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FROM EVIDENTIAL DATA TO EVIDENCE: PRODUCTION, ADMISSION AND EVALUATION OF EVIDENTIAL DATA IN THE JUDICIAL PROCESS OF PROOF

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ABSTRACT
The objective of the present study was to understand how the courts process evidence in criminal proceedings to establish disputed questions of fact. The present study, after deploying doctrinal research methodology, found that the criminal procedure code (hereinafter CrPC), Qanoon e Shahadat Order (hereinafter QSO), the police rules and the high court rules regulate the production of evidence in the courts. The study also found that the courts admit evidence by considering the relevancy of evidence, exclusionary rules of evidence and the procedural rules related to collection and recording of evidence. Moreover, the study found that the courts consider the quantity and the quality of evidence while evaluating the evidence. In addition, the study found that the courts draw inferences by using deductive, inductive, and abductive methods of drawing inferences from evidence. The study also found that generalization played a central role in all the three methods of drawing inferences. It is expected that the present study will clarify the legal framework dealing with processing of evidence in criminal cases.
Keywords: Admission of Evidence, Evaluation of Evidence, Generalization, Process of Proof, Production of Evidence. Relevancy of Evidence.

1. INTRODUCTION

The "criminal process of proof" refers to the legal process from the first trace of a crime to the final conviction or acquittal of an accused. It is a multistage process (Louis, 2013) having three major stages: the discovery stage, the pursuit stage and the justification stage. The discovery stage is mainly concerned with constructing and eliminating hypotheses, the pursuit stage is all about testing and selecting the most plausible hypothesis and justification stage deals with giving reasons of selecting a specific hypothesis (Bex, 2011, p. 20-21, Nijboer et al., 2000). It is important to mention that the process of proof is not only functional but also normative (Hook, 1998, p. 215). The three stages are meant for the performance of specific functions. The major function performed at the first stage is the collection of evidence The police is the main actor at this stage and it adopts two strategies to collect evidence. First, the police form a hypothesis to collect evidence to support or contradict the hypothesis. Second, the police observe the effects of crime and form hypothesis to search the evidence supporting or contradicting the hypothesis. Logically, the evidence collected at this stage is not evidence but evidential data since the collected evidence is not enough to determine the guilt or innocence of an accused. The rules related to the collection of evidence are contained in various laws including criminal procedure code, 1860, High Court rules and the police rules 1934. The analysis of the first stage is not within the scope of the present study since the present study

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is intended to discuss and analyze the judicial process of proof which has nothing to do with the collection of evidence (Muhammad Arshad versus State, PLD 2011 SC 350).

Similarly, the second stage of the process of proof is the pursuit stage and the judges are the main actor at this stage. The establishment of the disputed questions of facts with evidence is the major function at this stage (Prakken & Kaptein, 2016, p.117). Murphy et all (2013) point out that the judges consider and examine the admissibility of evidence, production of evidence, effect of evidence and the weight of evidence at this stage (Glover &Murphy, 2013, p. 35). It has been pointed out in the above lines that the judges are the major actors at the pursuit stage and they are required to establish the facts of the case rationally. The only rational way to establish the facts of the case is evidence. If the evidence is strong against accused, it is assumed that he is guilty and if evidence is weak, it is assumed that he is innocent. It is necessary to differentiate evidential data and evidence in the judicial process of proof since inference of guilt or innocence of accused is not derived from evidential data but from evidence. The information in the form of oral statements and documents constitutes evidential data in criminal trials and the courts' ultimate task is to see whether the available information or data-set is satisfactorily probative to infer that accused is guilty or innocent (Robert & Aitken, 2013, p. 13). Similarly, the final stage of the process of proof is the justification stage which involves the judges to give reasons of their decisions. In Pakistan, the trial courts and the high courts are legally bound to give reasons of their decisions (section 367 of CrPC).

