



2025

PRIMER

ON

RESEARCH METHODOLOGY

UNDERSTANDING THE FUNDAMENTALS

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In the Name of Allah, the Most Gracious, the Most Merciful

“Do not stand by what you have no knowledge (evidence-based data) of.

Indeed, all will be called to account for (the faculties of) hearing, sight (observation), and thinking / reflecting.” (Al-Quran: Al-Israa 17, Verse 36,

Trans: author)

“For a man to become a liar, it is sufficient to speak (forward) every information (data) he receives” (Sahih Muslim, Introduction, 9)

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FOREWORD

It is with great pleasure and a strong commitment to knowledge that I foreword '*Research Methodology: Understanding the Fundamentals*' by Dr. Qazi Ataullah, Senior Director (Research & Publication) and Syed Mansoor Shah Bukhari, Research & Publication Officer. In today's world, where facts and evidence drive progress, the ability to conduct and understand research is crucial, not just for academics but for professionals in all fields, especially in law, justice, and legal reform. This work skillfully connects theory with real-world application, making it a valuable guide for both beginners and experienced researchers.

The authors begin by exploring the meaning of the word "research" across different languages, French, Urdu, Arabic, and Pashto, showing how the search for knowledge is a shared human endeavor. They then take us through the history of research, from Aristotle's early ideas to the scientific methods developed by Muslim scholars, proving that research is a living, evolving discipline. This historical view helps us see research as a powerful tool for improving society, aligning perfectly with the Khyber Pakhtunkhwa Judicial Academy's (KPJA) mission to promote critical thinking and evidence-based decision-making in the judiciary.

One of the work's greatest strengths is its clear, step-by-step approach. It explains research goals, breaks down seven key types of research, from innovation to reform, and explores qualitative, quantitative, and mixed-method approaches in a simple yet insightful way. This structured framework helps readers tackle complex problems with confidence. The section on writing research proposals is especially useful, turning abstract ideas into practical steps, from choosing a topic to proper referencing, making it an essential resource for legal professionals working on policy and reform.

At KPJA, we believe research is the foundation of a strong and forward-thinking judiciary. This work, with its perfect balance of theory and practical advice, will enhance the research skills of judges, qazis, faculty, and lawyers, and all other stakeholders of the justice sector,

helping them produce knowledge that solves real-world problems. It encourages curiosity, critical thinking, and innovation in the legal field.

The recommendations made by the authors are valuable and would be considered in due course.

On behalf of the Khyber Pakhtunkhwa Judicial Academy, I sincerely appreciate Dr. Qazi Ataullah and Syed Mansoor Shah Bukhari for their hard work, dedication, and outstanding contribution to research. Their efforts not only honor the tradition of learning but also inspire future generations to seek truth and knowledge. The Academy is confident that, this guidebook will lead to meaningful research, strengthened justice, and will contribute to a better society.

Jehanzeb Shinwari
Director General

PREFACE

The pursuit of justice is an ever-evolving discipline that demands continuous learning, adaptation, and refinement. In this dynamic landscape, the role of research cannot be overstated. It serves as the foundation upon which fair judgments, sound legal policies, and effective judicial reforms are built. Recognizing this imperative, Research Wing of the Khyber Pakhtunkhwa Judicial Academy (KPJA) has undertaken a critical initiative: a comprehensive study on research methodology tailored specifically for the legal and judicial domain.

This document emerges from the pressing need to standardize and strengthen research practices within the judiciary. Judges, qazis, legal practitioners, and judicial researchers frequently engage with complex cases, legislative developments, and evolving jurisprudential trends. However, without a systematic and rigorous approach to research, even the most well-intentioned efforts may fall short of their potential. Inconsistent methodologies, a lack of access to reliable resources, or gaps in analytical frameworks can inadvertently compromise the quality of judicial decisions and policy recommendations. It was thus essential for the KPJA's Research Wing to critically examine how research is conducted, not just what is being researched, to ensure that every study, report, or legal analysis produced under its auspices meets the highest standards of accuracy, relevance, and credibility.

The impetus for this project stems from several key observations. First, while judicial officers and legal scholars routinely engage in research, there remains a disparity in the understanding and application of methodological principles. Some rely heavily on traditional doctrinal approaches, while others may lack exposure to empirical or comparative techniques. Second, the rapid digitization of legal resources and the increasing complexity of cases necessitate updated research protocols that align with modern demands. Third, the KPJA, as a premier institution for judicial training and reform, has a responsibility to equip its stakeholders, judges, qazis, lawyers, and researchers, with the tools to navigate these challenges effectively.

This document is designed to serve as both a guide and a benchmark. It outlines fundamental research methodologies, doctrinal, empirical, qualitative, and quantitative, while contextualizing them within the judicial framework. It also addresses practical hurdles, such as accessing legal databases, verifying sources, and synthesizing case law, with an emphasis on upholding ethical standards. By doing so, it aims to foster a culture of precision and intellectual rigor within the judiciary, ensuring that research outputs are not only academically robust but also actionable in real-world legal scenarios.

What is peculiar about this work is that it begins with an introduction to the fundamentals of research in general before escalating to legal research, and focusing on its need, scope, significance, and methodology. Authentic and reliable sources have been utilized and referenced. In the footnotes, necessary explanations have been provided for unfamiliar words, phrases, jargon, and concepts mentioned in the main document. In translating the provisions of the Holy Qur'an and Sunnah, after consulting various translations, the most appropriate translations for research purposes have been selected with slight necessary linguistic changes, maintaining the meaning within the limits of Arabic grammar, connotation, and eloquence. In this regard, any error would be merely a human inadvertence. For referencing, Chicago/ Turabian style has been utilized. Nearly every topic and subtopic has been explained through examples, particularly within a legal context, and Pakistani legal perspective. For further assistance, samples of research articles and research proposals by learned judges, along with relevant articles from prominent academia personalities, have been included in Appendix A and Appendix B, respectively. Appendix-C and appendix-D have been allocated to Bibliography and Recommendations respectively. The Recommendations have been proposed for consideration by the Academy and the Peshawar High Court in particular, and all other relevant institutions in general.

Readers may disagree with some views presented in this work. While differing perspectives are welcome, it would be highly appreciated if such non-concurrence is based on solid arguments and convincing reasoning. It is also clarified that by presenting a particular viewpoint, we do not claim its absolute accuracy. Rather, our sole intention is to demonstrate how legal data is collected, analyzed, and how conclusions may be drawn from it. Most importantly, this work serves as a guide for learned judges and qazis on

conducting research, both in their judicial capacity and as independent researchers, outside their official and judicial duties. To this end, the attention of judges, qazis, and readers has been drawn to the importance of adhering to research ethics. The research ethics also form part of this work.

The KPJA's commitment to excellence in judicial education and reform is at the heart of this endeavor. We hope this work will empower legal researchers, enhance the quality of judicial decision-making, and ultimately contribute to a more informed and equitable justice system. As the judicial landscape continues to evolve, so too must our approaches to understanding it. This document is a step toward that evolution, a testament to the belief that better research leads to better justice.

We extend our gratitude to the researchers, legal experts, and judicial officers whose insights shaped this project. We are thankful to Mr. Muhammad Shoaib, for his final review, in his subsequent capacity as Senior Director (R&P). We are also grateful to Mr. Jehanzeb Shinwari, the Director General for his support, assistance, guidance and encouragement. And finally, the Academy appreciates the valuable contribution of the learned members of Technical Working Group (TWG) and extends thanks for the approval of the treatise. The Research & Publication Wing invites feedback to further refine this living document in service of the judiciary's noble mission.

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ABBREVIATIONS & ACRONYMS

1. ADR – Alternative Dispute Resolution
2. AI – Artificial Intelligence
3. APA – American Psychological Association
4. ARBMED – Arbitration followed by Mediation
5. AS – *Alayhi al-Salām*
6. BATNA – Best Alternative to a Negotiated Agreement
7. BC – Before Christ
8. CE – Common Era
9. CGM – Continuous Glucose Monitoring
10. CLC - Civil Law Cases
11. CrPC – Code of Criminal Procedure
12. DNA – Deoxyribonucleic Acid
13. DOI – Digital Object Identifier
14. DRC – Dispute Resolution Council
15. ECG – Electrocardiogram
16. Echo – Echocardiogram
17. FSC- Federal Shariat Court
18. H₂SO₄ – Sulfuric Acid
19. ICCPR - International Covenant on Civil and Political Rights
20. IEEE – Institute of Electrical and Electronics Engineers
21. IIUI- International Islamic University Islamabad
22. IRAC - Issue, Rule, Application, Conclusion
23. KCDR - Karachi Centre for Dispute Resolution
24. KPJA – Khyber Pakhtunkhwa Judicial Academy
25. MEDARB – Mediation followed by Arbitration
26. MEDOLA – Mediation on Last Offer Arbitration
27. MLA – Modern Language Association
28. MLD- Monthly Law Digest
29. NLR - National Law Reports
30. ODR – Online Dispute Resolution
31. OSCOLA - Oxford Standard for the Citation of Legal Authorities

32. PCrLJ - Pakistan Criminal Law Journal
33. PLD - Pakistan Law Decisions
34. PLJ - Punjab Law Journal
35. QSO – Qanun-e-Shahadat Order
36. RA –Raziallahu Anhu (May Allah be pleased with him)
37. SAW – Sallallahu Alayhi Wasallam
38. SCMR - Supreme Court Monthly Review
39. TNA - Training Needs Assessment
40. UoS- University of Swat
41. URL – Uniform Resource Locator
42. USCS – United States Conciliation Service
43. WATNA – Worst Alternative to a Negotiated Agreement
44. N.D. (n.d.) – No date

1. Research: Meaning & Definition

The word "Research" comes from the French word "Recherché," which means "discovering, seeking¹." In Urdu, this is translated as '*Talash, Taftesh*²' and in Arabic, the word is '*Bahth*³' which means 'scratching, digging' or "digging out", and in *Pushto* the proper related words are '*Latawana, Latawal*⁴'. So, research means:

- a) **Literally:** Investigating, questioning, and examining something or a fact.
- b) **Technically:** A systematic process of finding facts, solving problems, or answering questions through collecting, analyzing, and interpreting data to reach evidence-based conclusions.⁵

Further, the phrase 'research' should not be confused with the word search. The latter is a purely linguistic term which means mere seeking, short of critical thinking. On the other hand, the phrase research is a technical term referring to systematic analysis of data and conclusion thereof.

¹ *Oxford Advanced Learner's Dictionary*, A S Hornby, P.1299

² *Oxford English Urdu Dictionary*, Shan ul Haq Haqqi, P. 1428. Also see S.M. Saleemuddin and Sohail Anjum, *Oxford Urdu Angrezi Lughat*, Karachi: Oxford University Press, 2013, P. 365.

³ The phrase in this meaning has been used in the following verse of the Holy Quran.

Then Allah sent a raven scratching up the ground, to show him how to hide his brother's naked corpse. He said: Woe unto me! Am I not able to be as this raven and so hide my brother's naked corpse? And he became repentant. [Surah no.5, verse no.31] (Translation: M. Pickthall, available on <https://quran.com/5:31>)

⁴ See Dr. Kheyal Bukhari and others, *Pakhto Academy Lughat*, (Fast Tracking Communication (PVT) LTD, 2019) P. 1537.

⁵ See Muhammad Saeed Jamal uddin, *Manahij al-Bahthwa al-Masadir*, Pp. 12,13, Dār al-Nahḍah al-‘Arabīyah, 2003. Also see: Babbie, E. R. (2021). *The Practice of Social Research* (15th ed.). Cengage Learning P. 4.

2. History

Research is rooted in human thinking. The history of research is, therefore, as old as the creation of the human being. Nevertheless, Aristotle [384 BC - 322 BC], one of history's most influential philosophers, laid the foundation of research and systematic inquiry. For this purpose, he emphasized on observation, logic, and empirical evidence. Aristotle believed in studying the natural world through observation, data collection and analysis that ends on pragmatic conclusions⁶. For example, he classified plants and animals based on their characteristics, pioneering the early foundations of taxonomy. Similarly, he observed and recorded various aspects of animal behavior and anatomy. Besides, he developed the discipline of formal logic (*Mantiq*), a mechanism which regulates human thinking and protects it from mistakes. This logical approach (reasoning mechanism), known as syllogism⁷, was a way to derive conclusions from given premises. This logical framework became fundamental to scientific inquiry and research. Utilizing logical methods and systematic approach, Aristotle wrote extensively on diverse subjects like physics, biology, ethics, metaphysics, and politics.⁸

In the early emergence of Islam, the syllogism (*Mantiq*) of Aristotle reached the Muslims.⁹ Some of the scholars accepted it as a methodology of research, whereas some others

⁶ See Dr. Raja Waheed Duwaidari, *Al-Bahath Al-Ilmi* (Damascus: Dar Al-Fikar, 2000) P. 58. Also see: Muhammad Saeed Jamal uddin, *Manahij al-Bahthwa al-Masadir*, P. 3, Dār al-Nahḍah al-‘Arabīyah, 2003. Also see: Dr. Ali Sami Al-Nathar, *Manahij al-Bahth Ind Mufakkiri Al-Islam*, (Egypt) 1978 Pp 273-278. Recourse could also be made to: Lloyd, G. E. R. (1968). *Aristotle: The growth and structure of his thought*. (Cambridge University Press) P 94, 102.

⁷ A deductive scheme of a formal argument consisting of a major and a minor premise (*Sughra* & *Kubra*) and a conclusion (*Natijah*). For instance, "Every man has a thinking capability (major premise or *Kubra*); Zakaria Bukhari is a man (minor premise or *Sughra*); Therefore, Zakaria Bukhari has the capability of thinking (conclusion or *natijah*). All birds have feathers. Ostrich has feathers. Ostrich is, therefore, a bird.

⁸ See for further details, [Aristotle \(Stanford Encyclopedia of Philosophy\)](#), last accessed on 25.03.2025. Also see Jevons: *Principles of Science* (London 1879) P.114.

⁹ *Manthiq* / Islamic Logic is a fundamental discipline in the *Dars-e-Nizami* curriculum, widely taught in traditional madaris across South Asia, particularly in the Indian Subcontinent. Having its base in Aristotelian logic, Muslim scholars like Al-Farabi, Ibn Sina (Avicenna), and Al-Ghazali has further developed it. *Manthiq* serves as a tool for correct reasoning and argumentation. Its primary purpose is to train students in structured thinking, enabling them to distinguish valid arguments from fallacies, particularly in theological, philosophical, and jurisprudential discussions. It has been utilized by Muslim jurists during their debates with the opponents, particularly Biblical Scholars, in the United India. In the *Dars-e-Nizami* syllabus, *Manthiq* is typically studied after mastering basic Arabic grammar, and before delving into advanced subjects like Kalam (Islamic theology/*aqayad*) and Usul al-Fiqh (principles of jurisprudence). Key texts include *IIsaghuji* by Neoplatonic philosopher Porphyry (not Athiruddin Al-Abhari as commonly misunderstood), *Sullam al-Ulum* by Muhibbullah al-Bihari, and *Sharh al-Tahdhib* by Sa'd al-Din al-Taftazani. (Yoginder Sikand, *Bastions of the Believers. Madrasas and Islamic Education in India*, available at <https://doi.org/10.4000/samaj.216>). Now there is a new development in the curriculum of *Dars-e-Nizami*, and that the relevant boards (Wafaq-ul-Madaris and others) have

refused it. The latter included Muslim scientists like Jabir bin Hayyan (the founder of chemistry), scholars of Islamic Jurisprudence (*Usuliyyun*), scholars of Islamic Law / *fiqh* like Imam Shafa'ee and Ibni Teemiyah. Nonetheless, these scholars did not stop on mere refusal; they invented a new methodology of inductive-experimental system. They emphasized more on experiments instead of reliance on philosophical and logical reasoning. In this regard, names of renowned Muslim scientists such as Al-khwarzami (the founder of algebra), Al-Beruni (father of modern Geodesy and founder of Indology), Ibn Al-Haitham (founder of optics), Ibni Khuldun, Al-Asfahani, Al-Zahrawi, Ibni Seena and Ali bin Esa, are worth mentioning.¹⁰

lessened the focus on *Manthiq*, and have reduced the number of text books from the syllabus. This is probably because of the decrease in the practical utility of *Manthiq* in modern life. A considerable number of religious scholars think that *Manthiq*, though not totally, has become outdated to a greater extent. The factum about the writer of the *Isaghuji* was shared with the author by his mentor Muhammad Abdul Qahhar (RIP), a scholar of Dar-ul-Uloom Deoband, while he was teaching him *Isaghuji*. At that time, he was of the opinion that *Isaghuji* is a Greek name, and is not an Arabic one. This would support the stance that *Isaghuji* had been authored by a Greek philosopher in the Greek language, which was, at some later times, translated by Arab Muslim scholars into Arabic language, like many other Greek heritage. No doubt, Muslim scholars have, later on; developed *Manthiq* to an extent to which no other nation has reached, nonetheless, the truth about *Isaghuji* is what has been explained above.

¹⁰ See for further details *Manahij al-Bahthwa al-Masadir*, Muhammad Saeed Jamal uddin, Pp. 3-7, Dār al-Nahḍah al-‘Arabīyah, 2003.

3. Significance in Contemporary Context

3.1 Legal Context

Research stands as the cornerstone of human progress in each and every sphere of modern life. In medicine, it has brought transformative breakthroughs in the shape of life-saving innovations. The discovery of vaccines for eradicating deadly diseases, advanced antibiotics, successful utilization of medical physics in diagnosing procedures (X-ray, ultrasound, ECG, Echo Scan, CT Scan, Blood Pressure Monitors, Glucose Level Monitors and many more), all biochemical and pathological techniques, are few examples. All these advancements have ensured accurate diagnosis and revolutionized treatment for previously incurable diseases. Besides, the research has given birth to world-changing inventions from computers and the internet to artificial intelligence systems and space exploration capabilities that were once confined to science fiction. Agriculture has been similarly transformed through research, with high-yield crop varieties preventing mass starvation, genetically modified organisms enhancing food security, and sustainable farming techniques addressing environmental challenges. The energy sector has seen remarkable advancements through research into renewable sources like solar and wind power, while battery technology innovations have made electric vehicles a viable alternative to fossil fuels (petrol, diesel, coal, natural gas and the like). Beyond the physical sciences, research in economics and social development has shaped more effective poverty reduction strategies and evidence-based policymaking, while archaeological and cultural studies have preserved invaluable historical knowledge for future generations. These numerous successes demonstrate research's unparalleled role as humanity's most powerful tool for solving complex problems, improving quality of life, and pushing the boundaries of what's possible - a testament to the enduring value of systematic inquiry and intellectual curiosity in shaping our world.

