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PROVING FACTS IN JUDICIAL PROCEEDINGS: MEANINGS AND MECHANISM OF PROOF IN QANOON E SHAHADAT

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ABSTRACT
The law of evidence is concerned with the relevancy and admissibility of evidence and the process of proof. It is generally thought that "evidence" is the only means of proof in Qanoon e Shadat, Order 1984 (from now on QSO). The objectives of the present study were to explore the meaning and means of proof in QSO. After deploying doctrinal research methodology and analyzing numerous judicial decisions and statutory provisions, the current research found two meanings of proof in QSO. Moreover, the study found that disputed facts in judicial proceedings may be proved with evidence, presumptions, judicial notice, judges' personal knowledge, demeanour and formal admission. The study also found that some means of proof involve the use of evidence, whereas, some means of proof do not involve the use of evidence. Similarly, the study also found that evidence is the major means of proof which can be used to prove any fact. On the other hand, other means of proof are meant to establish the existence or non-existence of specific facts and under particular circumstances. It is hoped that the present study will clarify the meaning and mechanism of proof scattered in various statutory provisions of QSO.
Keywords: Judicial Proof, Means of Proof, Presumptions, Judicial Notice, Formal Admissions

INTRODUCTION
Civil and criminal trials are meant to settle legal or factual disputes between the parties. The substantive laws tell the court what facts have to be established, and the adjective laws guide them on what procedure is to be adopted and what material may be used to establish the disputed facts. The law of evidence is part of adjective law, and it is concerned with the relevancy and admissibility of evidence and the process of proof. The relevancy and admissibility of evidence refer to such evidence which may be given in judicial proceedings. On the other hand, the process of proof is concerned with various issues like mode of proof, burden of proof, standard of proof and means of proof. The mode of proof refers to proving a fact by collecting or producing evidence in a given legal procedure, and the burden of proof refers to the responsibility of parties to produce evidence in courts. It is essential to point out that when the parties have produced their evidence in courts and have exercised the right of cross-examination, the question of burden of proof has no importance in the process of proof (Dr. Obaid Ur Rehman versus Mrs. Neelofer Khalid, 2020). After that, the court will decide the matter while keeping in view the standard of proof to determine the matter (on the balance of probabilities in civil cases and beyond a reasonable doubt in criminal cases (Dr Obaid Ur Rehman versus Mrs Neelofer Khalid, 2020). Similarly, the mode of proof refers to the legal procedure for producing and exhibiting oral or documentary evidence, and it is determined by the procedural rules. The mode of proof is also very significant in the process of proof, as it has been held in the Province of Punjab versus Syed Ghazanfar Ali Shah (2017) that courts cannot ignore or dispense with the mode of proof

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provided in the law. It is important to notice that relevancy and mode of proof are distinct in the sense that an objection regarding the relevancy of evidence can be raised at any stage of the proceedings, including the appellate stage, whereas the objection regarding mode of proof can only be raised at the time of production of evidence. If the parties fail to raise an objection about the mode of proof, the court will infer that they have waived their right to object, and the evidence will not be excluded (Muhammad Akram versus Imrao Ali Shah, 1988).

Likewise, the standard of proof refers to the convincing threshold of evidence which is the balance of probabilities in civil cases and beyond a reasonable doubt in criminal cases. On the same line of reasoning, means of proof refers to all the methods and sources with which disputed facts may be proved in courts of law. Various researchers have stressed that it is necessary to understand the meaning of proof, the burden of proof, the consequences of failure to discharge burden of proof, and the extent to which the court may use its general knowledge to prove facts (Reymond, p.342). Numerous studies have discussed and analyzed the burden of proof, the consequences of failure to bring evidence and the nature and extent of general knowledge that judges may use. However, research is scarce regarding the various means of proof in the context of QSO. The present study intends to explore and analyze the meaning and means of proof in QSO, and it has the following three research questions: What does proof mean in QSO? What are the various means of proof in QSO? What is the evidentiary value of each mean of proof? The present study has three major sections, other than the introductory section. The second section discusses and explores the meaning of proof in QSO and how it has been explained in various judicial decisions. The third section discusses and analyses the means of proof in QSO, and their evidentiary importance and the last section concludes the study.

