

The Effect of Oaths on the Administration of Justice in England

Dr Olugbenga Damola Falade*

Abstract

The administration of justice in England relies heavily on the integrity and truthfulness of witness testimonies, with oaths playing a crucial role in ensuring these values. Oaths are designed to underscore the seriousness of providing truthful testimony, supported by legal statutes such as the Oaths Act 1978, which allows for both religious oaths and secular affirmations. While traditionally seen as a vital mechanism for ensuring honesty, the effectiveness of oaths is increasingly questioned. Critics argue their impact is limited due to psychological, cultural, and practical factors. This work examines the effect of oaths in the English judicial system, exploring their significance, limitations, and implications. Moral theory was adopted, and doctrinal methodology was used. The study found that despite challenges, oaths remain accepted and essential in maintaining public confidence in the justice system and the perceived legitimacy of judicial outcomes in England. The study made several recommendations, including stricter enforcement of perjury laws, and increased public legal education.

Keywords

Oath, Administration of justice, Oaths Act, and Religion

1. Introduction

'I swear by God Almighty that the evidence I shall give shall be the truth, the whole truth and nothing but the truth'. In an alternative, 'I, do solemnly, sincerely and truly declare and affirm' that the evidence I shall give shall be truth, the whole truth and nothing but the truth.¹ This phrase is being recited by the witness in England's Courts whenever they are called to give evidence.² This is an oath that has long been a fundamental component in the administration of justice, serving as a solemn promise or affirmation, to speak the truth, or perform a duty faithfully. An oath can generally be defined as 'a promise of a heavy moral weight to abide by certain principles, made orally and publicly along with certain symbolic gestures, whereby the oath-taker puts his/her integrity on the line and expresses a willingness to undergo a penalty if he/she breaks his/her words.'³

* PhD in Law (2024), University of Hull and Lecturer, Osun State University, Nigeria. Email: o.d.falade-2020@hull.ac.uk; gbengafalade@yahoo.com.



The articles in this journal are published Open Access subject to Creative Commons 4.0. CC BY-NC license. The Creative Commons Attribution Non-Commercial (CC BY-NC) License allows others to use, adapt, remix, or redistribute a copyrighted work for non-commercial purposes only, while requiring attribution to the creator or author.

¹ Oath Act 1978, section 1(1) and 6(1).

² Ryan T McKay, Will Gervais and Colin J Davis, 'So Help Me God'? Does Oath Swearing in Courtroom Scenarios Impact Trial Outcomes? (2023) 114 (4) *British Journal of Psychology* 991.

³ Thaddeus Metz, 'The Ethics of Swearing: The Implications of Moral Theories for Oath-Breaking in Economic Contexts' (2013) 71(2) *Review of Social Economy* 228.

The concept of oaths dates back to ancient times, with origins in religious and cultural practices where invoking a deity was believed to ensure truthfulness.⁴ Its uses in legal and judicial proceedings have deep historical roots and have continued to play a significant role in ensuring the integrity and reliability of testimonies, as well as the accountability of officials. It shows people's belief in their magical abilities, and within that belief system, it served as a sensible social control mechanism.⁵ Certain legal systems, including those of China, Slavidom, and numerous Swiss states, have either never had an oath or have had it completely or largely abandoned.⁶ In England, the use of oaths in legal proceedings can be traced back to the early medieval period, where they were employed to settle disputes and ensure the credibility of testimonies.⁷ During this time, religious beliefs heavily influenced oaths, with individuals swearing by God or on sacred relics to tell the truth.⁸ This practice was rooted in the belief that divine retribution would follow perjury.⁹ As the common law system developed, oaths became formalised as a procedural requirement in judicial proceedings. The introduction of jury trials in the 12th century further entrenched the use of oaths, as jurors, witnesses, and officials were required to swear to their duties.¹⁰