3.2 Significance in Islamic Jurisprudence

Research holds great significance in the Quran and Sunnah as both emphasize the pursuit of knowledge, critical thinking, and understanding. The Quran frequently encourages contemplation, observation of the universe, and seeking the truth, while the Sunnah provides practical guidance and application of these principles. Together, they inspire

individuals to utilize their thinking faculty to explore, learn, and apply knowledge for the betterment of society¹¹. The following verses shine light on the subject;

Indeed, in the creation of the heavens and the earth (the Universe) and the alternation of the day and night there are signs for people of reason (enquirers). They are` those who remember Allah while standing, sitting, and lying on their sides, and reflect on the creation of the heavens and the earth `and pray`, “Our Lord! You have not created `all of` this without purpose. Glory be to You! Protect us from the torment of the Fire¹².

And do not pursue that of which you have no knowledge. Indeed, the hearing, the sight, and the heart, all of these will be questioned¹³.

Those who listen to all views and follow the best. These are the ones God has guided, and they are the people of understanding¹⁴.

The worst of creatures in God’s sight are the deaf and dumb who do not reason¹⁵.

They have hearts with which they do not understand, eyes with which they do not see, and ears with which they do not hear. They are like cattle—no, even more astray¹⁶.

Produce your proof if you are truthful¹⁷.

¹¹ In the Holy Quran, the phrases ‘*Yatafakkarun* (who reflect)’ ‘*Yaqilun* (who use reason)’ ‘*Yubsirun* (who perceive and observe), *Ululalbab* (men of reason) have been respectively used 13, 22, 12 and 16 times (in total, 63 times). See Muhammad Saeed Allahham, *Al-mu’ajam Al-mufahras li alfaz Al-Quran Al-Karim*, Dar ul Ishaat, Karachi: 2004, Pp 154, 965, 970 and 1016.

¹² Surah Ali ‘Imran 3:190–191 (Khattab, M. *The Clear Quran: A thematic English translation* accessible on <https://quran.com/>)

¹³ Surah Al-Isrā’ 17: 36, ibid

¹⁴ Surah Az-Zumar 39: 18, ibid

¹⁵ Surah Al-Anfāl 8: 22, ibid

¹⁶ Ibid. Surah Al-Araf 7: 179.

¹⁷ Ibid., Al-Baqarah 2: 111.

Had there been other gods besides God, both [heavens and earth] would have been ruined¹⁸.

Most of them follow nothing but conjecture. Indeed, conjecture avails nothing against truth¹⁹.

O believers! If a wicked person brings you news, verify it, lest you harm people in ignorance and regret your actions²⁰.

We will show them Our signs in the universe and within themselves until it becomes clear that this [Quran] is the truth²¹.

Do they not look at the camels—how they are created? And in the sky—how is it raised? And at the mountains—how are they erected? And on the earth—how is it spread out²²?

O believers! Be mindful of Allah and let every soul look to what deeds it has sent forth for tomorrow. And fear Allah, for certainly Allah is All-Aware of what you do²³.

Joseph responded, 'You will plant for seven consecutive years. After you harvest, leave the grain in its husk, except what you eat. Then after that will come seven difficult years which will consume the grain you stored for them, except what you set aside. After that will come a year of abundant rain, in which the people will press grapes and olives²⁴.

All the above verses place great emphasis on avoidance of blind following, need and scope of verification, avoidance of irrationality, encouragement of observation and reflection²⁵, rational and informed enquiry, rejection of conjecture and belief on knowledge, scientific inquiry to all natural phenomena, inductive reasoning and holistic study and future planning

¹⁸ Ibid., *Al-Anbiya*21: 22.

¹⁹ Ibid., *Yunus*10: 36.

²⁰ Ibid., *Al-Hujurat*49: 6.

²¹ Ibid., *Hamim Al-Sijdah*41: 53.

²² Ibid., *Al-Ghashiyah*88: 17, 18, 19 and 20.

²³ Ibid., *Al-Hashar*59: 18.

²⁴ Ibid., *Yusuf* 12: 47, 48 & 49.

²⁵ Islahi, Ameen Ahsan, *Tadabbur-e-Quran*, Lahore: Faran Foundation, 2009. Vol 2, 228-229.

(Futurology). Besides, so many verses of the holy Quran begin with the phrases ‘They ask you’, ‘They enquire about’ [*Yasalunaka, Yastaftunaka*]. It would clearly mean that *Shariah* encourages purposeful questioning and reasoning. And above all, *Ijtihad* is the best and recommended mode of research in Islamic jurisprudence, which means striving for evidence-based research and systematic informed inquiry²⁶.

The Sunnah of the Prophet Muhammad (SAW) also places emphasis on research, reasoning, critical thinking, pursuit of knowledge, debate and dialogue, sincere sharing of the outcomes of research, and future planning, complementing the Quranic injunctions on these matters. Here are some key *Hadith* that highlight these principles.

*Seeking knowledge is an obligation upon every Muslim*²⁷.

*The believer is never satisfied with gaining good knowledge until he reaches Paradise*²⁸.

*The superiority of a scholar over a worshipper is like the superiority of the moon over all other stars*²⁹.

*Do not be a blind follower (of anyone) saying, ‘If the people do good, we will do good, and if they do wrong, we will do wrong.’ Rather, condition yourselves that if people do good, you do good, and if they do evil, you avoid it*³⁰.

*A man should not be led by his desires to confirm what he has no knowledge of*³¹.

*It is enough for a man to prove himself a liar when he goes on narrating whatever he hears*³².

²⁶ Dr. Zaidan Abdul Karim, *Jami-al-Usul*, Urdu Trans. Dr. Ahmad Hassan, (Islamabad: Shariah Academy, IIUI 2023) P. 633.

²⁷ Ibn Majah, Muhammad b. Yazeed, *Sunan Ibn Majah*, Hadith no: 224, Damascus: Muassasah al-Risalah, 2013.

²⁸ *Sunan al-Tirmidhi* 2686.

²⁹ *Al-Tirmizi, Hadith* 2685.

³⁰ *Sunan al-Tirmidhi* 2007.

³¹ Abu Dawud, Sulaiman b. Ashath, *Sunan Abi Dawud*, Hadith 3644 (*The exact words are not appearing in the text of Abu Dawud; however, Hadith 3644 of the said book reflects the concept*), Damascus: Muassasah al-Risalah, 2013.

³² Al-Qushairi, Muslim b. Al-Hajjaj, *Sahih Muslim*, Hadith 5, Damascus: Muassasah al-Risalah, 2013.

*Whoever is asked about knowledge he knows and conceals it will be bridled with a rein of fire on the Day of Judgment*³³.

*Wisdom is the lost property of the believer; wherever he finds it, he has the most right to it*³⁴.

*The strong believer is better and more beloved to Allah than the weak believer, but in both is good. Be eager for what benefits you, seek help from Allah, and do not give up*³⁵.

*Allah has not sent down any disease except that He has also sent its cure. Some know it, and some do not*³⁶.

*If the Final Hour comes while one of you is holding a palm shoot (to plant), let him plant it if he can*³⁷.

*The best jihad is a word of truth spoken before a tyrannical ruler*³⁸.

*Make things easy and do not make them difficult, give glad tidings and do not repel people*³⁹.

Besides, the migration of the Holy Prophet (SAW), all his covenants, peace accords and arrangements of necessary and unavoidable wars are the best examples of future planning. One of his sayings flows as under:

*The one who becomes the ruler of the Muslims, and then he fails to plan for their betterment and prosperity, will never enter into paradise*⁴⁰.

³³Tirmizi, Abu Isa, *SunanTirmizi*, hadith no: 2649, Damascus: Muassasah al-Risalah, 2013.

³⁴Tirmizi, Abu Isa, *Sunan Tirmizi*, Hadith No: 2687, Damascus: Muassasah al-Risalah, 2013. IbniMajah, Muhammad b. Yazeed, *Sunan Ibn Majah*, Hadith no: 4169, Damascus: Muassasah al-Risalah, 2013.

³⁵Al-Qushairi, Muslim b. Al-Hajjaj, *Sahih Muslim*, Hadith2664, Damascus: Muassasah al-Risalah, 2013.

³⁶Bukhari, Muhammad ibn Isma'il, *Sahih al-Bukhari*, hadith No: 5678, Damascus: Muassasah al-Risalah, 2014. and Ibni Majah, Muhammad b. Yazeed, *Sunan Ibni Majah*, Hadith No: 3436, Damascus: Muassasah al-Risalah, 2013.

³⁷ *Al-Adab Al-Mufrad*, Book 27, Hadith 479.

³⁸Tirmizi, Abu Isa, *Sunan Tirmizi*, hadith no: 2174, Damascus: Muassasah al-Risalah, 2013.

³⁹Bukhari, Muhammad ibn Isma'il, *Sahih al-Bukhari*, Hadith No: 6125, Damascus: Muassasah al-Risalah, 2014.

⁴⁰*Riyad as-Salihin* 653.

Here, it is important to mention that the Quran praises the “desire to seek information” (*hub al-istitla*). Islam encourages people to ask questions, verify facts, and understand the reasoning behind things instead of blindly following assumptions. Shariah teaches its followers to get informed, ask for reasons and verify the data⁴¹.

And (remember) when Abraham said, “My Lord! Show me how you give life to the dead.” Allah responded, “Do you not believe?” Abraham replied, “Yes I do, but just so my heart can be reassured.” Allah said, “Then bring four birds, train them to come to you, (then cut them into pieces,) and scatter them on different hilltops. Then call them back, they will fly to you in haste. And (so you will) know that Allah is Almighty, All-Wise⁴².”

Besides, the story of Prophet Musa (AS) and Khidhr (AS) shows that Islam encourages asking questions and seeking knowledge. Even though Musa (AS) kept asking Khidhr (AS) about his unexpected actions, Khidhr later explained the wisdom behind them. This proves that the Shariah (Islamic law) supports reasoning and understanding, not just blind obedience. It would mean that Allah wants us to learn, think, and ask for clarity when something is unclear, as long as we do so with respect⁴³.

It is evident from the above that *Shariah* ordains the believers and followers to, observe nature, reflect on creation, seek proof and evidence, use logic and reasoning, verify information, engage in constructive debate conduct empirical investigation and plan for the future.⁴⁴

⁴¹Wahbah Al-Zuhaili, *Al-Tafsir Al-Munir*, Vol ,2, P 42, Al-Baqarah: 260.

⁴²*Al-baqarah*: 260.

⁴³Wahbah Al-Zuhaili, *Al-Tafsir Al-Munir*, Vol, 8, Pp 312-345, Al-Kahf: 61-82.

⁴⁴ See for further details, *Al- Estishraf wa Al- takhtit Al- Mustaqbali fi Al- Sunnah Al- Nabwiyah*, published by Faculty of Islamic and Arabic Studies Dubai (UAE), Pp 169 - 220.

4. Objectives

The basic objective of research is arriving at the reality or truth⁴⁵. Nonetheless, for further explanation, the aims and objectives of the research could be summarized as follows;

- i. To contribute to the understanding of a subject or field by uncovering new facts, principles or relationships⁴⁶.
- ii. To validate or refute existing theories, hypotheses, or assumptions through empirical evidence⁴⁷.
- iii. To address real-world challenges by providing evidence-based solutions or recommendations⁴⁸.
- iv. To enhance methods, technologies, or processes in various fields, such as science, medicine, education, or business⁴⁹.
- v. To provide reliable data and insights to support informed decisions in policy, industry, or academia⁵⁰.

5. Purpose and Outcome

Primary purpose of research is benefiting the society at large. In other words, research efforts are mainly directed towards improving human well-being. For example, medical research aims to develop cures for diseases, while social research seeks to enhance community welfare and address societal issues⁵¹.

⁴⁵ "Scientific Objectivity." The Stanford Encyclopedia of Philosophy (First published Aug 25, 2014; substantive revision Oct 30, 2020)

⁴⁶ Creswell, J. W., & Creswell, J. D. (2018). *Research design: Qualitative, quantitative, and mixed methods approaches* (5th ed., p. 52). SAGE Publications.

⁴⁷ Kerlinger, F. N., & Lee, H. B. (2000). *Foundations of behavioral research* (4th ed., p. 14). Harcourt College Publishers.

⁴⁸ Rossi, P. H., Lipsey, M. W., & Henry, G. T. (2019). *Evaluation: A systematic approach* (8th ed., p. 4). SAGE Publications.

⁴⁹ Stokes, D. E. (1997). *Pasteur's quadrant: Basic science and technological innovation* (pp. 73–76). Brookings Institution Press.

⁵⁰ National Academies of Sciences, Engineering, and Medicine. (2019). *Reproducibility and replicability in science* (p. 23). National Academies Press.

⁵¹ Cayuse. n.d. "The Importance of Research in the Advancement of Society." Last accessed on 18.07.2025 <https://cayuse.com/blog/importance-of-research-in-our-society/>.

6. Divisions of Research

Keeping in view the nature and substance of the investigation, research could be divided into seven kinds. These are as under:

i. Research Yielding Novel Discoveries and Inventions

Research ending on conclusions / findings to which no one has already arrived. It is known as an invention, e.g. Theory of Relativity by Einstein, invention of Sulfuric Acid H_2SO_4 by Jabir bin Hayyan, discovery of Law of Gravitation by Isaac Newton.

ii. Complementary Research Endeavors

Research complementing an already incomplete work, e.g. commentary on the Holy Quran by Jalal-ud-Din Al-Mahalli (1459) completed by his disciple Jalal-ud-Din Al-Suyuti (1505), work on *Seerat* of the Holy Prophet Muhammad (SAW) by Allamah Shibli Naumani completed by Sayyed Sulaiman Nadvi. Another example is how Dmitri Mendeleev, a Russian chemist, built on the incomplete work of John Newlands. Newlands, an English chemist, had started organizing elements but could not finish his work before his death. Mendeleev took this further in 1869 by arranging elements based on their atomic weights and creating a periodic table. He even left gaps for elements that had not been discovered yet. Mendeleev's version was more detailed and widely accepted, eventually forming the basis of the modern periodic table we use today.

iii. Expository Research Endeavors: Pedagogical Refinement and Knowledge Demystification

When a successor researcher simplifies and clarifies an excessively complicated research work. It often involves breaking down the original study into more digestible parts, using plain language, and focusing on the core ideas. Such as interpretation of *Mukhtasar* / *Mutun* / Texts wherein the authors have used equivocal words, jargons, unintelligible language known as gobbledygook [Example: *Mukhtasar Al-Quduri* interpreted as *Bidayatul Muhtadi* which was further interpreted as *Al-Hidayah*, which was further elaborated as *Fth-ul-Qadeer*]. By following these steps, the successor researcher makes the original, complicated work accessible to a wider audience, including students, professionals in other fields, and the general public.

This not only democratizes knowledge but also fosters further discussion and application of the research findings.

Another good example of a complicated research work made plain and easy by a successor scientist is the development of the theory of evolution. Charles Darwin's original work, *On the Origin of Species* (1859), was groundbreaking but dense and difficult for many to understand. Darwin meticulously compiled evidence for natural selection, but his writing was technical and aimed at a scientific audience.

Later on, Ernst Mayr, a 20th-century evolutionary biologist, clarified Darwin's ideas in his book '*What Evolution Is*'. He distilled Darwin's complex arguments into more accessible language and organized the concepts in a way that was easier for the general public and students to grasp. Mayr emphasizes key points, such as the role of genetic variation and the mechanisms of natural selection, making the theory of evolution more approachable without losing its scientific rigor.

iv. Concision-Oriented Research Distillation: Précising Foundational Works

When an excessively lengthy research work is made concise and precise. It is the opposite of No. 3 above. Such as *Mutawwal* was made concise by the same author Al-Taftazani as *Mukhtasar al Ma'ani*. Similarly, in the 14th century, renowned scholar Ibn Kathir authored the exhaustive exegesis of the Holy Quran '*Tafseer al-Qur'an al-Azeem*'. In the twentieth century, a Saudi scholar Muhammad Ali Al-Sabuni summarized the work of Ibn Kathir. His work is a concise and simplified compilation of the original work. The aim was to condense the original work and to meet the needs of a wider range of audience, who may not have the time or expertise to study the complete work.⁵²

In the 20th century, Richard Feynman further simplified and clarified classical mechanics in his *Feynman Lectures on Physics*. He used intuitive explanations and concise mathematical formulations to convey the same principles Newton originally described, but in a way that was far more accessible to students and researchers.

⁵² JarirBooks-ArabicBooks&More: MukhtasirTafsirIbnKathirli-Sabuni (3 vol.) مختصر تفسير ابن كثير لصابوني , last accessed on 07.04.2025.

This process of refining and condensing complex ideas is a hallmark of scientific progress, where later researchers build on the foundational work of their predecessors to make it more precise, concise, and usable.

v. Integrative Structural Synthesis: Cohering Fragmented Knowledge Systems

Sequencing and cohering of an already scattered and non-sequenced work.⁵³ Here, the researcher compiles, expends, and orders a fragmented work of earlier researchers. The following examples merit consideration;

Prior to Ibn al-Haytham (Latinized as *Al-Hazen*, and known as the Father of Modern Optics), knowledge about light and vision was scattered among Greek, Roman, and Indian sources. In his treatise '*Kitab al-Manazir*', he ordered and combined these fragmented ideas, corrected misconceptions, and presented a coherent theory of optics, laying the foundation for modern optics.

In the 19th-century, Ottoman civil code cohered scattered principles of Islamic legal maxims into an organized legal framework '*Al-Majallah al-Ahkam al-Adliyyah*'. It included maxims such as "Harm is to be eliminated" (*al-ḍarar yuzāl*) and "Matters are judged by their objectives" (*al-umūr bi-maqāṣidihā*), "Necessity permits the prohibited" (*al-ḍarūrāt tubīḥ al-maḥẓūrāt*) was scattered among early juristic discourses. Similar is the case with all books written on legal maxims. Certainly, these maxims were lying scattered in the work of classical jurists. Scholars later gathered and cohered such maxims into structured categories of rulings, structuring them systematically for practical application. For instance, Al-Qurafi (d. 1285 CE), in his work *Al-Furuq*, gathered and sequenced fragmented legal principles into a structured format. His work organizes maxims under major themes, distinguishing nuanced differences between similar principles. Imam Al-Suyuti (d. 1505 CE) authored *Al-Ashbah wa Al-Naza'ir*, where he compiled and sequenced scattered legal maxims from earlier juristic writings.