There is scarcity of literature on how the Pakistani courts process evidential data in criminal cases. The present study is a right step in this regard and it intends to fill this gap in the literature. It is hoped that the present study will enable the practitioners and the academician to understand how evidential data becomes evidence in criminal cases. It is significant to mention that the present study aims at discussing and analyzing the legal framework dealing with the second stage of the process of proof and it does not deliberate on the first and the third stage of the process of proof. The present study has the following three research questions; how evidence is produced in the court? How is evidence admitted in courts? How is evidence evaluated in courts? The present research, other than introductory section, has four main sections. The second section describes how evidence is produced in the court, the third section discusses the legal framework of admission of evidence, the fourth section points out how the admitted evidence is evaluated by the courts and the last section concludes the study.

2. Production of Evidence

This section is devoted to address the first research question of the present study. The section offers discussion on the liability to produce evidence and the manners in which oral or documentary evidence is produced in the criminal courts.

The criminal trials start with the framing of the charge against the accused. The courts frame the charge against accused on the basis of the report submitted by the police through public prosecutor under section 173 of CrPC. The said report contains the names of the witnesses and the description of documents which the prosecution intends to produce as evidence against accused. After framing the charge, the courts ascertain from the public prosecutor or complainant, the names of any persons likely to be acquainted with the facts of the case and to be able to give evidence for the prosecution, and shall summon such persons to give evidence before it (section 265-F of CrPC). However, the court may refuse to call any person as witness if he is being called for the purpose of vexation or delay or defeating the ends of justice (section 265-F). In addition, the courts have power to allow or call for any evidence necessary for the just decision of the case (section 540 of Cr.PC and article 161 of QSO). In Imran Ashraf versus State the Federal Shariat court has observed that the courts are not expected to act mechanically on the evidence produced by the prosecution or the report submitted by the police under section 173 of CrPC, instead, the courts have the powers to call any person as witnesses who are acquainted with the facts of the case and are able to furnish evidence for the prosecution (YLR 2012 FSC 325). Moreover, the power of the court to ask for additional evidence also includes the documentary evidence (Muhammad Abid versus Mst Nasreen Yousaf, 2002 CLC 665 LHR) if it is necessary for the just decision of the case (Abdul Latif Assi versus State, 1999 MLD Lahore 1069). However, the power to call any witness or ask for the production of any document are to be exercised with great care and caution and only in the cases of extreme necessity to serve the interest of justice (Muhammad Abid versus Mst Nasreen Yousaf, 2002 CLC 665 Lahore) because if these powers are used as matter of

rule it would amount to opening a flood gates and the parties would start calling witnesses to fill the lacunas in their evidence. Further to that, the courts can call for additional evidence at any stage of the criminal proceedings (Khalid Hussain versus State, 2013 PCrLJ 1623 Lahore).

The above discussion indicates that generally the prosecution decides what evidence is to be produced against accused in the courts. However, the courts have also the power in exceptional circumstances to ask for the production of evidence which is necessary for the just decision of a criminal case.

3. Admission of Evidence

This section intends to address the second research question of the present study and it offers discussion on the legal framework dealing with the admission of evidence.

It has been discussed in the above section that either the prosecution or the courts may decide what evidence is to be produced. However, the production of evidence does not mean that the evidence has been admitted and may be used for judicial decision-making; instead, the court will determine the admission of evidence while keeping in view various standards which have been discussed in the following paragraph. Before discussing the various standards for admission of evidence, it is imperative to understand the meaning of admission of evidence. The term "admission of evidence" has two meaning in the literature. First, the term refers to the evidence which can be received by the courts and secondly what type of evidence cannot be used admitted and used for judicial decision making. The former refers to the admissibility standards of evidence and the latter refers to the exclusionary rules of evidence (Jiang He, p. 102). It is important to mention that admission of a particular piece of evidence and the credibility (evaluation) of evidence are two different concepts which should not intermingled with each other (Iqbal versus State, PCrLJ 2015 Peshawar 735). Following the classification of "admission of evidence" by Jiang He (), the legal framework related to the admission of evidence in Pakistani courts is discussed in the following paragraphs.