Over the centuries, legal reforms have shaped the application of oaths in the justice system of England. The Oaths Act of 1888 standardised the form and administration of oaths, allowing for affirmations as an alternative for those who objected to swearing on religious grounds. The Oath Act 1978 adapts the use of oaths to accommodate diverse beliefs and ensure inclusivity within the judicial system.¹¹ Section 7 of the Oaths Act 1978 nullified Section 8 of the Administration of Justice Act of 1977 and previous Oaths Acts. There were calls for the abolishment of oaths in the English legal system, but they failed.¹²

Various types of oaths are administered depending on the context and role of the individual in the current English legal system. In addition to witness oaths, Jurors swear an oath to faithfully try the case and deliver a true verdict according to the evidence presented, while public officials, including judges and law enforcement officers, take oaths of office to perform their duties with integrity and impartiality. As this work explores the current application and impact of oaths on the administration of justice in England, it limits itself to witness oaths. The context of the witness oath is examined in the next section.

2. Oaths of the Witnesses

Witness oaths are the cornerstone of judicial proceedings, ensuring that testimonies provided in court are truthful and reliable.¹³ The oath serves as a solemn reminder to the witness of their social duty to be truthful. Under the penalty of a perjury accusation, social commitment becomes a legal requirement; if the oath is religious and beyond an affirmation, it becomes a

⁴ Britannica, The Editors of Encyclopaedia, "oath" *Encyclopedia Britannica*, (2023) <<https://www.britannica.com/topic/oath-religious-and-secular-promise>> accessed 1 August 2024.

⁵ Paul Cavill, 'Perjury in Early Tudor England' (2020) 56 *Studies in Church History* 182.

⁶ Helen Silving, 'The Oath' (1959) 68(7) *The Yale Law Journal* 1376.

⁷ Paul Cavill, 'Perjury in Early Tudor England' (2020) 56 *Studies in Church History* 182.

⁸ *Ibid*, 185.

⁹ *Ibid*, 184.

¹⁰ Mike Macnair, 'Vicinage and the Antecedents of the Jury' (1999) 17(3) *Law and History Review* 537.

¹¹ Oath Act 1978.

¹² Robert Pigott, 'Motion to End Bible Oaths in Court Defeated' (19 October 2013. BBC News) <<https://www.bbc.co.uk/news/uk-24588854>> accessed 2 August 2024; Royal Holloway University of London, 'Jurors Could View Defendants Who Don't Swear By God in Court as more Likely to be Guilty' (2023) <<https://www.royalholloway.ac.uk/about-us/news/jurors-could-view-defendants-who-don-t-swear-by-god-in-court-as-more-likely-to-be-guilty>> accessed 2 August 2024.

¹³ Helen Silving, 'The Oath' (1959) 68(7) *The Yale Law Journal* 1376.

religious obligation.¹⁴ Before providing testimony, witnesses in court must swear an oath or make an affirmation that they will speak the truth. Every witness's written or oral testimony is generally required to be sworn in, both in criminal and civil proceedings.¹⁵ The UK Criminal Procedure Rules 2020 states that the witness must take an oath or affirm.¹⁶

To respect the diverse beliefs of witnesses, courts provide various options such that witnesses can choose to swear on a religious text that aligns with their faith and affirmations.¹⁷ The administration of witness oaths involves a standardised procedure designed to ensure solemnity and clarity. Typically, a court official or the judge administers the oath, asking the witness to raise their right hand and repeat the oath while the witnesses may swear on a religious text such as the Bible, Quran, or another sacred book in their hands, depending on their faith. For individuals who do not wish to take a religious oath, a secular affirmation is offered as an alternative, carrying the same legal weight. The primary purpose of witness oaths is to uphold the integrity of the judicial process. Witnesses affirm their commitment to providing truthful information, with the understanding that false testimony can lead to legal consequences. Oaths serve as a formal mechanism to hold witnesses accountable for their statements, deterring dishonesty and perjury. In addition, it imposes both a legal and moral obligation on the witness to tell the truth, reinforcing the importance of honesty in judicial proceedings. Taking an oath has significant legal implications. If a witness knowingly provides false testimony under oath, they can be charged with perjury, a serious offence since the early development of English law.