Before the discovery of Insulin, knowledge about diabetes was fragmented across clinical observations and experiments. Frederick Banting (Canadian medical scientist) and Charles Best (American-Canadian medical scientist) sequenced and

⁵³ See for further details *Manahij al-Baḥth wa al-Masadir*, Muhammad Saeed Jamal uddin, P.14

cohered these scattered pieces, leading to the discovery and therapeutic application of insulin in 1921.

vi. Corrective Research Reformation: Paradigm Rectification through Error Elimination

Reformation / improvement of a previous research work by removing the mistakes of the author. For example, the theory of Indivisibility of Atoms by John Dalton rectified by JJ Thomson and Ernst Rutherford. The theory of stationary status of the Universe / Sun, as nullified later on, is another example.

vii. Research on Contemporary Existential Technologies: Ethics, Equity, and Governance

Research on a contemporary issues e.g. Surrogacy as the use of a woman's reproductive capacity, gender selection of child by parents, legal status of crypto currency, cloning, and effects of artificial intelligence on human life and activities.

7. Kinds

Qualitative: It deals in non-numerical data, such as text, opinions, behaviors, or experiences, to gain deeper insights. It answers '*why*' and '*how*'. For example, discovering and investigating the causes of inefficacy of reconciliation provisions of Family Court Act, 1964 would be Qualitative Research.

Quantitative: It involves numerical data and statistical analysis to identify patterns or relationships. It answers '*what*' and '*how much*'. Conducting Training Needs Assessment (TNA) would be a Quantitative Research.

8. Methods

It refers to the tool and way of investigation. It could be divided into deductive and inductive.

(i) Deductive Method

It is the process of confirmation of an already existing theory. Therefore, it involves a journey from top to bottom i-e coming down from general to specific. This is usually used in Quantitative Research⁵⁴.

Example 1:

Theory: All humans have two eyes.

Hypothesis: If a woman is a human, then she has two eyes.

Observation: Ms. Abeer is to be examined.

Conclusion: Since Ms. Abeer is a human, and has two eyes.⁵⁵

Example 2:

Theory: In contract law, an offer must be accepted unambiguously to form a binding agreement.

Hypothesis: A farmer offers to sell wheat to a shopkeeper for Rs.5000/- per 50kg, and the shopkeeper responds, "I will purchase it if you will grind it and turn it into flour."

Observation: Determine whether the shopkeeper's response constitutes an unambiguous acceptance.

Conclusion: Since the shopkeeper added a condition, there is no binding contract under the general rule of contract law.

⁵⁴ <https://www.scribbr.com/methodology/inductive-deductive-reasoning/> last accessed on 17.03.2025.

⁵⁵ It resembles mathematical theorem i-e if $a = b$ and $b = c$, it follows that $a = c$.

(ii) Inductive Method

It refers to developing or discovering of a theory. It involves a journey from bottom to top, an up- going from specific to general. This is usually used in Qualitative Research.⁵⁶

Example 1:

Observation: Judges / Qazis make grammatical mistakes in writing of judgments.

Pattern: Most of the Judges' / Qazis' mistakes are related to the use of prepositions.

Hypothesis: Such mistakes are due to the different use of prepositions in native language (Urdu) and official language (English).

Theory: A comprehensive language training focusing on the correct use of prepositions is a must.

Example 2:

Observation: Animals' ability to speak.

Pattern: Human beings are classified as speaking animals.

Hypothesis: Every animal is not a human being.

Theory: All animals do not have the capacity for speech.

Example 3:

Observation: Study cases involving failure of reconciliation efforts of family court Judges / Qazis.

Pattern: Notice that Judges / Qazis are not taking the required interest in the process of reconciliation.

Hypothesis: Awareness of the Judges / Qazis about ADR techniques is insufficient to address the problem.

⁵⁶ See for further details *Manahij al-Bahthwa al-Masadir*, Muhammad Saeed Jamal ud din, Pp.61, 62, 63.

Theory: A comprehensive training on the significance of Alternative Dispute Resolution is highly expedient.

(iii) Mixed-Methods Approach and Integration of Results

Sometimes, both the above methods can be simultaneously utilized, in appropriate types of research. This approach is called mixed-methods approach. Combining deductive and inductive methods allows researchers to take advantage of both approaches. Deductive reasoning provides structure and rigor, while inductive reasoning fosters creativity and discovery. In this way, they create a more holistic and robust understanding of research problems⁵⁷.

The above mixed-methods approach can be illustrated in the following way:

- a. Quantitative research question: Does online (virtual) training significantly increase the impact of training?
- b. Qualitative research question: How do trainees describe their learning with online (virtual) training, and what factors contribute to the increase in impact of training?

Now, the result of both questions could be integrated in a proper way. If the quantitative results show an increase in the impact of online / virtual training, the qualitative data could explain what factors caused the increase (e.g., trainees feel more focused and less stressed due to local environment and relief from travel fatigue). If, on the other hand, qualitative data reveals unexpected challenges (e.g., feelings of lack of concentration due to remoteness of the trainer or due to poor connectivity), the researcher can refine the initial hypotheses or suggest areas for future research. This process is technically known as integration of results.

⁵⁷<https://www.drkenyanwong.com/blog/>, last accessed on 18.03.2025. Visit also <https://chat.deepseek.com/a/chat/s/e6ac7d30-1b82-454e-b6cd-8de6620c58b6>, last accessed on 18.03.2025.

9. Research Methodology

Research methodology means systematic outlining of techniques used for, collection of data, analysis of data and interpretation of data.⁵⁸ In this regard, further details have been given in section 11.9 *infra*.

10. Proposal/Synopsis Writing

Research proposal or synopsis is a document that outlines objectives of the topic under research, methodology of conducting the research, and the need and significance of a research topic. It is necessary because, through it, the researcher solicits approval of authority, seeks support in funds or grants, and convinces readers on value, feasibility, need and significance of the research.

⁵⁸<https://gradcoach.com/what-is-research-methodology/>, last accessed on 17.03.2025.

11. Components of Research Proposal/ Synopsis

A research proposal must contain the following components:

11.1: Thesis Statement

Thesis Statement or Problem Statement is a concise statement of one or two sentences (not lines) that reflects the main argument or central idea of a research paper. It resembles the *ratio decidendi* of a judicial verdict. It informs the reader about the topic and direction of the paper, and the key points that will be discussed. Therefore, it should be specific, debatable, and supported by evidence. It provides clarity and focus, guides the structure, strengthens the argument, and engages the reader. In short, thesis statement is the mission statement (central idea) of a research, and its absence would render the research vague and unfocused, leaving the reader in a state of dilemma, and would also make the researcher directionless, wandering in unfocused inquiry. In view of its significance, it is presented at the very beginning of a research proposal.

Thesis Statement may be analytical, expository, argumentative, cause and effect focusing, and comparative. This may be explained as following;

- Analytical Thesis Statement: It breaks down an issue or idea into parts, evaluates them, and presents the analysis.
- Expository Thesis Statement: It explains a concept, process, or idea without arguing for or against it.
- Argumentative Thesis Statement: It takes a stance on an issue and presents reasons or evidence to support it.
- Cause-and-Effect Thesis Statement: It investigates the relationship between two elements, explaining how one leads to the other.
- Comparative Thesis Statement: It highlights similarities and differences between two subjects.

Example 1: Thesis Statement (Analytical)

Thesis Statement for the topic “Theories of Constitutional Interpretation: An Analytical Study of Case Law in Pakistan”, would be as following:

The superior judiciary has to adopt a theory (or theories) of its own, for interpretation of Constitution, instead of following the foreign theories, that may suit the peculiar characteristics of the Pakistani Constitution, which is much different from the contemporary constitutions, and that is the only way to meet the challenges of the progressing and changing society of Pakistan.

Example 2: Thesis Statement (Argumentative)

Thesis Statement for the topic “The Role of Limitation Law in Inheritance Claims and Other Disputes of Personal Law: A Critical Evaluation in *Shariah* and Pakistani Legal System” would be as following:

Application of Limitation laws to inheritance cases and personal law disputes in Pakistan is not in consonance with the injunctions of Islam.

Example 2a: Thesis Statement (Argumentative)

Reconciliation between the disputant spouses u/s 10 and 12 of Family Courts Act, if conducted personally by a Judge / Qazi is contrary to the injunctions of Islam as laid down in Quran and Sunnah, particularly in the perspective of procedure of Tahkeem given in Verse No. 35 of Surat Al-Nisa⁵⁹.

Example 2b: Thesis Statement (Argumentative)

⁵⁹ Whether a Judge / Qazi could be a mediator / conciliator in a case pending before him, is a matter of concern. Neither the Shariah nor the modern legal systems recommend that a Judge / Qazi be a mediator or conciliator in a cause pending decision before him, because it would adversely affect his impartiality and would spoil the required fairness. In the words of Ibni Qudamah Al-Hanmbali, ‘Mediation is praiseworthy, but not by the judge himself after hearing the dispute’. Ibne Rushd Al-Maliki says, “If the judge attempts reconciliation after hearing evidence, his neutrality is compromised. A separate arbitrator should handle mediation”. Imam Novavi Al-Shafai says, “It is disliked (makruh) for a judge to mediate in a case he is judging, as his prior exposure to arguments may affect his fairness”. Al-Kasani Al-Hanafi says, “The judge should not act as a reconciler (muslih) after hearing the case, because his prior knowledge may influence his neutrality.” (Ibni Qudamah, Al-Muhgni, 9:391, Egypt: Dar-ul -Hadith, 2004. Ibni Rushd, *Bidayat-ul-Mujtahid*, 2:332, Beirut: Dar al-Kutub al-Ilmiyyah, 1997 & 2003. Al- Nawawi, *Al-Majmu’*, 20:67, Beirut: *Dar al-Fikr*, 2000, Al-Kasani Abu Bakr ibn Mas’ud, *Bada’i al-Sana’i fi Tartib al-Shara’i*, 7:12, Beirut: Dar al-Kutub al-Ilmiyyah, 1997). Also see U.S. Federal Rule of Civil Procedure 16(c)(9), Singapore Supreme Court Practice Directions, Due Process (U.S. 5th/14th Amendments, *Porter v. Magill* [2001] UKHL 67, *R v. Bow Street Metropolitan Stipendiary Magistrate, ex p Pinochet Ugarte* (No. 2) [2000] 1 AC 119 (UKHL). *IBA Guidelines on Judicial Impartiality* (2021), Guideline 4(c), *UN Bangalore Principles of Judicial Conduct* (2002), Principle 2.4.

After the exclusion of Section 120 of the Evidence Act 1872 in the Qanun-e-Shahadat Order (QSO), recording the statements of parties to a civil suit as witnesses is against the law⁶⁰.

Example 3: Thesis Statement (Comparative)

Topic/title is “Alternative Dispute Resolution: A Comparative Study between Shariah and Pakistani Legal System”

Thesis statement would be as following;

Shariah not only recognizes and encourages ADR as a mode of resolution of disputes, it, instead, prefers it over regular litigation and provides more efficient and effective modes for amicable solutions as compared to those of the contemporary systems.

Example 4: Thesis Statement (Expository)

The title is “The Concept of Release on Bail in the Pakistani Criminal Justice System”

The thesis statement could be as following;

Release on bail in non-bailable offenses is an interim quasi judicial⁶¹ relief, shall be granted as a rule, and may be refused in exceptional circumstances.

Example 5: Thesis Statement (Cause and Effect Focusing)

The topic is “The Adverse Effects of Frequent Use of Artificial Intelligence (AI) on Judicial Performance.”

The thesis statement could be as following;

Over and blind dependence on Artificial Intelligence has led to decreased productivity and increased lethargy among judicial functionaries.

Further, it is for the researcher to choose the kind of Thesis Statement that would better serve the objectives of the work. All the above kinds of Thesis Statements are interchangeable. The above Argumentative Thesis Statements (Example 2, 2a, and 2b) could be converted to Expository Thesis Statements. The following examples are provided;

⁶⁰ For resolution of this issue, recourse should be made to, Justice Dr. Tanzeel-ur-Rahman, *Islami Qanun-e-Shahadat*, Ss 3, 20, Pp 32,33, 191, 192, 193, 194, and 195, Lahore: PLD Publishers, n.d. Recourse could also be made to *Annual Report (1982)*, Council of Islamic Ideology.

⁶¹ Quasi-judicial refers to administrative functions or decisions that, although not strictly judicial in nature, require the application of judicial processes and principles. (See for further details *The Major Law Lexicon* by Justice S. S. Subramani, 4th Edition 2010, Nagpur: LexisNexis Butterworths Wadhwa, Pp 5615-5617).

- *The Diversity in the Opinions of the Jurists of Islamic Jurisprudence (Fuqaha) about Recognition of Limitation (Taqadum) has Necessitated Conducting of a Fresh Collective Ijtihad⁶² on the Subject, in order to streamline the Issue between Shariah and Pakistani Legal System.*
- *The Diversity in the Opinions of the Jurists of Islamic Jurisprudence (Fuqaha) about Extent of Powers and Duties of the Arbitrators (Hakamain) in a Family Arbitration, has Necessitated Conducting of a Fresh Collective Ijtihad on the Subject, in order to streamline the Issue between Shariah and Pakistani Legal System.*
- *In Civil trials, recording the statements of parties, and recording of statements of witnesses are two distinct phenomena, bearing different effects.*
- The following example would demonstrate the manner in which a Comparative Thesis Statement (Example No. 3) is transformed to Expository Thesis Statement;
- *The Concept of Alternative Dispute Resolution and Amicable Settlements in Shariah / Islamic Law and in Pakistani legal System. [Comparative]*
- *The Concept and Role of Alternative Dispute Resolution in the Pakistani Legal System [Expository]*

An Expository Thesis Statement can be converted into Argumentative Thesis Statement in the following manner;

- *The Concept of Khula in Pakistani legal System: Theory and Practice [Expository]*
- *The Decisions of Family courts, terminating on khula, without directions to the husband for Separation or pronouncement of single divorce to the wife, is against the procedure given in the sole relevant hadith [Argumentative]*

⁶² Collective Ijtihad is a special phenomenon where almost all contemporary scholars, across the world, reflect their views on a recently emerged issue and offer a solution. This may be with concurrence or with the opinion of the majority. In various Islamic countries, Boards of Scholars have been established such as Saudi Arabia and Kuwait, even in India, a Fiqhi Board has been functioning. In Islamic Republic of Pakistan, this work comes within the domain of the Council of Islamic Ideology (CII). Recently emerged issues could be as; ‘gender selection of unborn child by parents’, ‘Surrogacy which involves the use of a woman’s womb for fertilization and associated matters’, ‘Whether in Hudood and Qisas cases, evidence of eye- witnesses can be recorded through video link’, and many more. For further details see Dr Muhammad Tahir Mansoori, *Ijtima’ ai Ijtihad: Evolution, Theory and Practice*, Islamabad: Islamic Research Institute, 2007.

The above examples would reveal that all types of Thesis Statement are interchangeable. Nevertheless, it depends upon intention of the researcher, objective of the study, prevailing situations and contexts.

11.2: Research Title

Title or topic indicates the subject of research. Therefore, it should be precise [clearly defining scope of the study], concise [avoiding unnecessary words or complexity], plain [using simple and understandable language], encompassing [covering core aspects of the research] and visually engaging [attracting attention and conveying essence of the study]. This will keep researcher confined to the subject, protecting him from roaming hither and thither during writing.

In selection of subject, the researcher should consider the following questions;

- i. Whether the subject is suitable for conducting research?
- ii. Whether research on the subject is possible?
- iii. Whether researcher has capacity to write on the subject?
- iv. Whether researcher has an inclination towards the subject?

First question would help researcher not to select a subject that has no nexus with human life and society, and which cannot produce results benefiting the society at large. Second question would help researcher not to select a subject on which available material is highly insufficient and incapable for conducting research, despite fact that the subject may be beneficial to society. Third question would ensure capacity and ability of researcher. For example, whether researcher possesses proficiency in languages in which research material is available? Whether researcher has sufficient time and can complete research in prescribed time, if any? Whether researcher has financial resources to meet research expenses necessary for visiting remote areas, accessing local or international libraries, consulting foreign experts, purchasing books, and, acquiring access to paid online websites. Fourth question will ensure interest of researcher and its continuity till completion of research. If a researcher has no inclination towards the subject, he or she will be losing interest with passage of time, which may result in failure of the process. For example, for quantitative research, a researcher must possess an inclination towards statistics, arithmetic, and digital processes.

If answer to any of the above questions is in negative, researcher should consider another subject with a different title.

11.3 Title Page

It is the first page that includes essential information such as title, author's name, name and monogram of institution. For a thesis writer, information about course, class, registration or enrollment no., and name of professor or supervisor are also necessary. Title shall be centered, bolded and positioned three or four lines down from top of the page.⁶³

11.4 Introduction

It contains discussion on subject or issue of research, relevance, need and significance of the subject, causes that led researcher to investigate the issue, purpose and objectives of the research. Briefly, in an introduction, sufficient informative background is provided. For example, in an ADR dissertation, definition of Alternative Dispute Resolution, human nature about disputes, causes leading to dispute, history of the mechanisms of dispute resolution, need and significance of amicable dispute resolution, formal and informal methods of dispute resolution, and similar other matters, should be discussed. This introduction would inform reader about subject under research.

11.5 Research Questions

Research questions are clear, focused, and concise queries that guide a study or investigation. Actually, these questions and the forthcoming answers contribute to solution of the problem mentioned in Problem Statement. For example, research questions for the problem stated in Example No. 2b (part 11.1 above), could be formulated as under:

- i. Whether knowledge and skills of judges / qazis of family courts in alternative dispute resolution are inadequate?
- ii. Whether disputant spouses are usually not interested in reconciliation?
- iii. Whether attorneys (lawyers) of parties are usually not cooperative?
- iv. Whether law on the subject suffers from flaws and needs amendments?

⁶³ See for more details guidelines set by the American Psychological Association (APA), available at https://owl.purdue.edu/owl/research_and_citation/apa_style/apa_formatting, last accessed on 18.03.2025.

- v. Whether all or some of the above contribute to the problem?
- vi. Whether conflicting judgments put judges/qazis in a state of dilemma?
- vii. How can conflicting judgments be interpreted harmoniously?
- viii. Whether ignoring verse no. 35 of *Surat Al-Nisa*, in complying with sections 10 and 12 of the Family Courts Act, creates hardships?
- ix. Whether gender of judge/ qazi has a role or significance in efforts for reconciliation?
- x. Whether marital status or age of judge/qazi has an effect on process of reconciliation?
- xi. What measure can be taken to address the problem?