a) Relevancy of Evidence

The very first issue which the "admission of evidence" involves is the relevancy of the evidence produced in the court. Taylor () is of the view that relevancy of evidence is one of the foundational norms of the law of evidence in common law countries and it is the first check on the admission of evidence. The basic purpose of the relevancy is to present whole evidence to the fact-finders and keep their attention focused on the proper information. However, the meaning of relevant evidence is different to different authors. For instance, some authors viewed relevancy of evidence as any two facts which are so related to each other that according to the common course of events, one either taken by itself or in connection with other facts proves or render probable , the past ,present or future existence or non-existence of the other (Stephen, 1872, p. 10). Likewise, Taylor believes that evidence which has the potential to prove or disprove any fact in issue is a relevant fact. The relevancy is of two types; the logical relevancy and legal relevancy. The logical relevancy refers to the relevancy of two facts on the basis of logic and this relevancy depends on number of factors. For instance, if a severed dead body is found on a railway track, it can be inferred that the death occurred because of the train running over the person (Prerita & Taneeja, 2015, p. 40). On the other hand, legal relevancy means the relevancy of facts which the law defines. Logical relevancy is operative in most of the civil law countries whereas the legal relevancy has gained ground in most of the common law countries.

The concept of legal relevancy has been recognized in Pakistan under article 18 of QSO. The article states that parties may adduce evidence such evidence which is related to the fact in issue or relevant facts. The word "relevant fact" has been defined in QSO as any fact which is connected with other facts in any of the ways referred to in the provisions related to relevancy of facts (article 2 of QSO). The provisions related to the relevancy of facts have been incorporated in QSO in chapter III from article 18 to 69. The third chapter declares certain facts as relevant evidence and the relevant facts include evidence related to occasion, cause, effect of fact in issue, motive, preparation, previous or subsequent conduct of the parties, facts necessary to introduce fact in issue or relevant fact, things said or done in pursuance of conspiracy, facts showing existence of state of mind, fact showing whether act was intentional or accidental, admission

and confession, statement under special circumstances, judgments of the courts of law, opinion of third person and character evidence.

b) Admissibility of evidence

Once the court determined that a particular piece of evidence is relevant, it does not mean that the same evidence is the part of the judicial record and may be used for judicial decisions making. On the other hand, the courts have to see whether evidence is admissible or not after determining the relevancy of evidence. In addition, the question of the admissibility of evidence must be settled as soon as it is raised and only admissible evidence should be the part of case record. For instance, the Lahore court held that the judges are under legal obligation to bring on the record only legally admissible evidence. The court further held that if any objection is raised regarding admissibility of evidence, the judges must settle that objection at that very time (Rani Bibi versus the State, PCrLJ 2018 Lahore 310, see also Asif Jameel & Brotehrs vrsus State, MLD 2003 Karachi 676). In addition, the court held in Rani Bibi's case that inadmissible evidence should not be put to accused under section 342 of criminal procedure code There are three standards to determine the admissibility of evidence; the examination of the procedure of collecting evidence, exclusionary rules of evidence, and the purpose for which evidence is produced. These three standards of admissibility of evidence are discussed in the following paragraphs.

i. Legally Obtained Evidence

The admissibility of evidence may be determined by examining the procedure which the police or parties have adopted to collect or record the evidence. If the evidence is collected, recorded or produced in accordance with the given legal procedure or without violating the constitutional rights, it is considered as legitimate evidence and may be admissible. The examination of the legitimacy of evidence is significant since police misconduct may be avoided in search and seizure (Anderson et al, 2005, p. 305). The legitimacy of evidence may be examined by looking into the procedure of collecting and producing evidence. The given procedure may be found in statutory laws (constitutional, procedural or evidential), by laws or judicial decisions. The evidence will be inadmissible if it is collected in violation of the statutory laws. For instance, Section 103 of CrPC requires that the police will call two members from the locality to become the witnesses when it intends to search the house of any suspected person. On the other hand, when the police did not get signed the recovery sheet by two people from the locality, the court did not use such evidence against the accused on the ground that the evidence was collected in violation of statutory law (Larik Mal versus State, 2017 YLR 1166 Quetta). Similarly, when the evidence is not recorded in accordance with the given procedure, the courts do not use such evidence against the accused by declaring it inadmissible. For instance, the QSO requires that the confession will not be recorded in the presence of police. However, the trial court and the first appellate court used such confession against accused which was recorded before the magistrate but in the presence of police. The Supreme Court held that the evidence which is not recorded in the manners provided by law is not admissible and resultantly excluded the confession from evidence (Irshad Bibi verus Iftikhar, 2008 SCMR 707, see also, Muhammad Ismail versus State, 2017 SCMR 898).