The UK Perjury Act 1911 is the primary statute governing perjury in England, outlining the legal definition and penalties for providing false testimony under oath. The Perjury Act 1911 states that any person lawfully sworn as a witness who wilfully makes a false statement on a material matter is guilty of perjury and liable to imprisonment for up to seven years.¹⁸ Punishment for perjury will serve as a deterrent, encouraging witnesses to provide truthful testimonies. Also, the testimonies given under oath are generally deemed more credible by courts and juries. It has been found that the party who does not swear by God Almighty runs losing their case in the hands of the jurors who swear before handling their case.¹⁹ Statements made under oath are admissible as evidence, whereas unsworn statements may be subject to stricter scrutiny or exclusion. A conviction or judgement based on non-sworn evidence is liable to be declared null and void.²⁰

There are lot of criticism against oath-taking. One of which is that in contemporary times, a witness oath may be perceived as a mere formality rather than a binding commitment, potentially diminishing its impact. The next section will discuss the criticisms and challenges of Oath-taking in the court.

¹⁴ Dennis Kurzon, 'Telling the Truth: The Oath as a Test of Witness Competency,' (1989) 2(1) *International Journal for the Semiotics of Law*, 49.

¹⁵ Practice Direction 32-Evidence; Criminal Justice Act 1967, section 9.

¹⁶ *ibid*, sec 24.4 (3)

¹⁷ For the atheists, agnostics, and those who prefer a non-religious option.

¹⁸ The UK Perjury Act 1911, section 1(1).

¹⁹ Ryan McKay et al, 'So Help Me God'? Does Oath Swearing in Courtroom Scenarios Impact Trial Outcomes? (2023) 114 (4) *The British Journal of Psychology* 991.

²⁰ *R v Marsham, ex parte Pethick Lawrence* (1912) 2 KB 362.

3. Criticisms and Challenges

Despite their importance, the use of oaths in the administration of justice faces several criticisms and challenges. Some critics argue that the effectiveness of oaths in ensuring truthfulness and integrity is limited.²¹ While oaths have traditionally been seen as a vital mechanism for ensuring the truthfulness and integrity of witness testimony in judicial proceedings, human behaviour is complex and often influenced by situational factors rather than moral absolutes. It can be argued that witnesses may lie under oath due to external pressures, fear or personal gain, despite the formal commitment to tell the truth. For instance, if a child is a strong support in his parent's life, the parent may find it difficult to give truthful evidence under oath. Likewise, a loving husband may want to use his evidence to save his loving wife from being sentenced to prison, and a witness may lie under oath due to fear of reprisal. Is it not morally right to abstain from taking such an oath? Even if a witness wishes to abstain, the evidence will not be acceptable without taking an oath. Can it be argued that an oath should not be a strict rule before evidence will be acceptable in court? If yes, where will the credibility of the witness evidence lie? This has caused the administration of oaths to become a requirement rather than a matter of personal conviction.

Also, it can be argued that there is no adequate protection for a witness who is not a child or vulnerable. This situation will affect the witness testimony when the witness thinks of the aftermath of the given testimony. For instance, if there is a criminal matter, the accused or his family may attack the witness for giving truthful evidence under oath. There is no special provision of law for the protection of such people although there is a standard of care for witnesses to a crime or incident in England.²² As a child under 17 in England is protected as a witness in certain cases,²³ The protection can be extended to certain people who are afraid of reprisal if they give truthful evidence under oath.