11.6 Literature Review

There could be hardly a subject on which no one has embarked. This indicates that a significant body of literature on research topic is already available. A researcher should begin by summarizing the earliest works on the subject, introducing the authors, describing main content of their work, their methodology, significance, and results. Importantly, a researcher should identify gaps left by earlier scholars and point out deficiencies in their work. Additionally, it must be explained how the study will address the gaps, rectify the deficiencies, and contribute new insights. Ultimately, literature review serves to justify the work by demonstrating how the thesis will offer a novel contribution to the field. In this way, researcher assures the readers that he or she is not reinventing the wheel. The following example is quite suitable;

Topic: *'Alternative Dispute Resolution in Shariah and Pakistani Law: A Comparative Study'*

Literature Review

This study explores Alternative Dispute Resolution (ADR) from three key angles: its conceptual and legal framework, its application in Pakistan's legal system, and its roots in Sharī'ah along with historical practices. The author observes a significant gap in existing literature, as no prior work comprehensively addresses ADR from this integrated

perspective. While some Arabic texts compare arbitration (*taḥkīm*) and conciliation (*ṣulḥ*) in Islamic and secular law, they remain inaccessible to non-Arabic speakers and often focus narrowly on a single ADR method or Islamic school of thought, lacking technical distinctions. Negotiation (*mufāwaḍāt*) is particularly underexplored in Islamic jurisprudence, even in classical texts on judicial administration (*Adab al-Qāḍī*). Comparative studies, where they exist, are confined to Arab jurisdictions, neglecting Pakistan's legal context. Similarly, in secular legal scholarship, ADR is examined in fragments, arbitration, mediation, or conciliation is treated separately, with no unified analysis. Though some works trace ADR's evolution in Western and Asian legal systems, they overlook its Islamic dimensions and relevance to Pakistan. While Pakistani judges and lawyers have written on ADR in domestic law, they rarely engage with *Sharī'ah*. This study thus aims to bridge these gaps by providing a holistic, comparative examination of ADR across legal and Islamic frameworks, with a focused analysis of Pakistan's legal landscape.

For the details of the above brief, review of selected work / literature is given below:

***Alternative Dispute Resolution; Story of a Political, Cultural, and Social Movement* by Jarome T Barrett and Joseph T Barrett**

This book, with a foreword by former U.S. Secretary of Labor William J. Usery, provides a comprehensive historical account of ADR, tracing its evolution over 2,500 years, from ancient Chinese mediation and Indian arbitration to its development in the United States across labor, business, diplomacy, and war-related disputes. Structured chronologically, the book begins with ADR's prehistoric roots and European Law Merchant (Chapter 1), explores its role in diplomacy (Chapter 2), and examines its early applications in America (Chapter 3) and during the Civil War (Chapter 4). Later chapters focus on ADR in business (Chapter 5) and its expansion in the 20th and 21st centuries. A notable feature is a six-page "ADR Timeline" spanning 1800 B.C. to 2001, highlighting key milestones, including the term "ADR" itself, which emerged in the 1970s.

While the book is a valuable resource for understanding ADR's historical progression in Western and non-Muslim societies, it has limitations: it barely touches on Islamic arbitration (*taḥkīm*) in Arab cultures, omits practical ADR applications, and ignores traditional systems like Pakistan's *Jirgah* (Pukhtun dispute resolution mechanism). Consequently, it offers

limited utility for Pakistani practitioners but remains useful for historical research on ADR's global development.

Mediation: Practice & Law by Sriram Panchu

This book, with a foreword by Indian Supreme Court senior advocate Fali S. Nariman, is a comprehensive guide to mediation, exploring its principles, techniques, and applications in various disputes i.e. commercial, matrimonial, national, and international. The author presents mediation as "assisted negotiation" (Chapter 3) and emphasizes its effectiveness when parties communicate openly rather than adopting adversarial tactics. The book covers mediation theories, ethical considerations (confidentiality, trust), and practical skills, including a useful "dispute escalation" framework to determine when mediation is appropriate.

While primarily focused on *India*, featuring a dedicated chapter on Indian legislation and precedents (Chapter 17) and an appendix with Indian legal instruments, the book also examines mediation practices in the EU, U.S., U.K., Japan, and Sri Lanka (Chapter 15). However, it excludes Pakistan's legal system and does not address religious aspects of mediation.

Despite its strong practical emphasis, the book remains valuable for academics and practitioners. The author's dispute escalation model and mediation insights have been adapted and referenced in this thesis, particularly in Chapters 3, 6, and the concluding section. Overall, it is a detailed resource on mediation but lacks cross-cultural and Pakistani legal perspective.

Al-Fiqh al-Islami wa Adillatuhu by Wahbah Al-Zuhaili

This eight-volume encyclopedic work, considered a comprehensive reference on Islamic law (*Fiqh*), covers nearly all aspects of the subject with detailed indexes that could form a separate volume. Written in clear Arabic (with partial Urdu translation available), it focuses exclusively on Islamic jurisprudence without engaging with contemporary secular legal systems.

While the book provides an extensive 30+ page discussion on conciliation (*ṣulḥ*) (Vol. 5, pp. 293-325), it lacks dedicated sections on negotiation and mediation, adhering instead to

classical juristic methodologies. Surprisingly, it devotes less than a page to arbitration (*taḥkīm*) (Vol. 6, pp. 756-757), despite its significance in Islamic dispute resolution.

This work served as a key source for Chapter 6 of the thesis, particularly on conciliation, but its limited treatment of arbitration and omission of negotiation/mediation highlight gaps in its coverage of alternative dispute resolution (ADR) methods in Islam.

***Adab-ul-Qazi* by Mahmud Ahmad Ghazi**

This book, now in its 4th edition (2010), is a judicial rather than purely legal treatise, reflecting the author's extensive judicial experience. Ghazi translates the title as "The Judicial and Procedural Law", focusing on Islamic judicial principles while occasionally referencing Pakistan's justice system, though not in relation to ADR (Alternative Dispute Resolution).

The work briefly touches on conciliation (*ṣulḥ*) across multiple pages (83, 119, 127, 156), but omits discussion of mediation and negotiation. Surprisingly, it dedicates only two and a half pages to arbitration (*taḥkīm*) (pp. 297-299), despite its relevance in Islamic law.

While the book offers substantive content, its physical binding quality is notably poor. It serves as a useful resource on judicial procedure but provides limited insight into ADR mechanisms within Islamic or Pakistani legal frameworks.

***Alternative Dispute Resolution: Negotiation and Mediation* by Madabhushi Sridhar**

This book, published in 2006, provides an overview of ADR mechanisms, focusing primarily on negotiation and mediation, with additional coverage of conciliation. Written from an Indian perspective, it examines the role of *Lok Adalats* (domestic ADR courts) and proposes ADR applications in criminal cases, including amendments to Section 320 of the Indian CrPC and the use of plea bargaining (Chapter 8).

While the book briefly mentions Pakistan's Conciliation Courts Ordinance (1961), the discussion is limited to just 14 lines (Chapter 9, p. 246), offering no substantive analysis of Pakistan's broader ADR framework.⁶⁴

Besides above⁶⁵, Dr. Fatima Muhammad al-Awwa has studied arbitration/*tahkim* from a different perspective. She has conducted a comparative study on the subject between *Shari'ah* and Law, in the perspective of the legislative effect of *Mujallah al-Ahkam al-'dliyah*. Ali bin Muhammad al-Sawaji has conducted good research on 'Arbitration Agreement'. He has especially focused on the Arbitration System of the Kingdom of Saudi Arabia. On the subject of *tahkim*, the primary research seems to be that of QahtanAbd-ur-Rahman al-Duri. He has conducted a comparative study between Shariah and Law. It appears that no work of such comprehensive scope on the subject has previously been undertaken. He has discussed the History of *tahkim* and has traced it back to 3100 BC. He has also drawn comparisons between Shariah and law on appropriate occasions. DrAbul Hamid al-Shawaribi, Dr Abdullah bin Sa'ad 'Al-Khanin, Mahmud Muhammad Hashim have also penned down quality books on various subtopics of *tahkim*. The most important work is that of Dr Abdul Hamid al-Ahdab. He has written two books on the subject. As far as *Sulh* / Conciliation is concerned, almost each classical book of Islamic law has discussed it. Details of *tahkim* and *Sulh* are also available in *al-Mujallah*.

On the other hand, Mr. Herb Cohen has detailed work on Negotiation. This study has four parts that discuss negotiation right from its definition to negotiation on the phone. The author has discussed the role of negotiation in international and political issues particularly in the peace formula of the Middle East; Mr. Howard Raiffa has done impressive research on negotiation. His masterly work substantially extends his earlier classic work '*The Art and Science of Negotiation*'. It does so by introducing three extra supporting strands of inquiry: individual decision analysis, judgmental decision making, and game theory. Each strand is introduced and used in analyzing negotiations. 'How to become a good negotiator' is the work of Richard A. Luecke and James G. Patterson. The work mainly focuses on negotiation skills. It also discusses the various strategies of negotiations.

⁶⁴ It is a very brief literature review. For the purpose of orientation, a few books have been selected by the Wing. For complete details, recourse can be made to the original thesis, *Alternative Dispute Resolution in Shariah and Pakistani Law: A Comparative Study*. (available at Central Library, International Islamic University Islamabad)

⁶⁵ At times, researcher finds a bulk of literature on the subject. In such a situation, he shall select the most comprehensive books for separate discussion, and shall discuss the remaining literature as a whole. The paragraph under reference is an example.

To the best of my knowledge, no Pakistani author has contributed any book on the topic. Various articles are, nonetheless, available on simple study of ADR here and there. A short paper of three pages has been written by Muhammad Aftab Iqbal Chaudhree, Advocate-General Punjab, at Lahore. Another article is that of Zafar Iqbal Kalanauri, titled '*Implementation Strategy for ADR in Pakistan*'. Karachi Centre for Dispute Resolution (KCDR) has also published an article on ADR in Pakistan. Mr. Tasadduq Hussain Jillani, the former Chief Justice of Pakistan has also written an article on the significance of ADR. Mr. Jillani has also discussed the statutes containing provisions for ADR. The former chief Justice Nazim Hussain Siddiqi has also contributed an article on the subject. Justice Mian Saqib Nisar has written a well-reasoned article titled as '*International Arbitration in the Context of Globalization: A Pakistani Perspective*'. In 2013-14, an empirical research was conducted by Khyber Pakhtunkhwa Judicial Academy (KPJA) in collaboration with United Nations Development Program (UNDP) under the title "Gaps between formal and informal justice Systems".

The above discussion would reveal that previous studies have not adequately addressed the Pakistani legal system, nor have they provided a comprehensive comparison between statutory law and Shariah. While some works omit any discussion of Shariah, others fail to examine contemporary legal frameworks on the subject. The present study aims to bridge these gaps and offer new insights into the intersection of law and Shariah within the Pakistani context." ⁶⁶

11.7 Objectives and Outcomes:

Research objectives are the main goals of study. They define scope and direction of research and help maintain focus of the scholar. While writing a research proposal, a researcher shall discuss objectives and outcomes of the study. It is important to clearly articulate the objectives to be pursued and anticipated outcomes to be achieved. Therefore, these should be clear, measurable, and achievable.

11.8. Structuring (Chapter Break up)

Organizing research work is essential for clear and effective communication in academic research. The way it is structured depends on the subject being studied, so there are no

⁶⁶ See for full details '*Alternative Dispute Resolution in Shariah and Pakistani Law: A Comparative Study*', Ph.D. dissertation by Dr. Qazi Ataullah submitted to Faculty of Shariah & Law IIUI, 2015.

strict rules to follow. However, the structure should be logical, well-organized, complete, and flow naturally. Just like a play is divided into acts, research should be divided into chapters.⁶⁷

Chapters should align with research questions and title of the work. Proper structuring brings clarity, focus, consistency, and professionalism to research, making it easier to understand and more efficient. Following example shows structure of a research thesis;

“Alternative Dispute Resolution in Shariah and Pakistani Legal System; A Comparative Study”

Chapter 1 Introduction

Chapter 2 Arbitration

2.1 Arbitration in Statutory Laws

2.2 Arbitration/*Tahkeem* in Shariah

2.3 Comparison

Chapter 3 Mediation

3.1 Mediation in Statutory Laws

3.2 Mediation/*Wasatah* in Shariah

3.3 Comparison

Chapter 4 Conciliation

4.1 Conciliation in Statutory laws

4.2 Conciliation/*Sulh* in Shariah

4.3 Comparison

Chapter 5 Negotiation

5.1 Negotiation in Statutory Laws

5.2 Negotiation/*Mufawadat* in Shariah

5.3 Comparison

⁶⁷ShawqiDhaif, *Al-bahth Al-adabi*, Egypt 1972, Pp. 35,36, as referenced by Muhammad Saeed Jamal ud din in *Manahij al-Bahthwa al-Masadir*, P.36. See also: Sword, H. (2012). *Stylish Academic Writing*. Harvard University Press. p. 119 and Swales, J. M., & Feak, C. B. (2012). *Academic Writing for Graduate Students: Essential Tasks and Skills* (3rd ed.). University of Michigan Press. p. 87.

Chapter 6 Conclusion

6.1 Summary

6.2 Results and Recommendations

6.3 Bibliography/ references

Note: All the above details pertain to writing of master, doctoral and postdoctoral thesis. As for as, research article is concerned, it can be structured in following manner;

1. Title: It should be short, clear, and descriptive.

Example: "The Impact of AI on the Performance and Productivity of Researchers"

2. Abstract (Summary): A 150–250-word overview of the study. It covers purpose, methods, key results and conclusion.

3. Introduction: It explains the research topic and why it matters. It identifies what has remained undiscovered, and what has not been examined in the previous studies. It also contains the research question/hypothesis. In the above example, a researcher would examine whether excessive and unnecessary use of AI affects capabilities and productivity of researchers?

4. Methods: It explains step-by-step, how the study was conducted, who was studied, what tools were utilized, and what procedure was followed?

5. Results / Findings: It presents data. In quantitative research, it contains numbers / digits, graphs, and tables. It is usually followed by recommendations. It discusses meaning and interpretation of the results. Besides, findings are linked with the research questions. Further, it points to the need or areas for further research.

6. Conclusion: A few paragraphs summarizing key ideas / points.

Example: "Unnecessary and excessive use of AI reduces productivity of researchers and affects their capacity of critical thinking."

7. References: It contains list of all books (Bibliography), Electronic sources (Webliography), articles, or data sources cited.

Note: One must know about IMRaD. It stands for “Introduction, Methodology, Results and Discussion”. This mechanism is used in empirical researches, where the data has been obtained through questionnaires, interviews, surveys, and the like.

11.9 Methodology

Research proposal must mention methodology the researcher used, whether it is deductive or inductive or a mixed approach. In academic research, the mechanism of analysis should also be explained. For example, in case of legality of *talaq-e-tafweez*, the mechanism of analysis can be as under:

- a. The phrase should be defined literally and technically.
- b. Various opinions about legality of the concept should be described.
- c. After mentioning an opinion, arguments for the opinion should be recorded.
- d. The arguments should be recorded in the required sequence. For instance, arguments from direct revelation (the Holy *Quran*), arguments from indirect revelations (*Sunnah*), Consensus of opinion (*Ijma'a*; Express and Tacit), Analogy (*Qiyas*), Juristic Opinions (*Fatawa*), Legislation, Judgments, and so on.
- e. The accuracy, authenticity, relevance, and force of each argument shall be discussed. Objections on each argument and explanation thereto, if any, shall be described.
- f. A meaningful, impartial and unbiased comparison of the arguments shall be made.
- g. In light of the comparison between strength of arguments, preferred opinion shall be declared.

The above mechanism would be analytical as well as mixed method approach (deductive plus Inductive)

Further, it is not compulsory that researcher shall necessarily mention phrases *deductive*, *inductive* or *mixed method*. It will be sufficient to give a brief on the methodology he adapted. The following example offers an explanation of the matter;

Except chapter 2, where our approach is mostly history-based; descriptive, analytical and comparative methodologies have been applied throughout the rest of this work. On a topic, different views along with arguments have been stated first. Then, every opinion has been

analyzed. On appropriate occasions, comparison between the strength of arguments has been done. No doubt, the touchstone of acceptability of a view is the strength of evidence on which it is based; nonetheless, preference has been given to the opinion which is more sustainable and highly agreeable to reason and justice. As a rule, priority has been attached to the permissibility. Prohibition has rarely led the way. Moreover, I have also discussed the procedure of application of ADR modes to the facts of a case pending decision. This approach makes our methodology as applied (tabiqiyyah) one.

For the purpose of structuring, I have followed the sequence of modes of ADR. Each mode has been allocated a separate chapter. The arbitration has consumed two chapters. Each chapter has a brief introduction at the outset and a conclusion at the end.

Keeping in view the flexibility of Shariah in order to maintain pace with the time, relevant provisions of the Noble Quran and the Sunnah have been clothed with contemporary meanings. It really helped us in discovering distinct phrases for different concepts. References have been taken from the original sources of each school of thought. In referencing, the Chicago Manual of style is followed. Similarities between Shariah and law have been worked out. Sometimes, this similarity has been pointed out by the use of the word 'similitude'. Readers may also observe the reproduction of the text of the legal provisions wherever necessary.

A distinguishing feature of this study is that I have relied more on the work of those jurists who themselves worked as judges (qazis). It is for this reason that they had legal knowledge and judicial experience as well.

To ensure authenticity of translation of Qur'anic verses, I have placed reliance on Marmaduke Pickthall's The Meaning of the Glorious Quran. As regard to Ahadith, the Sihah-e-Sittah (Six Authentic Books), particularly Sahih al-Bukhari and Sahih Muslim have been used. References to other books such as Musnad al-Imam Ahmad, 'Erwa-ul-Ghalil and Sisilah al-ahadith al-Sahihah are sporadic. To keep the translation of hadith more contemporary and relevant to the subject, in most of the places, I have myself translated them and have clothed them with appropriate meanings. The phrases 'Islamic law', 'Fiqh' and 'Shariah' have almost been used in their ordinary interchangeable sense. For understanding of the readers at large, the technical difference between these phrases has been ignored.

For the decisions and judgments of the superior courts, PLD, CLC, MLD, PCrLJ, PLJ and SCMR have been preferred. Besides, authentic legal dictionaries and judicial thesauri have been referenced while giving technical sense to a term used.

I have also benefited from data available on the web. In this regard, I have given the full address of the site along with the date of its visit.

On the language side, for the benefit of all members of the legal fraternity, researchers and other intellectuals, the whole research has been conducted in English language. The use of bombastic terms has been avoided. The use of Simple and plain English adds to the utility of this work. As regard to literal meanings of both 'Arabic and English phrases, authentic dictionaries and most-red thesauri have been consulted. Non-English phrases have been italicized.