Similarly, if evidence is recorded in violation of by-laws, it will be inadmissible evidence. For instance, the high court rules require the identification parade to be conducted in the jail and not in the police station. The federal sharia court did not admit the evidence of identification parade when the court found that the identification parade was conducted in the police station (State versus Khadim Hussain, 2015 YLR 1096 Federal Sharia Court). There are two possible consequences if evidence is not recorded in the prescribed form; the court may exclude it from consideration or sent it back to lower courts to record it again. For instance, the Karachi court remanded the case to the trial court to afresh record the confession of the accused since the judicial magistrate did not attach the certificate of correctness with the recorded confessional statement since attaching the said certificate is a legal requirement (Muhammad Hateem vs State, 2013 YLR 2734 Karachi). Similarly, the evidence procured unlawfully or without authorization is inadmissible evidence. For instance, Section 96 of the criminal procedure code, 1898 provides that any police officer intends to search a particular place, must get a search warrant from magistrate to conduct any raid. On the other hand, when the police conducted raid and recovered incriminating evidence against accused without getting search warrant, the court did not use such evidence against the accused by declaring it inadmissible evidence (Muhammad Abbas versus State, 2005 YLR 3193 Lahore).

It is also necessary that oral testimony must be recorded in court according to the manners provided by law. For instance, QSO provides a mechanism to examine witnesses in the court. It states that witnesses' examination in chief will be conducted first and then cross examination will follow and then the court may ask any question to witnesses. However, the court cannot extract any information from witnesses by asking question if they are not subjected to examination in chief and cross examination (Muhammad Ajmal versus State, 2018 SCMR 141). In addition, if evidence is not recorded according to the given manners, such evidence will not be brought on judicial record (Ghulam Muhammad versus State, PLD 1989 Karachi 144).

ii. Exclusionary Rules of Evidence.

The second criterion dealing with the admissibility of evidence is the exclusionary rules of evidence which do not permit the courts to use certain pieces of evidence. The exclusionary rules of evidence are of two types; common law rules and statutory rules. The common law and statutory rules dealing with the admissibility of evidence include exclusion of hearsay evidence, opinion evidence, character evidence, privileged communication and evidence having limited admissibility. These principles are briefly discussed in the following lines.

The exclusionary rule against hearsay is an old rule of evidence in common law countries, and it refers to evidence from any witness which consists of what another person stated on any prior occasion. In addition, hearsay evidence is also viewed as an oral or written assertion, or non-verbal conduct that carries with it a conscious or unconscious assertion, made or carried on by someone other than a witness while testifying at a trial or hearing and which is offered in evidence to establish the truth of the matter asserted. It is important to point out that hearsay evidence per se is not inadmissible; the purpose for which it is tendered makes it admissible or inadmissible. If the hearsay evidence is produced to persuade the court to believe the facts asserted in the statement or evidence, it will be inadmissible but for other purposes such evidence may be admissible (Glover & Murphy, 2013, p. 228). The legal status of hearsay evidence is the same in Pakistan since the courts do not admit hearsay evidence as a general principle. The Pakistani courts have repeatedly held that hearsay evidence is inadmissible evidence which carries no weight (Kaleem Ullah versus State, 2017 PCrLJ 586 Lahore). However, (article 47 of Qanoon e Shahadat Order contains various exceptions to hearsay evidence. For instance, evidence related to res gestae, informal admissions, confession, statements made under special circumstances like dying declaration, statements in public documents such as acts of parliament, official books and registers and evidence in former proceedings etc. are hearsay evidence but may be given in evidence The courts shall exclude hearsay evidence if it does not fall in any of the statutory exceptions.