In England, credible and reliable witnesses are expected to be called to give evidence in courts,²⁴ and taking an oath is seen as a sign of credibility. Professor Ryan McKay states that 'If taking the oath is seen as a sign of credibility, this could lead to discrimination against defendants who are not willing to swear by God. There are a lot of faithless people. Research states that 45% of British described themselves as either atheists or non-religious.²⁵ The call for what one does not believe in will not make a change in his readiness to speak the truth in the court. An earlier proposal to abolish the oath in England and Wales was defeated when opponents argued that the oath strengthens the value of witnesses' evidence. This is ironic, as it seems to acknowledge that swearing an oath may give an advantage in court.'²⁶

Another source of criticism of the oath is the widespread decline in religious belief, which frequently reduces the swear based on the Bible and other holy religious books to a farce. The witness's belief is at the centre of the debate over the requirements for a successful oath-taking performance. As a religious act, the oath seems to have little significance these days. As a result,

²¹ James Bowman and Jonathan P West, 'Pointless or Powerful: The Case for Oaths of Office (2020) 52(8) Administration and Society 1147.

²² UK Government, *The Witness Charter: Standard of Care for Witnesses in the Criminal Justice System* (2013, Ministry of Justice).

²³ UK Youth Justice and Criminal Evidence Act 1999, section 21.

²⁴ Regina v Camberwell Green Youth Court (2015) UKHL 4.

²⁵ Anna Fleck, 'The UK's Faithless' (2022) Statista <<https://www.statista.com/chart/5457/the-uks-atheist-strongholds/>> accessed 18 August 2024.

²⁶ Humanists UK, 'Calls for Ends to Oaths in Court as Study Finds Jurors Biased Against The Non-Religious' (2023) <<https://humanists.uk/2023/04/04/call-for-end-to-oaths-in-court-as-study-finds-jurors-biased-against-the-non-religious/>> accessed 11 August 2023.

opinions regarding the oath may be seen as ‘a sign of the times.’²⁷ Also, in a multicultural society, the traditional religious connotations of oaths may not resonate with all individuals, potentially undermining their significance. The psychological impact of taking an oath may vary among individuals, with some viewing it as a mere formality rather than a solemn commitment. For instance, it can be contended that a Muslim witness who was supposed to swear on the Holy Quran was sworn on the Holy Bible in the UK court,²⁸ holds oath as a mere formality rather than solemn commitment. The administration of oaths can also give rise to legal and ethical dilemmas. While oaths are intended to deter perjury, prosecuting individuals for false testimony can be complex and challenging, requiring substantial evidence of intentional deceit.²⁹ It can be argued that perjury ought not to be punished as God is supposed to be in charge. It was stated that ‘very ancient law seems to be not quite certain whether it ought to punish perjury at all. Will it not be interfering with the business of the gods?’³⁰

Balancing the requirement for oaths with respect for freedom of belief and expression can be delicate, particularly when accommodating secular affirmations. For individuals who do not hold strong religious or moral convictions about oath-taking, the act may lack personal significance, thereby reducing its impact. In addition, in a secular and diverse society, the traditional religious connotations of oaths may not resonate with everyone, leading to a perception that the oath is an outdated formality. It can be deduced that the Oath taken is based on the personal conviction and perspective of individual witnesses. The question is what are the factors that determine the perspective of individual witnesses?

4. Factors Influencing the way Witness uphold Oaths

The witness's perception of oaths as either solemn commitments or mere formalities can significantly impact the integrity and effectiveness of judicial proceedings. Various factors influence how witnesses perceive oaths, ranging from individual beliefs and attitudes to societal norms and judicial practices. This section explores these factors in detail, examining their implications for the justice system and suggesting ways to address potential issues.

4.1. Religious Convictions

According to Shuman and Hamilton, the religious context of an oath can significantly impact its seriousness.³¹ For deeply religious individuals, swearing an oath on a sacred text invokes a higher moral authority, reinforcing the commitment to truth-telling. Secular individuals may view oaths differently, perceiving affirmations as equally binding or viewing both as formalities. In the UK case of *R v. Registrar General, ex parte Segerdal*,³² the court considered the religious context of oaths, highlighting the importance of accommodating different belief systems to ensure the oath's solemnity and significance. Since knowledge, opinion, and evidence-based

²⁷ Dennis Kurzon, ‘Telling the Truth: The Oath as a Test of Witness Competency,’ (1989) 2(1) *International Journal for the Semiotics of Law*, 49.