For the purpose of innovation, benefit and convenience, a special methodology has been adopted in Chapter 8. Footnotes have been attached to each and every conclusion drawn, which refer to the original discussion on the topic in the relevant chapter.⁶⁸

11.10 References

A proposal should contain details of references (books, dissertations, research papers, historical documents, websites, reported judgments and reports of workshops, seminars, conferences). Mentioning of references is necessary because it earns credibility to the study, helps in avoiding plagiarism, and affords readers the opportunity for verification. It also maintains and ensures honesty of the scholar. References, refer to evidence supporting claims of the researcher. References are categorized as follows:

- **Primary Sources:** Original materials like parent books, research articles, historical documents, or raw data. In Arabic language, they are called *masadir* like *Tafsir al-tabari*, *Sahih Al-Bukhari*, *Al-kamil (History)*, *Al-bayanwa al-tabyin (Arabic literature)*. Other examples include Constitutions, Statues, Case Law, books like *A Brief History of Time*, *The Origin of Species*, *Hamlet*, *Macbeth*, *Romeo and Juliet*.
- **Secondary Sources:** Interpretations or analyses of primary sources, such as review articles or books whose authors relied on the primary sources, in Arabic language, they are known as *maraji'a*. Examples are, *Al-Tafsir al-Munir*, *Tadabbur-e-Quran*,

⁶⁸ See chapter 1 of the Ph.D thesis of the author, subheading 'Methodology'.

Riyadh Al-Salihin, Federal Law Journal, Punjab judicial Academy Law Journal, Harvard Law Review, Yale Law Journal, Oxford Journal of Legal Studies, and many more.

- Tertiary Sources: Summaries or compilations of primary and secondary sources, like encyclopedias or textbooks.

Researchers are expected to give information about referencing style they will employ and once selected, they will adhere to the style throughout the work. For correction of citations, help can be taken from Reference Management Software (Zotero, EndNote, Mendeley, and RefWorks), and Citation Generators (Cite This for Me or EasyBib)⁶⁹.

Some of the most common referencing styles are mentioned below:

- American Psychological Association (APA): followed in social sciences, education, law, and psychology.
- Modern Language Association (MLA): Commonly followed in humanities, especially literature and linguistics.
- Chicago/Turabian⁷⁰: Used in history, arts, and some social sciences. Many Law colleges, Law Faculties, Shariah Faculties, Judicial Academies, and Shariah Academies follow this style.
- Institute of Electrical and Electronics Engineers (IEEE): Common in engineering and computer science.
- Harvard: Widely followed in business and natural sciences.
- Vancouver: Often used in medical and scientific research.
- Al-Azhar University style or Egyptian style: This style appears in most Arabic research works, particularly the classic studies and Islamic Jurisprudence. It begins with name of the book, the author, then volume number, then page number, then publisher, then year of Publication.

⁶⁹ AI tools can now convert references into any preferred style, however this requires due care and caution.

⁷⁰ Kate L. Turabian, a former dissertation editor at the University of Chicago has developed a guide for writers of research papers, thesis, and dissertations that is commonly known as Turabian style. This style is closely related to the Chicago Manual of Style and is used in a variety of academic disciplines. The key difference lies in the numbering system for notes; Turabian uses superscript, while Chicago uses parentheses. More easily, Turabian is a simplified version of Chicago, tailored for students and researchers.

All the styles have specific rules for formatting in-text citations and reference lists. Nevertheless, almost every style has the following components though with a different sequence.

- Author(s): Name(s) of person(s) or organization responsible for the work.
- Title: Title of article, book, or document.
- Publication Date: Year (and sometimes month or day) the work was published.
- Source: Name of journal, book title, or website where the work appears.
- Volume/Issue: For journal articles, volume and issue number.
- Page Numbers: Specific pages referenced.
- DOI (Digital Object Identifier): A unique identifier for online sources, especially journal articles.
- URL: For online sources, the web address where the source can be accessed.

Bibliography part shall essentially include references cited in text. It may also include additional sources consulted but not directly cited. Bibliography may be arranged in proper sequence; however, most of researchers arrange it alphabetically. Some scholars arrange it subject-wise, such as Al-Quran, *Hadith*, dictionaries, lexicons, and thesauri, jurisprudence, history, books on the sequence of school of thoughts, general law books, statutes, reports, and so on⁷¹. A research should avoid incomplete and inaccurate references, inconsistent formatting, over-reliance on secondary sources, decrease in reliance on primary sources, referencing of outdated sources, and the like.

1. **Examples from Chicago-Turabian Style:**

a. Footnote (first citation):

S. M. Zafar, *Understanding Statutes: Canons of Construction* (Lahore: PLD Publishers, 2008), [page number if applicable].

b. Shortened (subsequent citation):

Zafar, *Understanding Statutes*, [page number].

c. Bibliography:

⁷¹ The best examples are *Al-Yameen Fil Al-Qaza Al-Islami* by Dr. Ekramah Saeed Sabri, *Wasail Al-Ithbat* by Dr. Muhammad Al-Zuhaili, and *Nazarriyyah Al-Dawa* by Prof. Dr. Muhammad Naeem Yasin.

Zafar, S. M. *Understanding Statutes: Canons of Construction*. Lahore: PLD Publishers, 2008.

1. Examples from APA Style:

a. Footnote:

S. M. Zafar, *Understanding Statutes: Canons of Construction* (PLD Publishers, 2008), [page number if applicable].

b. Bibliography:

Zafar, S. M. (2008). *Understanding statutes: Canons of construction*. PLD Publishers.

In some situations, in-text citation is made in the text by putting parentheses, without inserting a footnote. For instance; (Zafar, 2008)⁷²

3. Examples from MLA Style:

a. Footnote (first citation):

S. M. Zafar, *Understanding Statutes: Canons of Construction* (PLD Publishers, 2008), [page number if applicable].

b. Shortened (subsequent citation):

Zafar, *Understanding Statutes*, [page number].

c. Bibliography:

Zafar, S. M. *Understanding Statutes: Canons of Construction*. PLD Publishers, 2008.

4. Examples from Azhari /Egyptian Style⁷³:

a. Footnote (first citation):

Understanding Statutes: Canons of Construction by Sayyed Muhammad Zafar, Volume No 1, Page No. 44

b. Shortened (subsequent citation):

⁷² In some recent judgments of the Peshawar High Court (2024-2025), authored by Justice Dr. Khurshed Iqbal, this style has been followed. (Cr.J.A.No.30-D/2024 with Murder Ref: No. 03-D/2024. *Ghulam Saeed vs The State and another*). The style is also somewhat close to Harvard Referencing Style.

⁷³ Almost in all Master, Doctoral and Post-Doctoral dissertations, written in Arabic language, submitted before 2000, the Azhari style has been followed. Therefore, this style is visible in all those dissertations approved for conversion to permanent independent books, and allowed by the relevant universities / faculties for publication.

Understanding Statutes: Canons of Construction, Volume No. 1, Page No 10.

c. Bibliography:

Understanding Statutes: Canons of Construction, Sayyed Muhammad Zafar (2023),
PLD Publishers, The Pakistan Educational Press Lahore, Edition 2008.

Note: For the first citation, full details of a reference should be given. In subsequent citations, shortened form should be followed. If consecutive references of the same source are provided, then in all subsequent references, 'Ibid' should be written, if page number remains the same, otherwise page number be also mentioned. However, it should be noted that frequent use of consecutive references is not approved in research, and must be avoided.

12 Selection of Topic

Some details on subject are given above (section 11.2). For further clarity, the following is added;

- a. Topic is the index of a research work. It must,
- b. therefore, be concise and precise in such a way that it can indicate or reflect the issues under discussion and their resolution. Due to its significance, it needs full consideration.
- c. It is sole responsibility of scholar [supervisor is only to help and guide]
- d. Topic should not be highly generic [focus should be on specification]. For example, Islamic Jurisprudence, Pakistani laws and the like. Rather, some specific subject of Islamic jurisprudence and some specific statute should be selected.
- e. It should not be extremely narrow and rigid because such topics are incapable of research in master and doctoral dissertations [though these topics might be suitable for research articles]. For example, legal status of cloning, legal status of surrogacy, Provision of Shelter: A part of maintenance of wife.
- f. In case topic is too generic and available material is in abundance, then the topic should be narrowed down. For example, Alternative Dispute Resolution can be narrowed down to Mediation; Inheritance can be narrowed down to inheritance of women only.
- g. If material is too less, then topic should be broadened. For example, 'Negotiation' can be broadened to amicable settlements.
- h. Topic must be from area of researcher's interest i.e. his inclination and aptitude towards the subject. A scholar with a little digital literacy should not select a topic of mathematics, physics, statistics, econometrics, computer sciences, and the like. Similarly, a scholar with digital literacy should preferably refrain from topics related to social sciences and literature.
- i. Topic must relate to some issue of benefit to society. Highly common topics or subjects with no or little significance should be avoided. For example, topics like 'Sky is above and the Earth is beneath' or 'Summer is hot and Winter is cold' must be avoided.

- j. Scholar should be proficient in the language in which the research material is available. Therefore, a topic should be avoided where literature is available in a language which is beyond command of the researcher. For example, a scholar while conducting research on 'Modes of judicial separation between spouses', should have required command on Arabic language. Similarly, a researcher on work of John Keats should have required proficiency in English language. A researcher working on '*Iqbalīyyat*' should be well versed in Urdu and Persian languages.
- k. Research Material or literature on the subject topic must be accessible. Otherwise, financial constraints might hinder access to the literature, available online or abroad.
- l. Finally, topic should have the following characteristics:
 - i. It should not be too lengthy to be monotonous.
 - ii. It should not contain injurious brevity.
 - iii. It should not be of a nature that astonishes the reader.
 - iv. It should be unequivocal and should not put the reader in a state of dilemma⁷⁴.

Example 1

- "A Comprehensive Jurisprudential Analysis of the Principles of Interpretation Between English Jurisprudence and Islamic Jurisprudence in the Context of Judicial Interpretation of Statutory Ambiguities: A Multifaceted Examination of classic Frameworks, modern contemporary theories, and the Dialectical Tension Between Textualist and Purposivist Methodologies in both jurisprudences, Through a Comparative Lens"
- "Judicial Interpretation of Ambiguous Provisions: A Comparative Study of Textualist and Purposivist Approaches⁷⁵ Both in English and Islamic Jurisprudence"

⁷⁴ See for further details *Manahij al-Bahthwa al-Masadir*, Muhammad Saeed Jamal uddin, Pp. 29, 30, 31.

⁷⁵ Literal meaning should be given to a legal provision, whatsoever and howsoever hazardous and absurd it might be. It is not the job of a judge to provide for the lacunas of lawmakers. Intention of the lawmaker could be gathered from the apparent wording of the provision. (Textualist Approach)

Interpretation and construction should not defeat the purpose of law and ends of justice. Intention of the lawmaker should be gathered from the holistic and implied meaning of the words. (Purposivist Approach)

Both Jurisprudences contain the two approaches. In English Jurisprudence, textualism strictly follows the literal wording of laws, while purposivism considers legislative intent and societal goals. Similarly, in Islamic Jurisprudence, the textualist approach adheres to the exact Quranic and Hadith texts, whereas purposivist (Maqāṣidī) approach prioritizes Sharia's broader objectives like justice and welfare. The leading proponent textualists in English jurisprudence are Justice Antonin Scalia and Sir William Blackstone. On the other hand, prominent purposivists in English Jurisprudence

The former topic / title suffers from excessive legal jargon, monotonous length, redundant phrasing, equivocalness, and is also unnecessarily philosophical. The latter topic is plain, concise, easy to understand, and debatable.

Example 2

- *“Recording Statements of Witnesses of Accused by Magistrate on Behest of Accused, during course of Investigation: An analysis of Section 164 of the Code of Criminal Procedure 1898, highlighting concepts of Fair Investigation, Fair Trial and rights of accused as enshrined in the Constitution of Islamic Republic of Pakistan, and as guaranteed in International Covenant on Civil and Political Rights (ICCPR), Further highlighting Principles of Non-interference in Investigation, Technical Difference Between an Inquiry and Investigation, and the Effect of Insertion of 1-A in the Section, through the Amendment in 1972”*
- *“Legality of Recording of Defense Witnesses Under Section 164 CrPC, after Amendment of 1972”*

The first topic is unnecessarily lengthy, confusing, containing almost all the sub-topics, and is unappealing. The second one is quite concise, easy to understand, attractive, and appealing.

Example 3

- *Amicability and Settlements: Nexus*
- *The Role of Alternative Dispute Resolution (ADR) in Amicable Settlements of Disputes*

The former topic suffers from injurious brevity, whereas the latter topic is concise and convincing for the reader.

Example 4

- *The Earth is below, and The Sky is Above*

are Lord Denning and Roscoe Pound. In Islamic Jurisprudence, literalist or textualist approach is led by Imam Ibni Hazm (Zahiri School of Thought), Ahmad ibn Hanbal and. Ibn Qayyim al-Jawziyya (Hanbali School of Thought) and Al-Shāṭibi (Maliki School of Thought).

Note: There are jurists in both jurisprudences who follow a separate approach. They prefer literal meaning as a rule, but in warranting circumstances they prefer deviation from the rule and call for purposive interpretation. In Islamic Jurisprudence, Hanafi School of thought is of this opinion. In English Jurisprudence, Lord Reading leads this view. Meaning thereby, these both schools try to keep balance between literal approach and purposivist approach.

- *The Theory of Expansion of the Universe: A Pragmatic Approach*

The first topic is incapable of research, not suitable for debate, and is purposeless. The latter contains purpose and is debatable.

Following examples would reveal a range of topics wherein first topic is good, second is better, and third is the best.

- The Significance of 'Prima Facie Case', 'Balance of convenience', and 'Irreparable Loss' in disposal of petition for temporary injunctions: An Analysis of Order XXXIX, CPC [Good]
- It Is Not Always the Three Ingredients (Prima Facie Case, Balance of Convenience, and Irreparable Loss) which lead to the issuance of Temporary Injunctions, rather arguability of a case also matters: A Purposivist Approach [Better]
- It is Not Always the Three Ingredients (Prima Facie Case, Balance of Convenience, and Irreparable Loss) which Govern the Temporary Injunctions, At Times, Arguability of a Case Also Matters a Lot: A Study of Case Law [Best]

Note: In selection of topic, journalistic and idiomatic styles must be avoided. Following examples would clarify:

- No to Determination of Issue, Yes to the Resolution of Dispute. (Journalistic)
- Why is Each and Every House Running Short of Mice? (Idiomatic + Journalistic)
- No One Should Let his One More Button Loose. (Idiomatic)

Now the topics can be rationalized and simplified as under:

- The Resolution of Disputes through ADR Techniques is Always More Effective, Efficient, Everlasting, and Peaceful, as Compared to Determination of Issues through Regular Litigation.
- The Need of Discovering the Causes of Abject Poverty: Challenges and Solutions.
- The Causes of Increasing Obesity, and the Legal and *Shari'*⁷⁶ Status of Bariatric Surgery⁷⁷.

⁷⁶ The questions that need answers would be, inter alia, the following;

- i. In absence of any defect / trauma in organ itself, can reshaping, removing and replacing of an organ be allowed under Islamic law and its jurisprudence?
- ii. Whether there should be prescribed limits for Bariatric surgery, or it can be carried out unqualifiedly?

⁷⁷ This surgery is also known as weight-loss surgery. It is a surgical procedure wherein the surgeon either reduces size of stomach, or alters digestive tract, or combines both procedures. The first is called restrictive procedure; the second is known as mal-absorptive procedures, while the last one is called combination procedure. Its major advantages include controlled diabetes, balanced blood pressure and sound sleep. Its major disadvantages are gastrointestinal issues, nutrient deficiencies, preoperative complications, surgical complications, menstrual disorders and hair loss.

13. Data Collection

- (i) A researcher should, first, collect data and material. Data can be collected from different sources including books, references, interviews, journals, research articles; online material available on relevant websites, reports of seminars, conferences and workshops, reports of various researches, commission's, specialized training and focused group discussions.
- (ii) The data and material shall be studied thoroughly, with zeal, concentration and mental peace.
- (iii) A researcher shall record necessary notes with full referencing details of the source, its name, volume number, page number and other relevant particulars.

14. Principles for Quotation (*Iqtibas*)

Sometimes, a researcher may be compelled to reproduce few lines from work of a previous scholar. In such situations, the following principles shall be observed;

- a. Quotation should reflect its mother or primary reference. If a portion of a judgment of the Supreme Court has been reproduced in some subsequent judgment of a High Court, the scholar, instead of reliance on the later judgment, should make recourse to the judgment of the Supreme Court and should give its reference.
- b. No addition, subtraction or deletion should be made, because it will amount to academic and professional dishonesty.
- c. It must be copied within small () or square [] parenthesis.
- d. Frequent quoting should be avoided.
- e. If quotation is less than six lines, then it should be reproduced as it is.
- f. If quotation is lengthy enough then a précis should be written, with proper reference.
- g. If some portion of quotation is not needed or it does not serve the purpose, it should be obliterated by putting continuous dots (-----).
- h. If researcher deems some explanation necessary then it should be done with in square parenthesis [].

15. Consultation with Subject experts

An ignorant person is not merely one who lacks knowledge, but rather one who is unaware of such ignorance. Allah the Almighty commands: So, ask the people of knowledge if you do not know. (*Surah Al-Anbiya*, 21:7). At times, a researcher may be compelled to consult subject experts. Such consultation may include the following:

- a. Prior preparation for consultation/ interview with a structured questionnaire and proposed visit (s), if needed, for research.
- b. Such questionnaire may be share with the expert, so relevant material and response is given;
- c. Anonymity of the expert and confidentiality of the contents of interaction must be disclosed and observed. If disclosure is necessary in research, it must be with prior permission of the expert.
- d. In person visiting the expert(s) for consultations and interviews, if accessible;
- e. If face to face interaction is not possible due to any reason, conducting consultation by other means of communication;
- f. Noting the details of the visits with diligence and honestly. The details must be shared with the expert before publication in research.