Similarly, it is the general principle in common law countries that the courts will not use witnesses' opinion in evidence. It is the major feature of the law of evidence in common law countries that the witnesses will not be allowed to testify in the courts on the basis of their opinion, beliefs or inferences (Glover & Murphy, 2013, p. 403). The major reason behind disallowing witnesses to speak about their opinion lies in the fact that the formation of opinion after evaluating evidence in criminal trials is the prerogative of the judges (Muhammad Ashraf versus State, PLD 2015 Lahore 1). The courts are not inclined to confer the prerogative of opinion-formation concerning disputed questions of facts to the witnesses (Muhammad Ahmad versus State, 2010 SCMR 660). However, there are certain statutory exceptions to this principle which have been created either because of convenience or necessity. The QSO also contained various exceptions to opinion evidence where witlessness' opinion is admissible. These exceptions are found in article 59 to 65 and article 69. Under these articles, the opinion of expert witnesses on matter of science, art, handwriting, finder impression and upon point of foreign law, opinion regarding handwriting, opinion regarding the existence of right or custom, opinion about usage and tenets, opinion regarding relationship and witnesses' opinion regarding reputation of accused is relevant. The above discussion leads to the conclusion that the courts will not use witnesses' testimony in evidence if it is based on their opinion or does not fall in the exceptions provided in law.

Likewise, the evidence concerning accused's bad character is also inadmissible in evidence as a general rule (article 68 of QSO). It is important to point out that "character" refers to the general reputation and the disposition of a person (explanation to article 69 of QSO). The disposition refers to a person's inclination and reputation refers to what other people think about him. The disposition and reputation may

be inferred from the conduct, personality, behavior and other traits of a person (Jiahong, 2018, p. 109). In addition to this, a person may have good or bad character. As far as judicial proceedings are concerned, the courts consider the character of parties and witnesses differently. The good or bad character of witnesses is always relevant as it is an important tool to assess their credibility. However, the characters of parties to civil or criminal proceedings have different implications. In civil cases, the evidence about the good or bad character of the parties to establish the probability or improbability of the alleged act on the basis of their character is inadmissible (article 66 of QSO). Conversely, the situation is bit different in criminal proceedings in which the accused may adduce the evidence of his good character (article 67 of QSO) to dispel the impression that he has committed the offence The evidence regarding good character of accused becomes important when his case is on even scale and evidence related to his good character evidence may persuade the judge to infer that he has not committed offence (Avtar, 1977, p. 226). On the other hand, the prosecution can only give evidence regarding bad character of accused when he tenders evidence of good character (Raees Khan versus State, PCrLJ 1991 Lahore 617). The discussion indicates that the evidence of bad character of accused is not admissible in criminal proceedings as a general principle. It is significant to note that if evidence establishes accused's guilt beyond reasonable doubt, the character-evidence loses its importance because the cases against the accused is to be decided on evidence and logical inferences drawn from evidence and not on the basis of his character (Pir Mazhar Ul Haq versus State PLD 2005 SC 63).

Similarly, the principle of admissibility requires that the judges will not admit such evidence which comes in the ambit of privileged communication. The privileged communication is dealt with in QSO in the second chapter from articles 5, 6, and 9 to 12. Accordingly, the communication between husband and wife during valid marriage (article 5 of QSO), evidence related to the affairs of the state (article 6 of QSO), professional communication with advocates (article 9) and confidential communication with legal advisor (article 12) will be inadmissible in evidence even if it is relevant evidence under articles 18 to 69.

iii. Limited Admissibility

Likewise, the principle of admissibility requires that the courts can use relevant evidence only for the purpose for which it has been declared relevant or draw a specified inference from such evidence. It is significant to point out that Pakistani legal system recognizes the idea of multiple- admissibility which means that a piece of evidence may be used for different purposes. However, there are certain rules which restrict the use of evidence for multiple purposes. Hence, if law directs that particular evidence may be used for that purpose, the evidence will not be admitted for any other purpose. For instance, section 161 of CrPC states that the statement of witnesses recorded under this section may only be used for two purposes; to contradict witnesses' statement in court or to shake their credibility. Similarly, the statements of witnesses given in the court will only be used to infer the guilt or innocence of accused and will not be used to prosecute witnesses (article 15 of QSO). Further to that, the evidence of previous conviction of an accused may be used when the law states that the conviction of that accused may be enhanced (mention relevant section of PPC).