²⁸ Christopher Howse, ‘The Trouble with Swearing an Oath on A Holy Book’ (2015, the Telegraph Newspaper) <<https://www.telegraph.co.uk/comment/11455853/The-trouble-with-swearing-an-oath-on-a-holy-book.html>> accessed 18 August 2024; Neil Docking, ‘Robbery Trial Collapses after Muslim Witness Swore Oath on the Bible instead of the Koran’ (2015, Mirror Newspaper) < <https://www.mirror.co.uk/news/uk-news/robbery-trial-collapses-after-muslim-5239165>> accessed 18 August 2024.

²⁹ *R v Dunn* (2011) EWCA Crim 3183.

³⁰ Sir Frederick Pollock and Frederic William Maitland, *The History of English Law Before the Time of Edward 1* (Cambridge University Press, vol 2 1952) 541.

³¹ Daniel W Shuman and Jean A Hamilton, ‘Jury Service- It may Change Your Mind: Perception of Fairness of Jurors and Nonjurors’ (1992) 46 *SMU Law Review* 449.

³² [1970] 2 QB 697.

decision-making are shaped by the era of communications, religion is losing ground in the UK.³³ Secularism is taking hold faster than it should be because young people are becoming more and more unwilling to accept traditional beliefs.³⁴ According to a Kings College London study, fewer than half (49%) of British people indicated they believed in God in 2022, compared to 75% in 1981.³⁵ The continued decline in religious belief will make the oath taken mean nothing to most witnesses.

4.2. Personal Integrity and Ethical Standards

Individuals with high personal integrity are more likely to take oaths seriously, regardless of their religious or secular nature, as their commitment to honesty is internally driven.³⁶ One could argue that honest witnesses are those who have a clear conscience. A person's moral sense of right and evil, perceived as a guide to their behaviour, is called conscience.³⁷ Therefore, it is possible to conceptualise conscience as only a metaphysical compass that exercises judicial authority over an individual's behaviour. A person's opinions or convictions regarding whether behaviours are ethically proper or wrong are intimately linked to their conscience in day-to-day living.³⁸ For instance, it can be contended that most government workers give truthful evidence under oath for fear of penalty. On the other hand, persons who have no recognised position in society may give false statements under oath for fear of repercussions and personal gains. The Perjury Act 1911 (UK) underscores the legal obligation to truthfulness under oath, providing a framework for holding individuals accountable irrespective of their personal beliefs.

4.3. Judicial and Procedural Context

The attitude of the court when an oath is being taken speaks volumes to the importance the witness will take into it. Tyler argues that the formal administration of legal procedures, including oaths, can enhance their legitimacy and perceived seriousness among participants.³⁹ A courtroom witness takes an assertory oath. An assertory oath is a serious declaration that a statement is true. If the witness on oath makes a false statement, they risk perjury. It can be contended that merely reading the usual ‘...promise to speak the truth, the whole truth, nothing but the truth...’ is not enough to bring solemnity to the administration of the oath. The way judges and court officials emphasise the importance of oaths can significantly influence how seriously they are taken by witnesses.⁴⁰ The Equal Treatment Bench Book advises judges to clearly explain the significance of the oath to ensure that all witnesses understand its importance and the consequences of perjury.⁴¹

³³ Burt Flannery, ‘Why Religion is in Decline’ <<https://humanists.uk/humanistlife/why-religion-is-in-decline/>> accessed 18 August 2024.

³⁴ Ibid.