Meaning of Proof

This section addresses the first research questions of the present study. The researchers have addressed this question by analyzing statutory law, judicial decisions and authoritative writings of legal analysts.

To begin with, James Stephen (1877) believed that the word "proof" refers to how a court is convinced that a particular fact existed (Stephen, I877, p. 26). Similarly, Smith (1942) argued that the term "proof" had two meanings; first, it referred to witnesses and sources of evidence and second, proof is the effects of evidence on decision makers (Smith, 1942, p.580). Although the word "proof" has not been defined in QSO; however, it has been denominated as "proved", "disproved", and "not proved" in QSO. Article 2 of QSO states that a fact is said to be proved when, after considering the matters before it, the court either believes it to exist or thinks its existence so probable that a prudent man ought, under the circumstances of the particular case, to act upon the supposition that it exists. Similarly, the word "disproved" has been defined as a fact is said to be disproved when, after considering the matters before it, the court either believes that it does not exist or considers its non-existence so probable that a prudent man ought, under the circumstances of the particular case, to act upon the supposition that it does not exist. The same article further states that when a fact is neither proved nor disproved, it is said that it is "not proved". There are three points, i.e. "matter before it," "the court believes", and "or considers its existence so probable that a prudent man ought, under the circumstances of the particular case, to act upon the supposition that it exists" which require elaboration to understand the meaning of proof in QSO.

As far as the term "matter before it" is concerned, various judicial decisions indicate that it does not refer to evidence alone. Instead, some other means are also covered under it. For instance, the Lahore high court in Muhammad Luqman versus the State (1969) held that the word evidence was not used in the act (QSO) while defining the term proved or disproved. The court added that it indicated that evidence is not the only criterion to establish the existence of a fact; on the other hand, many other factors had to be considered before making a verdict regarding the existence of a fact. The court added that even the court might use the demeanour of witnesses to declare that a fact exists. The term "matter before it" has been further clarified in Mrs Bakht Bibi versus Muhammad Aslam Khan (2016). The court held that the term "matter before it" is broader than evidence. The court added that these words empower the courts to examine the whole material produced by the parties, including plaint, written statements and demeanour of witnesses. On the same line of reasoning, the court also clarified the terms "the court believes it to exist" and "considers its existence so probable" by observing that these are the two standards of proof in QSO which will satisfy the court regarding the

existence of a fact after considering the matter before it. Firstly, the term "the court believes it to exist" refers to belief-test and the other term refers to the standard of a prudent man, which can be adopted to consider the existence of the fact so probable as to proceed on the supposition that it exists. The believe-test means that a Court itself considers that one of the parties has convincingly proved that the fact in issue exists. The prudent man-test would operate where the evidence is so evenly balanced that the court has to enter into the realm of supposition and probability by adopting the standard of a prudent man to consider the existence of a fact. Similarly, in Dr M.Raza Zaidi versus Glaxo Welcome Pakistan Limited, Karachi (2018) Karachi, the court explained the standard of proof as provided in QSO. The court held that it is not necessary that a fact is to be proved conclusively; it is sufficient if a fact is proved on belief-test or prudent man-test.

Means of Proof in QSO

This section addresses the third research question of the present study. After a detailed analysis of QSO, the current section discusses six means of proof: evidence, judicial notice, presumptions, judges' personal knowledge and parties' formal admission. It is essential to point out that the term "means of proof" in the present study is taken as anything that may be used to establish the existence or non-existence of any fact in issue or relevant fact.