16. Necessary Explanations

Occasionally, a researcher may use some exceptional phrases, technical expressions, and specific jargon which are difficult for readers to understand. In such situations, brief explanations should be given in footnotes. For example, in research on amicable resolution of disputes, the scholar is required to explain the expressions like *Panchayat*, *jargah*, *nanawatai*⁷⁸, *swarah*⁷⁹, *sharuntiyah*⁸⁰, *tigah*, *hakam*, *tahkim*, *salis*, *sulh*, *musalihat*, *rogha* and *razinama*. Similarly, he shall explain necessary distinctions between similar words such as 'alternative and alternate', 'arbiter and arbitrator', 'mediator and conciliator', 'resolution and determination' and 'award and decree'. Further, at while using for the first time, complete form of abbreviations and acronyms should be given. For example, Online Dispute Resolution (ODR), United States Conciliation Service (USCS), Dispute Resolution Council (DRC), Worst Alternative to a Negotiated Agreement (WATNA), Best Alternative to a Negotiated Agreement (BATNA), Mediation followed by Arbitration (MEDARB), Arbitration followed by Mediation (ARBMED) and Mediation on Last Offer Arbitration (MEDOLA). Furthermore, while using for the first time a brief introduction to name of a previous or contemporary expert or scholar should also be given in footnotes. In research on ADR, such names may include Jerome T. Barrett, Joseph T. Barrett, Sriram Panchu, Dr. Wahbah Al-Zuhaili, Dr. Mahmood Ahmad Ghazi, Mr. Madabnushi Sridhar, Ibn Farhun Maliki, Ali bin Khalil Al-tarablas, Fatimah Muhammad Al-awwa, Ali bin Muhammad Al-Sawaji and Qahtan Abdur Rahman Al-Duri.

⁷⁸Nanawati in Pashtoon culture means going or entering into house of the opposite party beseeching for pardon. See Dr. Kheyal Bukhari and others, *Pakhto Academy Lughat*, (Fast Tracking Communication (PVT) LTD, 2019) P. 1764.

⁷⁹ A female given in marriage to one of the members of the deceased's family for settling enmity. It has remained a part of the pashtun culture for centuries. See Dr. Kheyal Bukhari and others, *Pakhto Academy Lughat*, (Fast Tracking Communication (PVT) LTD, 2019) P. 1016.

⁸⁰ In Pashtoon culture, it refers to compulsory exile of aggressor party from native village or town, by council of elders, as a part of compromise between parties. It may be either permanent or temporary. It is also called *Shruntob*. See Dr. Kheyal Bukhari and others, *Pakhto Academy Lughat*, (Fast Tracking Communication (PVT) LTD, 2019) P. 1077.

17. Qualities of a Researcher

Research requires a particular aptitude. A good academician might not be a good researcher. For conducting research, some essential qualities and capabilities are required. These may be summarized as below;

- a) **Ambition for Knowledge.** It creates inclination towards getting of information and data, e.g concessive questioning of Khizar (AS) by Prophet Musa (AS), inquiring him about his apparent unwarranted acts.
- b) **Ability to think and analyze critically and differently.** For instance, Newton discovery of gravitational force of the Earth, was result of such thinking.
- c) **Patience and perseverance.** A researcher must possess a high degree of patience. At times, a researcher has to face continuous failures, so, they would need to carry on, and should not lose their temper and courage. He should always bear in mind that research needs the heart of a lion, curiosity of an eagle, persistence of a tortoise, and patience of a camel. A researcher should believe on "*Pewasta Reh Shajar Se Ummid-e-Bahar Rakh*"⁸¹. Louis Pasteur, renowned French chemist and microbiologist, is a perfect example of how failures can pave way to groundbreaking success. Despite facing numerous setbacks, his persistence and scientific curiosity led to discoveries that revolutionized medicine and biology. Second example is that of Jabir Bin Hayyan, known as "Father of Chemistry", an eighth century Muslim chemist and scientist whose experiments, many of which failed, laid the groundwork for modern chemistry. His struggles and persistence transformed alchemy into a systematic science. Yet another best example is that of Thomas Edison. His relentless quest to invent electric light bulb was a marathon of perseverance, requiring over 2,000 experiments before achieving success. When a reporter questioned how he endured so many apparent failures, Edison replied, "I faced no failure. It took me 2000 steps to achieve the goal. I have discovered one mechanism that keep the bulb working constantly, and that I have discovered 1999 mechanisms that keep the bulb working but not constantly"⁸².

⁸¹ *Hold fast to a tree, and you shall witness Spring.*

⁸² <https://medium.com/motivationapp/learn-from-mistake-fac4074e47cd>, last visited on 14.07.2025.

- d) Ability to present facts in a proper sequence and maintain coherence.
- e) Diligence: A researcher does not easily accept every received data or information and always asks for reason and rationale. Imam Ghazali (1058–1111 CE), a great Islamic theologian, philosopher, and mystic, emphasized critical thinking, skepticism, and intellectual humility in pursuit of knowledge. One of his key principles, particularly in his famous work "Deliverance from Error" (*Al-Munqidhmin al-Dalal*), is that a true researcher must doubt and question before accepting any claim. He explained further that *the one, who does not doubt, does not bother. The one, who does not bother, does not think over, and the one who does not possess thinking faculty, would remain in ignorance.*

Shariah prohibits accepting and believing each and every information, received. Islam emphasizes verifying news before sharing. Allah the Al-mighty directs as under;

“O believers, if an evildoer brings you any news, verify ‘it’ so you do not harm people unknowingly, becoming regretful for what you have done.”⁸³

Besides, a researcher is bound to share a well-founded opinion which must be based validation of data received. Following saying of the Holy Prophet Muhammad (SAW) provides guidance;

*“It is enough for a man to prove himself a liar when he goes on narrating whatever he hears”.*⁸⁴

The hadith encourages authentication of information received, critical thinking, and responsibility in expression. Imam Ghazali’s principle of *doubt before acceptance* is aligned with the ruling in the hadith.

⁸³ Surah Al-Hujurat 49:6 (Khattab, M. *The Clear Quran: A thematic English translation* accessible on <https://quran.com/>)

⁸⁴ Al-Qushairi, Muslim b. Al-Hajjaj, *Sahih Muslim*, Hadith 5, Damascus: Mua’ssah al-Risalah, 2013.

18. Legal Research

Legal research does not differ from other forms of research as far as fundamentals of research are concerned. In other types of research, data analysis might relate to any discipline of social or natural sciences. It must be noted that in legal research, the questions and data must pertain to legal concepts, resources, and authorities. For example, research on the causes of air pollution in Peshawar city is not legal research, but research on inefficacy of the law on the subject (the Khyber Pakhtunkhwa Environmental Protection Act, 2014) would be legal research. Similarly, research on question that ‘In what situations and under what circumstances, a divorced woman could be allowed to observe *iddat* in some other place instead of her ex-husband’s house?’ would not be legal research, however, research on marriage of divorcee during *iddat* would be, no doubt, legal research. Similarly, in absence of any legislation, research on observing *iddat* by a husband would not be legal research⁸⁵. More specifically, research on the Law-giving verses or provisions of the holy Quran and Sunnah only will be legal research⁸⁶. Therefore, legal research can be defined as ‘the systematic process of identifying, analyzing, and interpreting legal principles, legal propositions, provisions, statutes, case law, regulations, and secondary sources (text books, law books, journals and periodicals, scholarly articles, reports and recommendations of seminars, conferences and workshops, legal dictionaries, and much more) to resolve a legal question or support a legal argument’. In legal research, all canons of interpretations are various modes of research, through which legal provisions are analyzed, construed and applied.

Legal research is a foundational skill for lawyers, judges/*qazis*, policymakers, and scholars, to ensure that legal decisions are grounded in authoritative and up-to-date sources. The

⁸⁵There are circumstances where a husband shall wait till the completion of *Iddat* of divorcee and shall refrain from entering into a subsequent contract of marriage. For example, when a husband divorces his wife, he shall cannot marry the divorcee's sister during her *iddat*. However, if he does so, then in the absence of any legislation, neither civil nor criminal liability shall arise. He would be sinful only. Similar, will be the case of a husband having four wives when he divorces one of them. (Salih, Abd-ul-Ghaffar, *Al-Raja'atu fi Al-Fiqh Al-Islami*, Pp.286, 287, 289, Cairo: Dar Al-Nahdah-Al-Misriyyah, 1979).

⁸⁶There are approximately 6666 verses in the Holy Quran out of which 500 to 600 are law- giving. *Ibn al-Arabi* (a Maliki scholar) identified 500 verses on legal rulings. *Al-Suyuti* (a Shafi'i scholar) estimated around 550 verses, whereas Modern scholars like *Muhammad Ali al-Sabuni* also support this range. However, the most accurate number would be between 300-400 which amounts to 5-6 % of the Holy Quran. Further breakdown will be as; Civil Law 70-100 verses, Family Law 70-80 verses, Criminal Law 30-50 verses, International Law 50-70 verses, and Constitutional Law 20-30 verses. See for further details Niazi, Imran Ahsan, *Islamic Jurisprudence* P, 161, Islamabad: Islamic Research Institute, 2010.

process typically begins with defining the research problem, followed by locating primary sources (e.g., constitutions, legislation, judicial precedents) and secondary sources (e.g., legal commentaries, law review articles). Researchers use both traditional methods (e.g., law libraries, digests, journals) and modern digital tools (e.g., legal databases, law sites like Westlaw, LexisNexis, Pakistan Law Site or free platforms like Google Scholar and government repositories) to collect relevant materials. Critical evaluation of sources is essential to determine their validity, accuracy, relevance, and jurisdictional applicability. Legal research also involves synthesizing findings to construct coherent arguments, anticipate counterarguments, and apply the law to specific factual scenarios. Advanced research may include comparative analysis (examining laws across jurisdictions) or interdisciplinary approaches (integrating insights from economics, sociology, or political science). Proper citation (e.g., Bluebook, OSCOLA, or APA style) ensures academic integrity and facilitates verification. Effective legal research enhances legal drafting, presentation skills, litigation strategy, policy formulation, and scholarly discourse, making it indispensable for justice, governance, and the rule of law. Continuous updates are crucial due to evolving legislation and judicial interpretations, emphasizing the need for dynamic and meticulous research methodologies.

A few examples of legal research are given below;

- 1- The question is: what constitutes the actual period of 'iddat' for a pregnant divorcee?

The relevant provisions are the following verses;

“And divorced women shall wait (as regards their marriage) for three menstrual periods, and it is not lawful for them to conceal what Allah has created in their wombs, if they believe in Allah and the Last Day. And their husbands have the better right to take them back in that period, if they wish for reconciliation. And they (women) have rights (over their husbands as regards living expenses, etc.) similar (to those of their husbands) over them (as regards obedience and respect, etc.) to what is reasonable,

but men have a degree (of responsibility) over them. And Allah is All-Mighty, All-Wise.”⁸⁷

“As for your women past the age of menstruation, in case you do not know, their waiting period is three months, and those who have not menstruated as well. As for those who are pregnant, their waiting period ends with delivery. And whoever is mindful of Allah, He will make their matters easy for them.”⁸⁸

Now, a researcher, through proper analysis and conciliatory interpretation, can conclude as under;

As a general rule, under the first provision, the period of *iddat* for a divorcee is the completion of three menstrual cycles. But if a divorcee is pregnant, then under the second provision, the period would continue until the termination of pregnancy. Further, if a divorcee has crossed the age of menstruation, then period of the *iddat* would be three months.

2- The question is: when a criminal trial commences?

The relevant provisions of Code of Criminal Procedure (CrPC) are provided as under;

“241-A. Supply of statements and documents to the accused. ___

(1) In all cases instituted on police report, except those tried summarily or punishable with fine or imprisonment not exceeding six months, copies of statements of all witnesses recorded under sections 161 and 164 and of the inspection note recorded by an investigation officer on his first visit to the place of occurrence, shall be supplied free of cost to the accused not less than seven days before the commencement of the trial.”⁸⁹

“265C. Supply of statements and documents to the accused. ___

(1) In all cases instituted upon police report, copies of the

⁸⁷ Al-Baqarah: 228.

⁸⁸ Al-Talaq: 04.

⁸⁹ Section 241-A, Code of Criminal Procedure

following documents shall be supplied free of cost to the accused not later than seven days before the commencement of the trial, namely:

- a) The first information report,
- b) The police report,
- c) The statements of all witnesses recorded under sections 161 and 164; and
- d) The inspection notes recorded by an investigation officer on his first visit to the place of occurrence and the note recorded by him on recoveries made, if any.”⁹⁰

“242. Charge to be framed. When the accused appears or is brought before the Magistrate, a formal charge shall be framed relating to the offence of which he is accused and he shall be asked whether he admits that he has committed the offence with which he is charged.” ⁹¹

“265-D. When charge is to be framed? If, after perusing the police report or, as the case may be, the complaint, and all other documents and statements filed by the prosecution, the Court is of opinion that there is ground for proceeding with the trial of the accused it shall frame in writing a charge against the accused.”

⁹²

Study and analysis of the provisions would lead the researcher to the conclusion that criminal trial commences with framing of charge. This research is necessary because the word trial has been used in many other provisions such as section 540-A CrPC and section 7 of the Illegal Dispossession Act 2005.

3. The question is: whether a police officer can arrest without a warrant?

⁹⁰ Section 265 -C, Ibid

⁹¹ Section 242, Ibid

⁹² Section 265-D, Ibid

The relevant provisions are sections 54, 55, 56 and 57 CrPC. A study of these provisions would lead to an affirmative answer to the question. The interpretation of these sections would reveal that, as a rule, police cannot arrest someone without a warrant, however, it may arrest without warrant in exceptional circumstances.

4. The question is: whether an accused involved in a non-bailable offence, as the expression 'non-bailable' apparently conveys, cannot be released on bail?

A proper analysis and meaningful interpretation of section 497 CrPC would reveal somewhat different meaning of the phrase 'non-bailable', distinct from its ordinary connotation. Meaning thereby, that an accused in such cases can be released on bail, however, concession of bail cannot be claimed as a matter of right. Moreover, a deeper study of the provision would lead to the conclusion that as a rule, an accused be released on bail, and that concession of bail could be refused as an exception. The logic rests upon the principle that an accused should not be deprived of basic liberties until proven guilty.

5. The question is: whether a plaintiff can be allowed to make an amendment in plaint, converting the form of suit?

The relevant provision is Order VI, Rule 17 of the Code of Civil Procedure, which flows as under:

‘The Court may at any stage of the proceedings allow either party to alter or amend his pleadings in such manner and on such terms as may be just, and all such amendments shall be made as may be necessary for the purpose of determining the real questions in controversy between the parties.’⁹³

Proper interpretation, meaningful construction, and systematic analysis of the provision would result that the lawmakers have not separately mentioned the two phrases ‘alter and amend’ as otiose. They have rather intentionally used the phrases for different meanings. The term ‘alter’ is more generic than the term ‘amend’. As such, it may be concluded that the court under the umbrella of ‘alter’ may allow a plaintiff to make minor changes, and even such major changes that might change form of the suit, provided there is no change in

⁹³Order VI, Rule 17 Code of Civil Procedure.

the cause of action. Therefore, subject to the above limitation, a suit of declaration may be converted into a suit of specific performance and the *vice versa*. However, altering or changing the form of a suit should not be confused with altering or changing the nature of a suit. It is the change in the cause of action that changes the nature of the suit, which cannot be allowed. Other changes, that change form of the suit, can be allowed in appropriate cases.⁹⁴ Importantly, while disposing of an application of either party for alteration or amendment, court is required to focus on a single point whether amendment or alteration is necessary for determining real questions in controversy between the parties.⁹⁵

6. The question is: what is the minimum duration of termination of pregnancy for ascertaining legitimacy?

The relevant provisions are as under;

“Mothers will breastfeed their offspring for two whole years, for those who wish to complete the nursing (of their child). The child’s father will provide reasonable maintenance and clothing for the mother (during that period). No one will be charged with more than they can bear. No mother or father should be made to suffer for their child. The (father’s) heirs are under the same obligation. But if both sides decide—after mutual consultation and consent—to wean a child, then there is no blame on them. If you decide to have your children nursed by a wet-nurse, it is permissible as long as you pay fairly. Be mindful of Allah, and know that Allah is All-Seeing of what you do.”⁹⁶

“We have commanded people to honour their parents. Their mothers bore them in hardship and delivered them in hardship. Their (period of) bearing and weaning is thirty months. In time, when the child reaches their prime at the age of forty, they pray,

⁹⁴ Nature of the Suit refers to the substantive aspect—what the case is fundamentally about. It could be a civil suit, criminal suit, family dispute, property claim, or contractual disagreement. This determines the legal principles and laws applicable to the case. Whereas Form of the Suit refers to the procedural aspect, how the case is structured and presented in court. This includes the format of the plaint, the parties involved, and compliance with procedural requirements under the Code of Civil Procedure (CPC), 1908.

⁹⁵ See for further details PLD 1985 SC 345, *Mst. Ghulam Bibi & others vs Sarsa Khan & others*.

⁹⁶ Al-Baqarah: 233 (Khatab, M. *The Clear Quran: A thematic English translation* accessible on <https://quran.com/>)

“My Lord! Inspire me to (always) be thankful for Your favours which You blessed me and my parents with, and to do good deeds that please You. And instill righteousness in my offspring. I truly repent to You, and I truly submit (to Your Will).”⁹⁷

Again, study of both the verses would reveal that the total duration of the pregnancy and weaning is thirty (30) months. During this period, two years (twenty-four months) are prescribed for suckling, while remaining six months constitute the minimum period for termination of legitimate pregnancy. This research led to introduction of Article 128 of the Qanun e Shahdat Order.⁹⁸

⁹⁷ Al-Ahqaf: 15, ibid

⁹⁸ Article 128 of QSO provides;

“The fact that any person was born during the continuance of a valid marriage between his mother and any man and not earlier than the expiration of six lunar months from the date of the marriage, or within two years after its dissolution, the mother remaining unmarried, shall be conclusive proof that he is the legitimate child of that man, unless –

- (a) The husband had refused to own the child ; Or
- (b) the child was born after the expiration of six lunar months from the date on which the woman had accepted that the period of iddat had come to an end.”

19. Legal Research in Judicial Proceedings and Academic Pursuits

A judge or *qazi*, while conducting judicial proceedings, is bound to follow and implement judgments and precedents of higher forums, particularly when these determine question of law or legal principle. However, during research in non-judicial endeavours, difference of opinion with a judgment can be expressed on basis of solid arguments. Further, during such a research, preference can be given to opinion of the dissenting judge or judges of a larger bench or a full court. The following examples would further elaborate the argument.

Example No. 1

The question is: Whether limitation for filing a revision petition under *Sharai Nizam-e-Adl Regulation 2009* is 30 days?