³⁵ King’s College London, ‘God, Heaven and Hell, and Life after Death: Data Reveals UK’s Low Religious Belief Compared with Other Nations (2023) <<https://www.kcl.ac.uk/news/god-heaven-and-hell-and-life-after-death-data-reveals-uks-low-religious-belief-compared-with-other-nations>> accessed 18 August 2024.

³⁶ Aldert Vrij, *Detecting lies and Deceit: Pitfalls and Opportunities* (2nd Edn, 2008 Wiley series in the Psychology of Crime, Policing and law)488.

³⁷ Oxford Dictionary, ‘Conscience’ (2013, Oxford University Press).

<<http://oxforddictionaries.com/definition/english/conscience?q=conscience.>>

³⁸ Sulmasy Daniel P, ‘What is conscience and Why is Respect for It So Important?’ (2008) 29(3) *Theoretical Medicine and Bioethics* 135.

³⁹ Tom R Tyler, *Why People Obey the Law* (1990, Yale University Press) 7.

⁴⁰ Stanley Milgram, *Obedience to Authority: An experimental View* (1974, Haper and Row.)

⁴¹ <<https://www.judiciary.uk/wp-content/uploads/2023/06/Equal-Treatment-Bench-Book-July-2024.pdf>> accessed 2 August 2024.

4.4. Cultural Norms and Values

Cultural norms and values significantly influence how legal procedures, including oaths, are perceived and respected within different societies.⁴² The value given to oath taken in a society will determine the truthfulness of a witness during trial. The British core values are ‘democracy, the rule of law, individual liberty, and mutual respect and tolerance of those with different faiths and beliefs.’⁴³ This value is diminishing and the Government has called on schools to promote British values.⁴⁴ It can be argued that the oath is recognised as part of the value system of England but the value attached to it by the British residents is diminishing as the number of believers is reducing. People take oaths as it is mandatory and because of the consequences attached to it. The fear of God’s punishment for giving false evidence under oath in court is fading away as there is an increase in the number of Britons who do not believe in God’s existence.

4.5. Public Awareness and Education

Public education about legal procedures enhances the witness's legitimacy and effectiveness.⁴⁵ Public understanding of the consequences of perjury can reinforce the seriousness of oaths. In examining the extent of religious belief in the UK as discussed above, it was found that there is a reduction in the number of people that believe in religion. Although their disbelief may lead to more false testimony under oath, the public's awareness of the consequences of providing false testimony under oath will lead to a rise in the number of true testimonies. Public awareness of contempt of court and perjury will prevent many people from giving false evidence on oath. The moral and legal importance of oath-taking needs to be taught in schools to instil in the students’ reasons why truth must be spoken during trial in court not minding the consequences for the public or personal gains they may bring. UK residents should be informed that making a false statement under oath in court is a criminal offence and should be aware of the consequences.⁴⁶ The public awareness of the legal consequences of false testimony under oath is a significant factor in the court's deliberation on the reliability of witness statements.

4.6. Institutional and Structural Factors

Consistency in legal procedures is critical for maintaining perceived legitimacy.⁴⁷ Standardised administration of oaths ensures that all witnesses are treated equally and understand the importance of their commitment. The Civil Procedure Rules 1998 (UK) Part 32 provides guidelines for the administration of oaths, ensuring consistency and formality across judicial proceedings. The case of *Regina v. Hughes*⁴⁸ highlighted the importance of consistent procedures in administering oaths to maintain their credibility and the integrity of the judicial process. It can be argued that most oaths do not have the force of religion in court again. It is just a process that the law is required to follow before evidence can be credible and accepted

⁴² Geert Hofstede, ‘Cultural Dimensions in management and Planning’ (1984) 1 *Asia Pacific Journal of Management* 81.

⁴³ Buckinghamshire New University, ‘Example of British Values’ <<https://www.bucks.ac.uk/study/apprenticeships/safeguarding-student-welfare/examples-british-values>> accessed 18 August 2024.