a. Proving Facts with Evidence

The first and the most important means of proof in QSO is the "evidence". The term "evidence" has been defined in QSO in terms of oral and documentary evidence. According to article 2 (c) of QSO, oral evidence means all the statements the Court permits or requires to be made before it by witnesses and documentary evidence means all the documents produced for the court's inspection. The definition shows that statements by witnesses and documents produced in the court are evidence, and these may be used to prove or disprove any fact in issue or relevant fact. The Lahore high court in Bashir Ahmad versus Muhammad Baksh (2016) elaborated the definition by pointing out that word 'evidence' does not only mean the statement of a particular witness or a specific document. On the other hand, the court added that it is used in a wider sense and includes statements of all witnesses recorded in judicial proceedings and documents produced during trial. The definition of oral evidence has been given more clarity in Peeral versus State (2020), in which the Sind high court held that (oral) evidence means statements of witnesses in examination in chief, cross-examination and re-examination of witnesses. Similarly, it is also necessary that oral evidence emerging against a party in examination or cross-examination or re-examination of witnesses must be shown to the accused so that he may explain it or counter it. For instance, in Abdul Qadir alias Fauji versus State (2017), the Karachi high court remanded the case to the trial court when the trial court did not put the oral evidence to the accused in his statement under section 342 of CrPC. The court further held that if the accused is not confronted with the evidence produced against him, it will amount to prejudicing the accused and his defence which was illegal. Moreover, it is also necessary that the evidence must be recorded after administering oath to witnesses (District Officer Thatta versus Karim Bux, 2016). In addition, when a witness gives evidence, and it is discovered that some portions of his evidence are false, his whole evidence will be excluded from judicial consideration. For instance, in Mushtaq Hussain versus Muhammad Inayat (2012), the Lahore high court held that if a witness falsely stated one material fact, the rest of his testimony would not be believed and used in evidence.

The second portion of the definition of evidence in QSO is related to documentary evidence. The term document has been defined in QSO, and it refers to any matter expressed or described on any material by way of words, letters or figures and which may be used in evidence. However, it must be kept in mind that all the documents given or submitted in judicial proceedings are not evidence. There are various judicial decisions in which the meaning, scope and evidentiary value of documentary evidence has been elaborated. For instance, the Quetta high court in Habibullah versus Mir Manzoor Hussain (2014) observed that the written statements in pleadings (plaint and written statement) are not a substitute for evidence nor substantive evidence, and these statements would not carry any evidentiary weight. Similarly, the judicial decisions reveal that sometimes certain documents are treated as documentary evidence for a limited time, and after that, they will lose the status of documentary evidence. For instance, in Mir Sahib Khan versus Ghazi Muhammad (2014), the court held that depositions of a party in his favour might be treated as evidence during the initial stages of proceedings; however, such depositions will not remain evidence throughout the proceedings. Similarly, the mere production of documents in courts is not sufficient to prove the facts

narrated in the document. For instance, in Qari Muhammad Sadiq Jameel versus State (2019), the Lahore high court observed that the mere production of documentary evidence would not amount to proving facts stated in documents; instead, witnesses would be called to confirm the contents of documents. The analysis of various judicial decisions also reveals that the courts prefer documentary evidence over oral evidence. For instance, in Rehmat Jan versus Collector Land Acquisition Mangla Dam Project (2013), the court held that when both oral and documentary evidence about the same fact is available on judicial record, the court may rely upon documentary evidence without considering oral evidence. Similarly, the Supreme Court in Mazloom Hussain versus Abid Hussain **(**2008) held the principle that the parties will not be allowed to rebut the documentary evidence with oral evidence when both are related to the same fact. In addition, it has been held in Mst. Afifa Bibi versus Jameela Sikandar (2022) Lahore that documentary evidence can be challenged by producing another document bearing better legal status.

It is also necessary to investigate what facts may be proved by evidence, including oral and documentary. The QSO states that all the facts may be established with oral evidence except the contents of documents. Likewise, QSO also says that the contents of a document may be proved by primary or secondary evidence. It is crucial to notice that oral accounts are within the definition of secondary evidence, which shows that all the facts, including the contents of a document, may be proved by oral evidence.