2. **Evaluation of Evidence**

This section addresses the third research question of the present study and it offers discussion on three issues; the meaning of evaluation of evidence, who can evaluate evidence and the general mechanism to evaluate evidence.

It must be kept in mind at the onset that admissibility of admissibility is the question of law and evaluation of evidence is the question of fact. In addition, judge has no discretion to admit such evidence which is not legally admissible. The evaluation of relevant and admissible evidence is the last step by which the evidential data becomes evidence which the courts can use for decision making. The evidence becomes the part of the judicial record when the courts have admitted evidence. However, the admission of evidence does not mean that the facts have been proved as pointed out in the second section of the present study. After the admission of evidence, the courts evaluate the evidence to draw inferences regarding the disputed questions of facts between the parties. As far as the meaning of the evaluation of evidence is concerned, it is worth noting that it has varying meaning in the literature. The two definitions given by Jiahong (2018) and Anderson et all (2005) are the representative of the literature on the meaning of evaluation of evidence.

Jiahong (2018) believes that evaluation of evidence refers to assessing the reliability and sufficiency of evidence; reliability stands for evaluating the weight of evidence and sufficiency means the corroboration of evidence (p. 114). Likewise, Anderson et all (2005) point out that evaluation of evidence means assessing the relevancy, credibility and the inferential force of evidence. It is also imperative to understand that who can evaluate the evidence. A closer look at the various legal provisions exhibit that either parties to the proceedings or the courts can evaluate evidence.

The law provides a comprehensive mechanism to the parties to evaluate oral or documentary evidence presented against them. The evaluation of evidence by parties to the proceedings involves two things; putting questions to witnesses and drawing inferences from the evidence. The parties to the proceedings may put questions to the witnesses; however, they cannot draw inferences from evidence as this is the function of the courts. It is important to point out that the parties may ask the courts to draw particular inferences but it is the discretion of the court to draw such inferences or not. The parties may put questions to witnesses during cross examination and if they are denied of this right, such evidence will not be used for judicial decision making. For instance, in Muhammad Ajmal versus state (2018 SCMR 141) the magistrate recorded the evidence of the witness under article 161 of QSO without giving an opportunity to the opponent party to conduct cross examination. The high court set aside the order and directed the court to give the opponent party an opportunity to cross examine the witness adopt. Similarly, the court may also evaluate the evidence by putting questions to witnesses and by drawing inferences from evidence. As a general rule, the law empowers a party against whom oral or documentary evidence is produced to put questions to the witnesses as discussed in the above paragraph. However, the law also permits the courts to put question to the witnesses in specific circumstances. The various judicial decisions indicate that courts may put questions to witnesses when police investigation is poor (Yaqoob Maseeh versus State MLD 1992 Karachi 922) or when accused is not represented by an advocate (Qalendro versus State MLD 1997 Karachi 922), or when it is necessary to remove the ambiguity in evidence (Javed Shamshad versus State 1996 PCrLJ Karachi 3).