⁴⁴ UK, ‘Guidance on promoting British values in School Published’ (2014) <<https://www.gov.uk/government/news/guidance-on-promoting-british-values-in-schools-published>> accessed 18 August 2024; Michael Gove, ‘All Schools Must promote ‘British Values’, says Michael Gove’ (2014, *The Guardian*) < <https://www.theguardian.com/politics/2014/jun/09/michael-gove-says-all-schools-must-promote-british-values-after-trojan-horse-reports>> accessed 18 August 2024.

⁴⁵ Tom R Tyler and Yuen J Huo, *Trust in the Law: Encouraging Public Cooperation with the Police and Courts* (2002, Russell Sage Foundation) 264.

⁴⁶ Halsbury, *Laws of England*, Fourth Edition, Vol 11(1) para 299.

⁴⁷ Cass R Sunstein, ‘Social Norms and Social Roles’ (1996) 96 *Columbia Law Review* 903.

⁴⁸ [1985] AC 379.

by the court. The perceived likelihood of enforcement and punishment for perjury significantly influences the seriousness with which witnesses take their oaths.⁴⁹ The Perjury Act 1911 (UK) provides stringent penalties for false testimony, reinforcing the seriousness of oaths.

The government institutions especially the courts have the responsibility to ensure that the mind or conscience of the witness is spoken into before the administration of oaths. And the oath ought not to have a specific or stereotyped statement, '...all that I will say shall be the truth nothing but the truth, so help me God. This makes it more casual and everyday talk which one may say has lost its significance. There should be a statement that will bring the fear of consequences if the truth is not spoken.

4.7. Technological and Modernization Challenges

Modern developments present new challenges for the administration of oaths. The rise of remote testimonies via video conferencing complicates the administration of oaths, raising questions about how to ensure solemnity in a virtual setting. It can be argued that maintaining the solemnity of oaths in virtual environments requires careful adaptation of traditional practices. The Federal Rules of Civil Procedure allows for testimony by remote means but emphasises that the same formalities, including oaths, must be observed to ensure the integrity of the process.⁵⁰ The person taking the oath is not required to be physically present with the person giving the oath under the Commissioner for Oaths Act 1889 or the Oaths Act 1978. Nonetheless, an affidavit must conclude with the person giving the oath signing it and stating that it was made "before me." The Statutory Declarations Act 1835 stipulates that a statutory statement must be made "before" the person in charge of administering it. This implies that when the oath is taken, the deponent and the person giving it must be present in the same location. Particularly during the COVID pandemic, the question of whether an oath can be taken remotely via a well-known video conferencing platform (such as Zoom, Skype, or Google Meet) has been raised. Similar to this, the UK First-tier Tribunal determined in its preliminary ruling that there is a substantial chance of success for the contention that a deed seen by an attorney via videoconference was not duly performed.⁵¹ There is no clear law on this issue but one can argue that oaths can be made through video conferencing platforms as the witness and the commissioner of oaths are on the same platform. The commissioner can see the witness and the documents being signed by the witness while the commissioner of oath can sign the documents also online. The UK Government guidance on video hearing urges the witness to 'be ready at least 20 minutes before the hearing and make sure you have your preferred holy book or scripture to swear an oath on (if applicable).'⁵² This can be held on to as a government directive on the issue of oath, but law or clear regulation must be put in place to avoid any ambiguity.

Also, the challenges of ensuring authenticity and formality in digital processes, including the administration of oaths.⁵³ The Electronic Communications Act 2000 (UK) provides a framework for the use of electronic signatures and digital authentication in legal processes.

⁴⁹ Paul H Robinson and John M Darley, 'Does Criminal law Deter? A Behavioural Science Investigation' (2004) 24(2) Oxford Journal of Legal Studies 173.

⁵⁰ Rule 43(a).

⁵¹ *Man Ching Yeun v Landy Chet Kin Wong* [2019] UKFTT 2016/1089.