The Peshawar High Court maintained the period as thirty days as per Clause 10 (8) of the Regulation, 2009. Decision of the High Court was impugned before the hon'ble Supreme Court of Pakistan, which resolved that the limitation would be governed under 115 CPC. The following abstract is relevant⁹⁹;

"Heard. We find that there is no provision in the Regulation, 2009 providing for revision against the orders passed by the learned Additional District Judge, thus it (revision) had to be filed by the aggrieved party in terms of Section 115 of the CPC read on the basis of Clause 3 of the Regulation, 2009 and Clause 3 (read with Item No. 1 in the Schedule) of the Regulation, 1974. When a revision is filed before the learned High Court in terms of the CPC, the period of limitation inbuilt in the said section, i.e. 90 days, would also be attracted. The learned High Court erred in holding that the period of 30 days provided in Clause 10 (8) of the Regulation, 2009 would be applicable to revisions because it is clearly mentioned in the said provision that "An appeal or revision under this Regulation

⁹⁹Civil Appeal No. 217-P of 2014, Cross Reference: Muhammad Shereen v Muhammad Rasool Khan, CR 1154-P/2010 (Peshawar High Court, Dar ul Qaza / Mingora Bench, March 7, 2023)

shall be filed within thirty days..." whereas this is not a revision available to a party under the provisions of the Regulation, 2009 but the CPC resultantly the limitation period of 90 days prescribed by Section 115 supra is the relevant period. Therefore, it is held that the appellants' revision was within time. In the light whereof, this appeal is allowed, the impugned judgment is set aside and the matter is remanded to the learned High Court to decide the revision on merits."

Now, a judge or qazi, while conducting judicial proceedings, would be bound to follow and implement judgment of the apex court. However, in non-judicial proceedings and in their capacity as researchers, they may differ from the rationale advanced by the august Supreme Court, and may prefer the opinion and reasoning of the learned judges of the High Court, supporting their claim through application of diverse techniques of interpretation. These include history, context, and need of promulgation of the *Sharai Nizam-e-Adl* Regulation 2009, removal of mischief in the previous law, repeal of *Sharai Nizam-e-Adl* Regulation 1999, meetings and discussions held by the relevant Commission with different stakeholders, special circumstances of the area at that time, focus on curbing of delays in disposal of cases, lengthy, belated and hierarchical nature of proceedings, prevalence of special law over general law, and similar other sources¹⁰⁰.

Example No. 2

Military courts for terrorism-related cases were established through 21st Amendment in the Constitution. It was challenged before the august Supreme Court which upheld it by a majority of eleven to four. The majority justified it as a temporary necessity following the Peshawar School Attack in the year 2014, considering the argument of the government regarding dysfunctional nature of regular civilian courts when dealing with terrorism cases. However, the dissenting opinion argued that military courts violated judicial independence and the basic structure of the Constitution, stripping accused individuals of due process (Articles 9, 10A, 25). It emphasized that the problem lay in investigative and prosecutorial

¹⁰⁰ For further details, see SM Zafar, *Understanding Statutes: Canons of Construction*, Edition 2008, Lahore: PLD Publishers, pp. 351-432.

failures, not in the judiciary itself, and warned against sacrificing fundamental rights for expediency.¹⁰¹

Now, are searcher may agree or differ with opinion of the majority or dissenting judges on basis of force and strength of their arguments and reasons. However, in both situations, adherence to research ethics is required to be ensured.

¹⁰¹ *District Bar Association vs Federation of Pakistan* (PLD 2015 SC 401).

20. Significance of Research Legal & Judicial Performance

The primary duty of a judge or qazi is to administer justice by resolving disputes, whether criminal or civil. Judicial process involves several stages: identifying the issues or points of controversy, analyzing evidence, interpreting law, and finally, delivering a reasoned judgment. Each of the stages demands extensive research skills. A judge or qazi, who neglects thorough legal research, risks rendering flawed decisions and, therefore, undermines the very foundation of justice. Without proper research, judiciary may inadvertently perpetuate injustice rather than dispensing it.

Similarly, lawyers must possess strong research capabilities to represent their clients effectively. A competent lawyer is expected to examine statutes, relevant case laws, and legal principles to construct persuasive arguments. Failure to conduct comprehensive legal research may result in inadvertent omission of essential precedents or misapplication of the governing law. It may undermine strength of case and potentially lead to unjust outcomes. Moreover, laws and judicial interpretations evolve continuously, therefore, lawyers must remain abreast of such developments through consistent research to provide legal accurate advice and assistance to courts in reaching fair decisions. Diligent research is indispensable for ensuring justice, while conducting human rights advocacy, corporate litigation, criminal defense, or any other branch of legal practice.

For law and policymakers, and law commissions, research is equally vital. Laws must adapt to societal changes, and research helps identify deficiencies, ambiguities, contradictions, or outdated provisions, that necessitate reform. For instance, empirical studies on domestic violence might reveal gaps in legal protections, prompting legislative amendments. Similarly, research on reconciliation mechanisms in family law, *Khula* proceedings, alternative dispute resolution (ADR), procedural laws like Section 164 CrPC (recording defense evidence), recording and considering the statement of parties (civil causes) as evidence, interpretations of Article 163 of the *Qanoon-e-Shahadat Order*, and application of Section 340(2) CrPC, can lead to more informed legal reforms. Governments and law commissions rely on data-driven research, comparative legal analyses, and expert consultations to draft effective legislation. Without such research, legal reforms risk being based on conjecture rather than empirical evidence, resulting in ineffective or even detrimental laws.

Thus, research serves as the backbone of a functional and fair legal system. It equips legal professionals with the knowledge to make sound decisions, drives meaningful legislative reforms, and enhances judicial efficiency, ultimately fostering a just and equitable society. Continuous investment in legal research is indispensable for progressive development of justice system.

21. Analysis

Preceding discussion identifies analysis as core element of research though its nature was not explained. The following section shines light on what analysis is and how it is conducted.

Analysis is the process of breaking down complex information into smaller, simpler, manageable parts to understand its structure, meaning, and relationships. It is also known as dissecting data, separating it into different parts, determining literal meaning of words and phrases, understanding linguistic mechanics¹⁰², grammatical connotations¹⁰³, meaning of each part in isolation, and collective meaning of the data (legal provision, legal proposition, legal concept/principal judgment, statute). The process involves not only ordinary thinking, rather requires the capability of critical thinking.¹⁰⁴ The ability to think critically is most innate; nevertheless it can be cultivated and strengthened through consistent practice, hard work and training.

Example: Analysis of section 540 of Code of Criminal Procedure.¹⁰⁵ The section is reproduced below;

“540. Any Court may, at any stage of any inquiry, trial or other proceeding under this Code, summon any person as a witness, or examine any person in attendance, though not summoned as a witness, or recall and re-examine any person already examined; And the Court shall summon and examine or recall and re-examine any such person if his evidence appears to it essential to the just decision of the case.”

¹⁰² The term mechanics in the English language refers to all the technical rules that make up grammar and syntax. It covers aspects of language such as word order, punctuation, capitalization, and spelling <https://www.twinkl.com.pk/teaching-wiki/mechanics-in-the-english-language> (last accessed on 05.05.2025).

¹⁰³ Connotations are meanings and interpretations that do not particularly associate with the literal meaning of the words but have an added layer of meanings. These meanings are often derived from emotional or incidental relations with the words concerned. (<https://www.learngrammar.net/a/connotations-definition-types-with-examples>, last accessed on 05.05.2025).

¹⁰⁴ Critical thinking is the skill of carefully analyzing information, questioning assumptions, and making reasoned judgments rather than just accepting things at face value. It involves logic, fairness, and open-mindedness to reach the best possible outcome. Critical thinking leaves no room for blind following. (Critical Thinking: What it is, and Why it Counts? a scholarly article by Facione, P.A, 2011, available at <https://www.law.uh.edu/blakely/advocacy-survey/Critical%20Thinking%20Skills.pdf>, last accessed on 09.05.2025).

¹⁰⁵ This analysis is quite brief because it only aims to introduce beginners with the process of analysis. One can author a comprehensive article on the Section, expanding the synopsis (breakdown), and discussing the case law on the subject.

Breaking down:

- In this section, word '*any*' is repeated seven times to extend powers of court to all situations and circumstances.
- Name of a person may not be appearing in column of witnesses, however, court may summon such person for evidence.
- A person already examined may also be recalled and re-examined.
- In administration of criminal justice, court may either conduct an inquiry, trial or any other proceedings.
- The phrase '*any other proceeding*' has generalized scope of the provision. Hence, it would include all other criminal proceedings under the Code which do not fall within purview of inquiry or trial, such as proceedings under Sections 174 (exhumation and disinterment), 517 (disposal of case property), 491 (directions of the nature of *habeas corpus*, etc).
- In beginning of the section, the term '*may*' is used, while in its concluding part, the auxiliary '*shall*' appears. Both connote different meanings.
- While invoking the provision, sole focus should be on just decision of the case.
- The word '*witness*' has been used in unqualified terms. It does not only refer to prosecution evidence (as has been misunderstood by many), rather it also includes evidence of defense, if any, as well. Further, it is not necessary that recalling and reexamining of a prosecution witness will always benefit prosecution or defense.
- The phrase '*just decision of the case*' does not necessarily suggest success of case of prosecution. The word '*case*' has a general meaning. A just decision of case may bring any of the results, conviction or acquittal.

Conclusion:

To arrive at just decision of case, court should exercise its discretionary powers for digging out truth, irrespective of whether it benefits or disadvantages a party. Once court decides that summoning, recalling, or reexamining of a witness is necessary for just decision, it must summon the witness irrespective of other considerations. These may include belated stage, previous abandonment of witness, and possibility of filling up of gaps of prosecution evidence or strengthening case of defense, or prolonging the trial. To reach truth, enabling provisions should be fully utilized, while keeping an eye on the exploitation of the provision

by either party. Again, first and foremost, '*just decision of the case*' should be central pivot for invoking the provision.

Note: Method of analysis in legal research is known as IRAC (Issue, Rule, Application, and Conclusion).

The following, propositions can be considered for analysis;

- Whether, during course of investigation, and after insertion of sub-section (1-A) in section 164 CrPC through Law Reforms Ordinance 1972, statements of witnesses of accused can be recorded, and be made part of the investigation?

This would involve analysis of section 164 CrPC, section 169 CrPC, case law on the subject before and after the amendment, substantial difference between an Investigation and Inquiry, principle of non-interference with investigation, difference between fair trial and fair investigation and critical study of similar other questions.

- Whether in absence of any material in evidence of prosecution against accused, mere recording of statement under section 342 CrPC, and acquittal of accused in all cases other than *hudood* on the basis of insufficient evidence, without invoking provisions of Section 340(2), is against the law and procedure or otherwise?

This would involve analysis of section 342 CrPC with focus on its sub-section 4 as substituted by Ordinance XXVII of 1985, intention behind insertion of section 340(2) CrPC, difference between evidence in proof and evidence in the disproof, confinement of the scope of section 340(2) to accused alone and exclusion of defense witnesses from its ambit,¹⁰⁶ case-law on the subject with special reference to cases reported in PLD 1991 FSC 135, NLR 1995 SD 720, PLJ 1996 Cr.C (Karachi) , NLR 1991 SD 217, PLD 1988 Lahore 369 and PLD 1986 Lahore 222.¹⁰⁷

¹⁰⁶ The provisions for recording of defense evidence are contained in Sections 244 & 265-F (4) CrPC.

¹⁰⁷ Gone are, therefore, the days when a person accused could be content with a general denial of the crime alleged and when the plea of not guilty was equivalent to saying "Let the prosecution prove its case", and having said so much could take refuge in silence. Now, he must give evidence on oath in disproof of the charges or allegations made against him, and if does not, he should be prepared for an adverse presumption to be raised against him. The provision of Section 340(2) CrPC is not *ultra vires* of Article 13(b) of the Constitution, and is not in contradiction with Article 44 of the Qanun-e- Shahadat Order. [M. Mahmood, *The Code of Criminal Procedure* , 2:1317, Lahore: Al-Qanun Publishers, 2013].

Also see the following:

By substituting the provision of section 340(2), Cr.P.C., there seems to have been made a radical departure from the age old common law concept, which has been in vogue in this Sub Continent for over a century that in criminal

It would also involve discussion on modes of proof in Shariah or Islamic Law. According Islamic Law denial from oath, both in civil and criminal cases (with the exceptions of Hudood cases and *Lian* proceedings), is sufficient to draw an adverse inference against accused. Under Islamic Law and its Jurisprudence, burden of proof lies on plaintiff, complainant, or prosecution, and when such burden could not be discharged, then burden of disproof shall lie on accused or defendant. The principle is based on hadith of Prophet Muhammad (SAW);

“Burden of proof / Evidence for proof lies on the claimant (civil or criminal), and burden of disproof (Yameen/oath) lies on the one who denies¹⁰⁸”

As such, section 340 (2) CrPC reflects the second part of the above hadith.

- Similarly, analysis of section 363 CrPC (remarks respecting demeanour of witness) can be made.

administration of justice the entire burden has been on the prosecution to prove and bring home the guilt to the accused. If the prosecution fails to produce requisite evidence, accused goes scot free, and in case of civil liability the suit against the defendant stands dismissed. Under the Islamic Law, since every one is the best judge of his conscience and is ultimately answerable before Allah the Almighty, and according to Faith is liable to punishment is the World Hereafter for all his wrongs and misdeeds, an accused/defendant is burdened with taking an oath of denial after the prosecution/plaintiff's evidence is closed. For offences liable to Ta'zir the Qazi shall require the accused to make statement on oath. Let it be noted that under the Islamic Law, as has come down to us through centuries, the oath was to be administered either on the demand of the plaintiff or by the Court itself. In Pakistan under the aforesaid provision of section 340(2), Cr.P.C., looking to the conditions prevailing in the society, it has been made incumbent on the Court to give oath to the accused in all situations as contained in the books of Fiqh that the oath of denial shall be administered by the Qazi on his own or on the demand of the complainant, for insufficient evidence has been done away with. It is an example of making Ijtihad in the age old doctrine of Fiqh by the Legislature in Pakistan: "PLD 1991 FSC 135

I do not find any merit in the contention that the provisions of sub-section (2) of section 340, Cr. P. C. were ultra vires of Article 13(b) of the Constitution. Subsection (2) does not compel an accused person to be a witness against himself. It only makes an accused to make statement on oath in disproof of the charge/allegation against him. Even otherwise the vires of the legislation cannot be challenged collaterally or incidentally before this Court in exercise of its revisional jurisdiction.

The argument that even if the statement of accused is not recorded on oath under the amended section 340(2), Cr. P. C. then also it only is an irregularity curable under section 537, Cr. P. C. is without any merit. The provisions of subsection (2) of section 340, Cr. P. C. as amended by Ordinance XII of 1985 are mandatory provisions of law. The recording of K the statement of accused on oath has been made a part of the procedure of the trial. The omission to record such statement would be an illegality and not an irregularity curable under section 537, Cr. P. C. It is not for the accused to request the Court during the trial that his statement should be recorded. It is for the Court itself to record, the statement of accused under this provision of law: PLD 1986 LAH 222

It is significant to note that the appellant has categorically refused to give statement on oath as required under section 340(2) Cr.P.C., probably for fear of being subjected to cross examination. This also leads us to draw an inference in favour of prosecution. In result, the appeal is dismissed, conviction and sentences awarded by the trial court are maintained. The appellant, who is on bail and present in Court, is to be taken into custody and sent to Jail to serve out the remaining sentences: NLR 1991 SD 217

¹⁰⁸ Sunan al-Tirmizi, hadith No. 1341.

- Further, Article 163 of *Qanun-e-Shahadat Order*, 1984 can be analyzed and compared with the relevant provisions of Oath Act, 1873.

22. Research Ethics

Like any other discipline, research demands adherence to proper conduct. Research ethics are fundamental across all disciplines and are often guided by international frameworks, such as the Belmont Report and the Declaration of Helsinki. A researcher must have the following qualities and must avoid corresponding shortcomings;

- a) **Integrity and honesty:** A researcher must give due credit to other writers for their work, report accurately and cite originator of an opinion. Misappropriation and plagiarism must be avoided. This would earn credibility to the research.¹⁰⁹
- b) **Justness:** A researcher shall properly present opposing opinions, stating the opinions completely, providing arguments for the opinions and for their rejection in a just, unbiased and impartial manner, without any prejudice.
- c) **Respectfulness:** A researcher must acknowledge the work of previous writers, appreciating their efforts and contributions. Critique must be exercised with restraint, fairness and respect, avoiding unnecessary and disparaging observations or remarks on works of previous scholars.
- d) **Beneficence:** A researcher must act with kindness and gentleness and avoid harm to others. Where some harm is collateral or unavoidable, it should be minimized to the fullest possible extent.
- e) **Rectification of mistakes:** A researcher must not hesitate to rectify deficiencies and mistakes promptly upon their discovery.
- f) **Avoiding self-exposure:** A researcher must avoid use of first-person pronouns such as *I* and *We*.¹¹⁰ Similarly, they should refrain writing categorical statements like 'this opinion is wrong'; instead they should consider writing 'this opinion seems to be incorrect for the following reasons'.
- g) **Informed Consent:** Ensuring that participants are fully informed about the purpose, methods, risks, and benefits of research and that they voluntarily agree to participate.

¹⁰⁹ At times, a researcher may not agree with previous researchers on a subject due to their unpopular views, writings or their controversial nature, however, their work must be reflected or criticized in a sober manner. Such situations may arise in during any part of research, however, these usually occur during literature review.

¹¹⁰ The pronouns *I* and *We* could be used where no other option remains. For example, in explaining Research Methodology, at times, the researcher, under the state of compulsion, would use these pronouns. For further clarity, make recourse to 11.4 supra, in the main document.

- h) **Confidentiality and Privacy:** Protecting personal information of participants and maintaining their privacy throughout research process.
- i) **Justice and fairness:** A researcher must present reasons and conclusions fairly. The outcome of research should be published in full, with no part concealed or withheld.

23. Sample of Research Articles and Research Proposals

The structuring of a research article has been discussed above, however, for further assistance, sample research articles and research proposals are provided in Appendix-A and Appendix-B, respectively.

These include research articles and proposals authored by learned judges. They serve as useful models, offering guidance on topic selection of article or thesis, abstract of research, and structuring introductions, analysis or investigation of issues, style of referencing and framing conclusions, recommendations and suggestions.