b. Proving Facts with Presumptions

The presumptions are the second means of proof in QSO. The presumptions are indirect means of proof since presumptions operate when one fact is proved by evidence; another fact is presumed to exist unless its existence is disproved with evidence. The definition clause of QSO does not define presumptions; however, three classes of presumptions, namely presumptions of law, presumptions of fact and conclusive presumptions, are discussed. According to the definition clause, presumptions of laws are mandatory presumptions, whereas the presumptions of facts are discretionary. Both presumptions of law and fact under article 2 of QSO are rebuttable; however, the conclusive presumption is not rebuttable. Various judicial decisions have discussed the definition of presumptions, their kinds, and the difference between them. For instance, in F.M.C United (PVT) Limited versus P.O.P (2009), the court discussed three important aspects of presumptions, including its definition, kinds and the difference between them. Firstly, the court pointed out that presumption is a rule which treats an unproven fact as proved on proof of some other facts. In other words, the existence of a fact or set of facts is considered proof of the existence of some other fact. Secondly, the courts explained the meaning of presumption of law and conclusive presumptions. Accordingly, the presumption of law may be rebuttable (these are denominated by the words "shall") or irrebuttable (such presumptions are denominated with the word "may"). In contrast, conclusive presumptions are not rebuttable as these presumptions give finality to a fact which has been presumed to exist after the proof of some other facts. It is important to mention that presumptions are directly linked with the burden of proof since presumptions work like a fulcrum on which the burden of proof rotates. The same point has been discussed in Ejaz Iqbal versus Additional District Judge (2022), in which the Lahore high court pointed out that there is an interaction between presumptions and burden of proof since the burden of proof is shifted on the opposite party when courts draw presumption about a specific fact.

As it has been pointed out in the above section, all facts may be proved with oral evidence; however, this is not the case with presumptions. Presumptions may establish only specific facts which have been mentioned in various provisions of QSO. In addition, each type of presumption may become a means of proof to establish the existence of specific facts. For instance, presumptions of law can establish the genuineness of certificate, certified copies and official character of certifying officer (article 90 of QSO), the genuineness and truth of record or memorandum of evidence and their recording in accordance with the law, and the validity and genuineness of statements recorded before any judicial officer or during judicial proceedings (article 91). Likewise, presumptions of law can also establish the genuineness of a document directed by law to be prepared and to be kept in a particular way (article 92), accuracy and preparation of maps and plan prepared with the authority of federal or provincial government (article 93) and genuineness of books containing laws and judicial decisions of other countries printed under the authority of that country (article 94). In addition to this, the execution and authentication of power of attorney executed and authenticated before a competent

authority (article 95), and attestation, stamping and execution of a document which was not produced after issuing the notice to its keeper (article 99) can also be established by presuming their existence. Similarly, the presumptions of fact can establish the accuracy and genuineness of a copy of the judicial record of any country other than Pakistan (article 96), writing, publishing, authorship, time and place of publication of published chart and maps and the books on public or general interest (article 97), correspondence and delivery of a message forwarded from telegraphic office (article 98), and the genuineness of signature, authorship, execution, and attestation of a document or its certified copy thirty years old and produced from proper custody (articles 100, 101). It is important to point out that apparently, article 129 also deals with the presumption of fact, but this article is discussed under the heading "proof with personal knowledge of judge". Correspondingly, conclusive presumption establishes the finality of court judgment pronounced under insolvency, probate, admiralty or matrimonial jurisdiction conferring a legal right, or ceasing a legal character, was given or terminated on the date when it was pronounced (article 55). Similarly, article 128 provides finality to the legitimacy of a child born during the continuance of valid marriage if a father does not deny it.

It is important to notice that both presumptions of law and fact (except presumption of fact under article 129 of QSO) deal with documentary evidence. In addition, these documents may be registered, unregistered, public or private documents. However, the facts mentioned in registered documents are not conclusive proof of the execution but deal with the document's registration. For instance, in Syed Ayoob Aki versus Mst. Rabia Begum (2013), the court held that presumption attached to registered document is about its registration and not about its execution when execution has been denied by a person purporting to be its executor. Similarly, the courts have repeatedly held that when an official document is prepared according to the given legal procedure, it will be proof of the fact in such documents. For instance, in Sher Zaman versus State (2011), the magistrate recorded the accused's confession after fulfilling the absolute legal requirement under various laws; the court held that the magistrate's certificate regarding confession would be presumed genuine and would be taken as proof against the accused. It is also necessary to mention that both the presumptions of law and fact incorporated from articles 90 to 101 can be rebutted with cogent and reliable evidence. For instance, in Mazloom Hussain versus Abid Hussain (2008), the court held that the presumption under articles 90 to 101 attached with various documents could not be discarded unless these are rebutted with convincing and compelling evidence. In addition, double presumptions may be attached to the documents in specific circumstances. However, it is unclear whether such presumptions will be rebutted with the same standard of proof or with a different standard of proof. For instance, in Rehmat Ali versus Allah Ditta (2010), one of the parties produced an eighty-years-old certificate of adoption to establish his right of pre-emption. The Supreme Court held that such a document carried double presumption, one under article 30 and another under article 100.