⁵² UK Government, Guidance: What to Expect When Joining a Telephone or Video Hearing' (2020) <<https://www.gov.uk/guidance/what-to-expect-when-joining-a-telephone-or-video-hearing>> accessed 18 August 2024.

⁵³ James Katz and Ronald E Rice, *Social Consequences of Internet Use. Access, Involvement, and Interaction* (2002, The MIT Press).

The oath is a thing of mind and conscience. The perception of witness oaths as mere formalities can have significant implications for the justice system, if the mind and the conscience of the witness have been filled with any of the reasons stated above, the perception of the witness towards oath will be formal and not solemn. Such an oath may not be effective as it is not from the sincere mind. If oaths are widely perceived as ineffective, this can erode public confidence in the judicial process and the reliability of witness testimonies. It can also undermine the credibility of witnesses, potentially affecting the outcomes of cases. The effectiveness of perjury laws depends on the perceived seriousness of oaths. If oaths are not taken seriously, the deterrent effect of perjury laws may be weakened. The overall integrity of judicial proceedings relies on the truthfulness of testimonies. Perceptions of oaths as formalities can compromise this integrity.

5. Recommendations

Administration of oath is an important aspect of adjudication, and its removal may not do any good to the administration of justice in England. There are better ways to reform the administration of oaths to achieve the truthfulness of evidence. Firstly, enhancing the administration of Oaths can bring credibility to the evidence of the witness. Ensuring that oaths are administered in a formal, solemn manner can reinforce their seriousness. Judges and court officials should emphasise the importance and legal implications of taking an oath. The consequences of false evidence, 'perjury/contempt of court' should be emphasised more than God's name during the administration of oath in court.

Also, there should be a way to resuscitate British values, although the UK Government is calling for schools to teach these values, it should be part of the curriculum from nursery school to higher education. This will imbibe in the minds of the students the culture of tolerance and truthfulness in court and everywhere. In addition, public education campaigns can help raise awareness about this value, the significance of oaths, and the legal consequences of perjury. Providing clear explanations to witnesses about the importance of their oath can enhance its perceived weight. Everyone should be aware that an injustice to an innocent soul is an injustice to the entire society. Understanding and offering a range of religious texts and secular affirmations can ensure that oaths are meaningful for all witnesses. Training court officials in cultural sensitivity can help accommodate the diverse beliefs and attitudes of witnesses.

In addition, modernising the administration of oaths to leverage technology can help address contemporary challenges. Developing protocols for administering oaths in virtual settings, including video conferencing, can ensure that the solemnity and legal significance of oaths are maintained in remote testimonies. Also, the implementation of digital authentication methods for oaths, such as electronic signatures and secure digital platforms, can help ensure the legitimacy and enforcement of oaths in a digital legal environment.

Also, enforcing perjury laws is essential to preventing false testimony, preserving the fairness of legal procedures, and preserving public trust in the legal system. The seriousness of perjury can be reinforced by strong enforcement procedures and well-publicised cases, even in the face of obstacles like limited resources and complicated evidence. The legal system can safeguard the credibility of witness testimony and the general integrity of judicial procedures by addressing these issues and ensuring consistent enforcement.

6. Conclusion

England's justice system is known for its long-standing traditions, rigorous procedures, and robust legal framework, which ensure fairness and the rule of law. A key component of this system is the administration of oaths, a critical element that upholds the integrity, fairness, and seriousness of legal proceedings. Whether in court or public office, the act of taking an oath serves as a powerful reminder of the responsibilities and ethical standards expected of individuals within the legal framework. This tradition continues to be an essential part of ensuring justice is delivered effectively and impartially. While the administration of oaths faces several criticisms and challenges, removing it from the justice system will not add any value. However, addressing issues relating to oaths taken through educational initiatives, inclusive practices, standardised procedures, and technological advancements can enhance their effectiveness and credibility. By doing so, the justice system can uphold the importance of truthfulness and accountability, maintaining public trust in the judicial process.