. (Qur'an : 70.19-35)

## Conclusion

In a court of law a Muslim should always swear “by Allah” that he or she is going to tell the truth. If a Muslim avoids doing so, either by refusing to swear an oath at all or by electing to make some other form of oath such as an oath of affirmation, it can safely be inferred from this that he or she either fears or knows that he or she will not be telling the whole truth.

As long as the oath is sworn “by Allah” it is not necessary to hold a copy of the Qur’an while swearing the oath or to refer to the Qur’an during the oath.

## Acknowledgements

Quotations from the Qur’an are taken from *THE NOBLE QUR’AN – a New Rendering of its Meaning in English* by Abdalhaqq and Aisha Bewley, (Bookwork, Norwich, 1999). The *hadith* which are quoted are taken from *Al-Muwatta* of *Imam* Malik translated by Aisha Bewley and Yaqub Johnson (Diwan Press, Norwich, 1982) and the *Sunan* of *Imam* Abu Dawud translated by Professor Ahmad Hasan (Sh. Muhammad Ashraf, Publishers, Lahore, 1984). Definitions of Arabic and Islamic terminology are derived from *A Glossary of Islamic Terms* by Aisha Bewley, (Ta-Ha Publishers, London, 1998).

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