c. Proving Facts with Judicial Notice

The "judicial notice" is the third mean of proof in QSO, and articles 111 and 112 deal with it. Article 111 provides the general principle regarding judicial notice and states that there is no need to prove such facts that the courts shall take judicial notice. The Supreme Court also held in Manzoor Hussain versus Mirsi Khan (2020) that it is a general rule that facts will be proved with evidence; however, there are a few exceptions to this rule, and judicial notice is one such exception. The Lahore high court in Liaqat Ali alias Liaqi versus State (2018) observed that the object of judicial notice is to take judicial notice of a fact which is neither denied nor disputed by the people at large in a given community.

Similarly, article 112 provides the list of the facts the courts are required to take judicial notice of. This means of proof is different from the means of proof mentioned above, i.e. proving a fact with evidence and proving a fact with presumptions in a way that proving a fact under this head does not require any evidence. On the other hand, evidence is a direct means of proof in cases where facts are proved with evidence, and it becomes indirect means of proof when facts are established with presumptions. It is essential to point out that articles 112 and 129 allow judges to use their general knowledge to assume the existence of specific facts. However, both the articles can be differentiated on the ground that the general knowledge under article 112 relates to the general knowledge about particular laws, legal proceedings and objects, geography and holders of various offices, and the general knowledge under article 129 relates to the general behavior of human beings.

The facts mentioned in article 112 are of such a nature that a court may know its existence by using his general knowledge about various subjects mentioned in the article.

Article 112 has four parts. The first part provides the specific facts of which the courts will take judicial notice; the second part deals with general facts of which courts will take judicial notice, the third part gives discretion to the court and the fourth part deals with the responsibility of a party asking the court to take judicial notice. In addition, the language of the said article reveals that the court may take judicial notice of its own motion, or the parties to the proceedings may also ask the court to take judicial notice. The first part of the article states that courts shall take judicial notice of all Pakistani laws, articles of war, the course of proceedings of the central or sub-ordinate legislature, the seals of all Pakistani courts, notary public and of any person authorized by law to use such seals. Similarly, the article provides that names, titles, functions and signatures of public officers, the existence, title and flag of recognized foreign countries, the geographical or time division of the world, and public festivals and holidays mentioned in the official gazette are also the subject of judicial notice. Likewise, the article requires the courts to take judicial notice of territories of Pakistan, the commencement, continuity and termination of hostility between Pakistan and any other country or groups, the rules on the road or at sea and the names of members and officers of the court, their deputies, subordinates, assistants, and officers involved in the execution process. In addition, the article also states that the court shall take judicial notice of the names of all advocates and other persons authorized by law to appear before courts.

It is necessary to discuss a few cases here to explain the various facts discussed above. For instance, it has been mentioned in the above paragraph that courts will take judicial notice of all Pakistani laws. The Karachi high court in Trustee of the Port Qasim versus Gujranwala Steel Industries (1990) held that the court would take judicial notice of only such Pakistani laws, which have been notified and published in the official gazette. Similarly, Karachi high court in Mehran Motor Car Company Limited versus Daewoo Hong Kong Limited (1997) held that Pakistani laws mean laws made by the legislature, not laws made by the executive under delegated legislation. Similarly, in Nafeesa Begum versus Muhammad Ismail (1989), the court, while commenting on taking judicial notice of laws on the road, observed that the courts would have to take judicial notice of the rules of the roads like overtaking always happened from the right-hand side of the driver in the front. Similarly, in Rafique Ahmad versus Muhammad Anwar (2003), the party submitted the required document after the due date on the pretext that it was a public holiday. After examining the calendar of that year, the court noticed that it was not a public holiday on that day. The court held that the courts would take judicial notice of public holidays under article 112 of QSO. This position triggers an important question; can the facts of which the courts have taken judicial notice be rebutted by the opposite party? The same question has been addressed in Liaqat Ali alias Liaqi versus State (2018), in which the Lahore court held that the opponent party could rebut the facts of which the courts have taken judicial notice. However, suppose the opponent party does not produce strong supportive evidence. In that case, the court will give weight to the facts of which courts have taken judicial notice (Shafi Muhammad versus State, 2008 PLD 480 Karachi). Likewise, the judicial decisions reflect that higher courts set aside lower courts' decisions when the lower courts fail to take judicial notice regarding public documents. For instance, in Mst. Najma Begum versus Rehmat Ali (2004), the Lahore high court held that the judgment of the appellate court is not sustainable in the eyes of the law where an appellate court could have identified the discrepancies by taking judicial notice of a public document, but it failed taking judicial notice of public documents. Similarly, the Federal Shariat Court in Mst. Shahnaz alias Asma alias Rani versus State (2010), the court set aside the investigation proceedings by taking judicial notice of the stamps of the magistrates issuing search warrants and authorizing the raid. The court observed that there was no stamp of the magistrate on the application to seek the search warrant, and the courts will have to take judicial notice of all stamps of judicial officers.