Appendix - A

Research Articles

S.No	Title	Author	Link
1	'War on Terror' and Rights-Based Approach to Development.	Justice Dr. Khurshid Iqbal Honorable Judge PHC	http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2322224
2	Re-Conceptualizing the Right to Development in Islamic Law.	Justice Dr. Khurshid Iqbal Honorable Judge PHC	http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2310198
3	Tracing the concept of ADR in Shariah and Law; A comparative Study.	Dr. Qazi Ataullah Senior Director (R &P) KPJA	https://hamdardislamicus.com.pk/index.php/hi/article/view/107
4	What Goes Wrong with the Meaning, Legislation, and Functioning of Mediation in Pakistan? (Pointation and solutions).	Dr. Qazi Ataullah Senior Director (R &P) KPJA	https://pu.edu.pk/images/journal/studies/PDF-FILES/Article-4_v18_2_Dec17.pdf
5	The Role of Informal Agricultural Finance in the Development of Local Farming in Khyber Pakhtunkhwa (Pakistan): A Critical Analysis.	Dr. Qazi Ataullah Senior Director (R &P) KPJA	https://pjss.bzu.edu.pk/index.php/pjss/article/view/547
6	Arbitration; Legislation, Scope, and Functioning in Pakistani Legal System: A pragmatic Approach in Law and Shariah.	Dr. Qazi Ataullah Senior Director (R &P) KPJA	https://www.al-idah.pk/index.php/al-idah/article/view/37
7	The Concept of Alternative Dispute Resolution (ADR) & it's Evolution in the Legal Systems of the World and Shariah: A Historical Analysis.	Dr. Qazi Ataullah Senior Director (R &P) KPJA	https://pjir.bzu.edu.pk/article/file/download
8	Tracing the Concept of Negotiation in Law, Pakistani Legal System and Sharī'ah (Islamic Law) (A Comparative Study).	Dr. Qazi Ataullah Senior Director (R&P) KPJA	https://pu.edu.pk/images/journal/jihat-ul-islam/PDF/22_v11_1_17.pdf
9	Sulh- Facts and Effects in Sharī'ah and Law vis-a-vis Efficacy of Pakistani Statutes, and Efficiency of the Judges	Dr. Qazi Ataullah Senior Director (R&P) KPJA	Hamdard Islamicus, Hamdard University, ISSN: 0250-7196 Scopus Indexed Journal

10	Mediation: Application and functioning under Shariah and Law	Dr. Qazi Ataullah Senior Director(R&P) KPJA	Journal of Islamic Studies, International Islamic University Islamabad ISSN: 0578-8072
11	Women's Right to Inheritance in Sharī'ah: Flaws lie in the Society and Judicial System of Pakistan, not in Law on the Subject (A Realistic Jurisprudential Approach)	Dr. Qazi Ataullah Senior Director(R&P) KPJA	Journal of Islamic & Religious Studies, University of Haripur ISSN: 2518-5330 https://jirs.uoh.edu.pk/index.php/JIRS/article/view/25
12	Arbitration (Taḥkīm) in Islamic and Pakistani Law: A Comparative Study	Dr. Qazi Ataullah Senior Director(R&P) KPJA	Journal of Islamic Studies, International Islamic University Islamabad, ISSN: 0578-8072, http://irigs.iiu.edu.pk:64447/ojs/index.php/islamicstudies/article/view/1555
13	Judicial Delays In Pakistan: Historical Roots, Contemporary Challenges, And Reform Pathways	Muhammad Shoaib D&SJ/Zilla Qazi	https://doi.org/10.5281/zenodo.15390416
14	Comparative Analysis of Alternative Dispute Resolution Laws in Pakistan: its Adaptation, Procedure and Compatibility	Hamaish Khan Civil Judge/ Judicial Magistrate/ Illaqa Qazi	https://ojs.ahss.org.pk/journal/article/view/10
15	Framing Legal Issues In Civil Suits: A Procedural Imperative For Fair Trial And Access To Justice	Hamaish Khan Civil Judge/ Judicial Magistrate/ Illaqa Qazi	P-ISSN: 3006-2632 E-ISSN: 3006-2640 Vol. 2. No. 02 (April-June) 2025 Page 206-212
16	Legal Framework for Promoting Environmental Justice in the Context of Climate Change: Highlighting Proactive Role of the Supreme Court of Pakistan	Riaz Aslam Daavi Senior Civil Judge/A'ala Illaqa Qazi	https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4900735
17	Changing Paradigms: Criminal Responsibility in Mental Health Laws of Pakistan and UN Conventions on the Rights of Persons with Disabilities	Hamaish Khan Civil Judge/ Judicial Magistrate/ Illaqa Qazi	https://ojs.jdss.org.pk/journal/article/view/295

18	Federalism and Causes of its Failure in Certain States	Dr. Muhammad Amir Nazir District & Sessions Judge / Zilla Qazi	https://qurtuba.edu.pk/thedialogue/the%20Dialogue/14_3/22.pdf
19	Realization of Women Rights in Pakistan	Dr. Muhammad Amir Nazir District & Sessions Judge / Zilla Qazi	https://qurtuba.edu.pk/thedialogue/The%20Dialogue/13_2/02%20139%20-152%20Riffat%20deeba.pdf
20	The Gift of Usufruct in Favor of Wife	Aziz Ahmad Tayyeb Civil Judge/ Judicial Magistrate/ Illaqa Qazi	https://sg.docworkspace.com/d/slCn67dbrAylBrMAG?lg=en-US&sa=601.1074&ps=1&fn=Article-4-Vol-1-No-3-140119%20(1).pdf
21	Impact of Knowledge of Law and Related Matters on Fair Trial in Backdrop of Plead Guilty	Sayyed Anees Badshah Bukhari District & Sessions Judge / Zilla Qazi	https://journals.qurtuba.edu.pk/ojs/index.php/thedialogue/article/view/8606
22	Faulty Procedure, Filthy Practices—the Mockery of Law at its Best	Asghar Ali Salarzai Senior Civil Judge/A'ala Illaqa Qazi	https://courtingthelaw.com/author/asghar-salarzai/
23	Triple Talaq in one Session: An Analysis of the Opinions of Classical, Medieval and Modern Muslim Jurists under Islamic Law	Dr. Muhammad Munir Ex Dean Faculty Shariah & Law, IIUI	https://papers.ssrn.com/sol3/papers.cfm?abstract_id=1826942
24	The Share of Orphaned Grandchildren under Islamic Law and Pakistani Legal System: A Re-evaluation of Representational Succession in Section 4 and Its (Mis)interpretation by Courts	Dr. Muhammad Munir Ex Dean Faculty Shariah & Law, IIUI	https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2435569
25	Balancing the Legitimate Interests of States: Exploring the Connection between the Principles of Universal Jurisdiction and Complementarily under the Rome Statute	Mazhar Ali Khan, Civil Judge/ Judicial Magistrate/ Illaqa Qazi	https://doi.org/10.35994/rhr.v10i1.255
26	Limitations For Domestic Jurisdiction Of States In The Post-UN International Legal Order: An ICL Perspective	Mazhar Ali Khan, Civil Judge/ Judicial Magistrate/ Illaqa Qazi	https://www.iiu.edu.pk/wp-content/uploads/2024/05/ILR-Vol-7-Issue-2-Article-4-210524.pdf

27	Conceptualizing the legal effects of jus cogens norms and erga omnes obligations under international law	Mazhar Ali Khan, Civil Judge/ Judicial Magistrate/ Illaqa Qazi	https://plcg.edu.pk/wp-content/uploads/2025/05/Issue-13.pdf
28	The Enforcement Mechanism of International Criminal Law: A Historical Analysis”, Al-Qirtas	Mazhar Ali Khan, Civil Judge/ Judicial Magistrate/ Illaqa Qazi	http://al-qirtas.com/index.php/AlQirtas/article/view/214/170 .
29	Islamization of Occupancy Tenancy Laws in Pakistan: An Overview of the Jurisprudence of Constitutional Courts	Mazhar Ali Khan, Civil Judge/ Judicial Magistrate/ Illaqa Qazi	http://irigs.iiu.edu.pk:64447/ojs/index.php/Ir/article/view/1649
30	The Concept of Istisnā' in Islamic Commercial Law (Sharī'ah) and its possible Role in the Development of Local Farming in Pakistan	Dr. Lutfullah Chairman Shariah & Law University of Swat	https://hamdardislamicus.com.pk/index.php/hi/article/view/7
31	Compliance of Islamic Financial Institutions in Pakistan with the Principles of Islamic Commercial Law: An Illusion or Reality (Views of Islamic Law Scholars)	Dr. Lutfullah Chairman Shariah & Law University of Swat	https://journals.ripha.h.edu.pk/index.php/jibm/article/view/261
32	Causes of Delay In The Judicial System of Islamic Republic of Pakistan	Aziz Ahmad Senior Civil Judge/A'ala Illaqa Qazi	https://ojs.tahdhibalafkar.com/index.php/ta/article/view/82
33	Analysis of the Objectives and Classification of Punishments in Islam	Aziz Ahmad Senior Civil Judge/A'ala Illaqa Qazi	https://www.researchgate.net/publication/330097921
34	Early age forced marriages: A comparative analysis of Pakistan and Australia.	Hamaish Khan Civil Judge/ Judicial Magistrate/ Illaqa Qazi	https://ijhs.com.pk/index.php/IJHS/article/view/567
35	Honour Killings in Pakistan: socio-cultural dynamics, legal reforms and case studies	Hamaish Khan Civil Judge/ Judicial Magistrate/ Illaqa Qazi	https://ijciss.org/index.php/ijciss/article/view/1116
36	Comparison of Family Laws of Pakistan and Code of Hammurabi: A Legal Analysis with Reference to Existing Statutes and Case Laws	Fatima Murad Civil Judge / Judicial Magistrate / Illaqa Qazi	http://irigs.iiu.edu.pk:64447/ojs/index.php/Ir/article/view/405
37	Legislative Framework On Occupational Health And Safety: A Case Study Of Pakistan.	Fatima Murad Civil Judge / Judicial Magistrate / Illaqa Qazi	http://pjia.com.pk/index.php/pjia/article/view/641

38	Derivative Action- An Impartial Right Given to Minority Shareholders under Pakistan's Legislation	Fatima Murad Civil Judge / Judicial Magistrate /Ilaqa Qazi	https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4273142
39	An Analytical Study of Women's Rights in Islam and CEDAW, 1979 With Special Reference to Pakistani Law	Fatima Murad Civil Judge / Judicial Magistrate /Ilaqa Qazi	https://journalppw.com/index.php/jpsp/article/view/13040
40	Prohibition on Opium Poppy Cultivation in Afghanistan: A Case Study of Taliban Ban. Central Asia	Dr. Taimur Azam Khan Assistant Academics KPJA	https://doi.org/10.54418/ca-91.182

Appendix-B

Research Proposals

S.No	Title	Author	Link
1	Alternative Dispute Resolution: A Comparative Study between Shariah and Pakistani legal System	Dr. Qazi Ataullah, Senior Director (R&P)	https://www.kpja.edu.pk/
2	Theories of Constitutional Interpretation: (An Analytical Study of Case Law in Pakistan)	Aziz Ahmad Tayyeb, Civil Judge/ Judicial Magistrate/ Illaqa Qazi	As Above
3	The liability of Marketers and Advertising Agencies in Misleading Advertisements: A Comparative Study of UK, Indian, and Pakistani Laws	Aziz Ahmad Tayyeb, Civil Judge/ Judicial Magistrate/ Illaqa Qazi	As above
4	Application of Limitation laws to inheritance cases and personal law disputes in Pakistan is not in consonance with the injunctions of Islam.	Zia-ul-Hassan Senior Civil Judge/A'ala Illaqa Qazi	As above
5	Erga Omnes Obligations of States: A Critical Study of the Extended Jurisdiction of the International Criminal Court over Jus Cogens Crimes.	Mazhar Ali Khan Civil Judge/ Judicial Magistrate/ Illaqa Qazi	As above
6	Revamping Cybercrime Laws in Pakistan: A Comparative Analysis of Pakistan and United Kingdom	Hamaish Khan Civil Judge/ Judicial Magistrate/ Illaqa Qazi	As Above
7	Compatibility of Pakistani prison laws with international standards of prison and human rights	Asghar Ali Senior Civil Judge/A'ala Illaqa Qazi	As Above
8	Causes of Terrorism in Pakistan	Dr. Taimur Azam Khan, Assistant Academics KPJA	As Above
9	Afghanistan's Opium Economy & Its Security Implications for the Tribal Districts of Pakistan (2001-2020)	Dr. Taimur Azam Khan, Assistant Academics KPJA	As Above

Appendix-C

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Appendix-D

Recommendations

1. Institutionalized Training Programs

The Khyber Pakhtunkhwa Judicial Academy aims to spearhead research initiatives at national level. It is imperative to roll out specialized trainings and conduct regular workshops, seminars, and certification courses for judges, qazis, lawyers and all other stakeholders of justice sector, on advanced research methodologies, legal writings, and critical analysis. This will help in strengthening skills both in qualitative and quantitative researches, doctrinal analysis, and ethical research practices which will improve judicial decision-making and policy formulation.

2. Digital Research Repository

The Academy may consider development of a centralized digital library accessible to judicial officers, containing primary sources (case law, statutes), secondary literature, and Islamic jurisprudence (*Fiqh*) sources. It will streamline access to authoritative materials, bridging gaps in traditional and Shariah-compliant legal research.

3. Interdisciplinary Collaboration

There is a need to foster partnerships between legal experts, social scientists, and technologists to address complex issues like cybercrime, climate justice, and Use of AI in Courts and Tribunals. Such multidisciplinary approaches enrich legal research, ensuring relevance to contemporary challenges.

4. Ethical Guidelines for Legal Research

Research ethics are core to any research initiative. It is incumbent upon the Academy to formulate a Research Ethics Charter, emphasizing integrity, transparency, and respondent confidentiality, aligned with international standards as suggested in Belmont Report. This would ensure credibility and accountability, particularly in empirical studies involving human subjects.

5. Technology Adoption

All justice sector institutes may consider subscription of AI-driven legal resources and training on platforms like Westlaw or local equivalents (Pakistan Law Site, Eastlaw Site, Digilawyer, etc), however, use of such legal tools must be with strict human oversight to prevent ethical breaches. This approach would enhance efficiency in data retrieval, precedent analysis, and trend identification.

6. Islamic Legal Research Initiatives

The Academy may consider establishment of a dedicated wing for Islamic legal research, focusing on reconciling classical jurisprudence with modern legal frameworks for instance arbitration, inheritance and the like. This initiative would help address gaps in comparative studies and promote culturally relevant legal reforms.

7. Legal Research During Graduate Studies

Overwhelming majority of graduates of legal institutions demonstrate limited exposure to critical thinking and research skills. This is because of limited emphasis on research methodology, during their studies. This area requires due attention, for cultivating culture of research in legal and judicial professions.

8. Orientation of Policy Makers

Parliament and Provincial Assemblies are vested with mandate of law-making. Legislators should, therefore, possess considerable knowledge of research skills. The Pakistan Institute of Parliamentary Affairs, in addition to conducting research, may consider arranging orientation courses for parliamentarians on legislative research, comparative legal studies, policy analysis skills, data driven decision making and research ethics. These orientations are expected to strengthen their capacities, guard against anomalies, absurdities, duplicities, and impracticability in legislation, and would help improve their services. The judicial Academies may also consider development of short courses on the subjects for the parliamentarians.

9. Proficiency in Language

In context of Pakistani legal system, almost all legal literature is lying either in English sources or Arabic sources. No doubt translation of such sources is widely accessible, however, translations cannot substitute the original text, and that, at times, the translations do not convey exact import of the legal provision as intended by the law maker. It is, therefore, recommended that English and Arabic proficiency courses may be developed for judges, qazis, lawyers and all other stakeholders of justice sector, undertaking relevant research.

10. Use of Artificial Intelligence

Academic research requires intellectual ownership of both ideas and their expression. Artificial intelligence tools have potential to render support in research. However, such assistance should not amount to co-authorship. There is need for chalking out policy on use of AI in academic and legal research including but not limited to; human responsibility for usage, accuracy, originality and integrity, disclosure requirements, transparency, authorship rules and definition of boundaries for permissible, restricted and prohibited uses. Further, there is need of development of a training course for the researchers on use of AI in research on basis of such policy.

11. Exemption from Disposal Policy

Research consumes considerable time. Its first requirement is mental peace. To enable and encourage judges / qazis in the District Judiciary to conduct research, some incentives may be considered. For this purpose, once topic for research is approved by the Research & Publication Committee headed by the Honorable Chairman / Chief Justice, Peshawar High Court,¹¹¹ an exemption from judicial work or at least from disposal policy may be allowed to the officer for at least two to three months.

12. Incentives

When a judicial officer of the District Judiciary succeeds in publishing of at least ten articles in recognized research journals of categories X, Y, or Z, or has otherwise conducted a research for a recognized institution, such achievement should be duly

¹¹¹Rule 13, the Khyber Pakhtunkhwa Judicial Academy Rules of Business of Board of Governors, 2012.

considered while making promotion or posting (ensuring the right person in the right place), and nomination for in-land and overseas trainings, to the extent of priority and preference.

13. Expenditure

Research requires adequate funding, however, non-availability of sufficient resources should not be considered hurdle in conducting a research. Even within available limited resources and ordinary governmental grants, valuable researches can be conducted. Therefore, researchers should not delay their work for availability of abundant funds. Most significantly, a researcher must have a firm belief that conducting a research is a sacred mission, noble cause, and duty towards society, rather than a source of income, though financial benefits may result as a by-product.

14. Facilitation

Researchers must be provided with all essential devices and facilities necessary for quality research, including fully equipped research or study spaces. Besides, access to digital resources and online databases should be ensured. The research institutions must have well stocked, user-friendly, and robust libraries to support academic and research initiatives.

15. Publication and Dissemination Support

The Academy should establish a peer-reviewed KPJA Law Journal and subsidize publication costs for researchers. It may consider incentives for judges / qazis engaged in research activities. These initiatives would encourage knowledge exchange and elevate the Academy's role as a leading intellectual institution.

16. Mentorship and Peer Review

The Academy should implement a mentorship program pairing junior researchers with seasoned scholars and institutionalize double-blind peer review for internal projects. This would enhance research quality through constructive feedback and provide safeguards against bias.

17. Focus on Contemporary Legal Challenges

The Academy should prioritize research on emerging issues such as utilization of ADR, elimination of gender-based violence, promoting of gender parity, climate justice, cybercrimes, and interpretation as well as application of laws in consonance with Shariah. Such focus will ensure that the judicial system remain adaptive and responsive to societal needs.

18. Monitoring and Impact Assessment

The Academy should form a Research Implementation Committee to ensure the implementation of research findings in the processes of judicial reforms and policy-making. This would validate the practical utility of research and guide future priorities.

19. Pre-Service and Post Promotion Research Oriented Trainings

The Academy conducts flagship Pre-Service and Post Promotion trainings for all tiers of judicial officers of district judiciary. Research assignments / papers must form an integral part of the training programs. This would help develop a culture of research in judiciary and make it driven by research.