The second part of article 112 implies that the court shall also take judicial notice of all matters related to public history, literature, science, and art. Similarly, the third part of the article states that the court may consult appropriate books or documents while taking judicial notice of the above facts. The Lahore high court in Liaqat alias Liaqi versus State (2018) also observed that the courts, taking judicial notice of the division of time and the matter of science, can seek aid from appropriate books or documents of reference. Along the same lines, the fourth part of article 112 is

related to the responsibility of a party asking the court to take judicial notice. Accordingly, if a person asks the court to take judicial notice, the court may refuse to do so until he produces such books or documents necessary to take judicial notice of the requested facts.

d. Proving Facts through Personal knowledge of Judge

The fourth means of proof in QSO is the personal knowledge of the judges. Article 129 of QSO is relevant in this regard, and it states that the court may presume the existence of any fact which it thinks likely to have happened, regard being had to the common course of natural events, human conduct and public and private business, in their relation to the facts of the particular case. It is important to point out that article 129 is usually discussed in the textbooks and judicial decisions under the heading of presumption, but the present study treats it differently from presumptions. The primary reason behind this is that the article allows judges to use their personal knowledge to assume the existence of any fact. However, the article guides the judges to consider the natural happening of events, the natural conduct of human beings, and public and private business in the context of the particular facts of each case. It has been mentioned in the above section that judges use their general knowledge while taking judicial notice under article 112. Likewise, the judges also use their general knowledge under article 129 of QSO. However, both means of proof must be differentiated based on the nature of general knowledge used under both means of proof. The nature of general knowledge required to be applied in both cases is different. The nature of general knowledge and facts of which judicial notice may be taken relates to the specific events. On the other hand, the general knowledge applied under article 129 relates to judges' personal observations and conclusions. The source of this general knowledge is the personal observation and experience of the judges about natural events, human behaviour and general course of conduct of official and private proceedings. On these bases, when the court observed that a particular witness was also an accomplice, the court refused to act upon his testimony until corroborated by independent evidence (Ali Raza versus State, 2022). Similarly, when the prosecution did not examine a witness without cogent reason, the court drew an adverse inference that if the witness had been produced, he would have testified against the prosecution (Mst. Aziz Mai versus State, 2022).

e. Demeanour of Witnesses

The fifth mode of proving facts in QSO is demeanour. The demeanour refers to the body language of parties or witnesses to litigation. The courts consider the demeanour of witnesses to prove various facts ranging from causing delay to giving more weight to trial courts' decisions. For instance, in Shah Zaib versus State (2017), the court observed the complainant's demeanour and inferred that he intended to prolong the proceedings; consequently, the court allowed bail to the accused. Similarly, in Sher Muhammad versus Sui Southern Gas Company Limited (2016), the court observed the conduct and demeanour of the petitioner and concluded that he deliberately and willfully prolonged the proceedings. Similarly, the judicial decisions show that the parties' demeanour was also treated as a criterion to determine whether parties approached the court with clean hands. For instance, in King Clothing versus Muhabbat Khan (2012), the Islamabad high court observed that the courts must observe the parties' demeanour to determine whether the parties came to the court with a clean hand or not. Similarly, the appellate courts give more weightage to the decisions of the trial courts because of the reason that trial courts had the opportunity to observe the witnesses' and parties' demeanour. For instance, the Supreme Court in Moulvi Muhammad Azeem versus Mehmood Khan Bangash (2010) held that the courts should prioritise the trial courts' decisions since these courts had the real-time opportunity to observe the witnesses' or parties' demeanour.

f. Proving Facts through Formal Admissions

The parties' formal admission of specific facts is the sixth means of proving a fact in QSO. This means of proof also does not require the production of any evidence; however, this is a discretionary means of proof, and the court may need the other party to prove the same fact by producing evidence. The relevant article that deals with formal proof is article 113 of QSO. The article states that a fact which has been agreed by the parties or their agents to be admitted in proceedings or before proceedings agreed in writing to be admitted or if by any rule of pleadings any fact is deemed to be proved, the court may consider these facts as proved and may not require any evidence to prove such facts. However, the article also states that the court may, in its discretion, require the facts to be proved otherwise than admission. It is important to highlight that the said article does not provide the

facts which may be proved by formal admission. On the other hand, the wording of the article suggests that parties to proceedings may admit any fact.

The various judicial decisions reflect that formal admissions are a substitute for evidence to prove particular facts. For instance, in Muhammad Ayub Khan versus Muhamamd Azad Khan (2015), the court pointed out that this is the general principle that all issues must be resolved by the production of oral or documentary evidence; however, the facts which have been admitted or agreed to be admitted in proceedings need not be proved by evidence. It has also been discussed that admission is one of the various forms of oral or documentary evidence. However, admissions under articles 30 to 36 and 113 are different in a way that admissions under articles 30 to 36 need not be made in judicial proceedings. On the other hand, the admissions under article 113 are exclusively judicial admission since these are made during judicial proceedings. It is also important to point out that formal admission may be made in numerous documents. For instance, in Mst. Waziran versus Dr Habib Ahmad Siddique (2014), the court held that parties may admit facts in various documents, including plaint, written statement, and other documents produced in courts. The court further held that the admission mad in plaint or written statement in previous litigation might also be used as an admission in the later litigation between the same parties. However, the Peshawar high court in Muhammad Zarin versus Amir Dil Khan (2022) held that the formal admission must be clear, unambiguous, unqualified and unequivocal. In addition, witnesses' statements or some portions that were not subjected to cross-examination will also be deemed to be admitted by the parties (Ashiq Muhammad versus Abdul Majeed, 2022). Similarly, if no objection was raised against exhibited documents, it will amount to an admission, and the contents of the documents need not be proved (Muhammad Imran Khan versus Ehsanullah, 2016).

It is also important to mention that the burden to rebut the inference due to the admission of some facts lies on the party who admitted the facts (Fateh Khan versus Naseeb Gul, 2014). Likewise, the admissions made in the affidavits are also binding upon the makers, and these facts need not be proved with evidence (Muhammad Esa versus Mst. Sitara Jamil, 2014). Similarly, suppose the contents of affidavits are not cross-examined by another party. In that case, it will amount to an admission, and these facts will not be required to be proved with evidence (Trading Corporation of Pakistan Private Limited versus International, 2008). However, if admissions are wrong or made in ignorance of a legal right may be withdrawn (Muhammad Din versus Shah Muhammad, 2006). However, it must be kept in mind that it is the discretion of courts to regard formal admission as a means of proof. The court may require the parties to produce evidence to prove the matters admitted in judicial proceedings (Muhammad Zarin versus Amir Dil Khan, 2022).

CONCLUSIONS

The conclusions of the present study can be described in the following five points. First, the term proof generally refers to sources of evidence and their effect on decision-makers. Second, there are two tests of proof in QSO; the judges' personal belief test and the ordinary prudent man test. Third, the term means of proof in QSO refers to anything that may be used to establish the existence or non-existence of any fact in issue or relevant fact. Four, there are six means of proof in QSO: evidence, judicial notice, presumptions, judges' personal knowledge and parties' formal admission. Five, evidence is the significant means of proof in QSO, which can be used to establish any fact.

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