The two definitions discussed in the above lines exhibit that evaluation of evidence means assessing the quantity and corroboration of evidence, prioritizing evidence and drawing inferences from it. These standards for the evaluation of evidence are briefly discussed in the following lines.

i) Quantity of Evidence

The evaluation of the quantity of evidence means that how much evidence is needed for the decision making. It is imperative for the courts to weigh the quantity of evidence which is legally required to infer that a fact has been proved. However, various judicial decisions show that the courts, as a general principle, have nothing to do with the quantity of evidence, instead, they are concerned with the quality of evidence. The courts can decide a criminal case on the basis of the testimony of single witness (Iftikhar versus State YLR 2011 Lahore 2747) if it is confidence inspiring and trustworthy (Qamar Ijaz versus State PCrLJ 2012 Lahore 1274). On the other hand, the matter of the quantity of evidence or number of witnesses becomes crucial if a statute requires particular quantity of oral or documentary evidence. In such circumstances, the courts are bound to decide a matter if the required quantity of evidence is produced in the court. For instance, an accused may be convicted for Qatl e Amd liable to Qisas under Pakistan Penal Code if four adult male Muslims testify against him (section 304 of PPC). Similarly, an accused may be convicted for the offence of Zina or Zina Biljabr if four adult male Muslims give evidence against him. The same is the case with Qazaf, Drinking and Harrabah where an accused may be convicted if more than one witnesses testify against him. The discussion indicates that the courts consider the quantity of evidence while assessing the weight of evidence if a particular statute required a specific number of witnesses or documents to prove a particular fact. In addition, the courts will not see the quantity of evidence if a statute does not require the production of more than one witnesses or documents.

ii) Corroboration

The assessment of corroboration of evidence is the second criterion to evaluate the evidence. The term “corroboration” in law means that when one piece of evidence coming from independent source supports the conclusion of another piece of evidence, it is called corroboration. The nature of corroboratory evidence depends upon each case; however the corroboratory evidence must connect or tend to connect the

accused with the crime (Shahzad versus State 2002 SCMR 1009). It is imperative for the courts to look for the corroboration of any evidence when the legal framework demands that the conclusion of any evidence must be supported by another piece of evidence. The legal framework may require the corroboration of any evidence either under any statutory law or any judicial decision. For instance, article 129 illustration (b) requires that the evidence of an accomplice is unworthy of credit unless it is corroborated on material points. The courts have also interpreted this article in a way which makes it mandatory for the lower courts to seek corroboration of the testimony of accomplice from independent evidence.

Similarly, the corroboration of evidence becomes a legal necessity when the higher courts require the corroboration for safe administration of justice. For instance, in Ulfat Hussain versus State (2010 SCMR 247), the accused challenged his conviction on the basis of the sole and uncorroborated evidence of a child. The Supreme Court ruled that though in principle, conviction could be based upon testimony of child witness but as a matter of care, the evidence of child witness should be corroborated. Similarly, various judicial decisions show that the evidence of inimical witnesses (Abdul Ghafar versus State, PLD SC 467), interested witnesses (Shah Nawaz versus State, PCrLJ 2002 Peshawar 388), dying declaration (Muhammad Farhan Rahim versus State, MLD 2013 Peshawar 1879), and chance witnesses (Anwar Begum versus Akhtar Hussain, 2017 SCMR 1710) must be corroborated by independent evidence. Similarly, the judicial decisions also show that the courts may require the corroboration of certain documentary evidence like the report of ballistic expert (Abdul Waheed versus Umar, PCrLJ 2013 Karachi 192).

iii) Prioritizing the evidence

Similarly, the evaluation of evidence also involves the courts to prioritize evidence when two pieces of evidence coming from different sources regarding the same fact are produced in the court. It is important to point out that if both pieces of evidence intend to establish the same fact, the court will adjust their priority and if the two pieces of evidence are related to different facts, the question of weight priority will not arise. For instance, primary evidence is preferred over secondary evidence (Province of Punjab versus Nizam Din & sons Limited, YLR 2005 Lahore 2007), direct evidence is preferred over indirect evidence; documentary evidence has priority over oral evidence (Muhayyudin Khan versus State Life Insurance Corporation of Pakistan, YLR 2017 Karachi 199), statement prior in time are given priority over statements later in time (Shahid Ali versus State, MLD 2018 Lahore 136) and the public document has priority over private documents. Similarly, the documentary evidence will have superiority over oral statements contradicting the documentary evidence (Azeem Khan versus Mujahid Khan, 2016 SCMR 274).

iv) Drawing inferences

The most significant step in the evaluation of evidence is the reasoning with evidence to draw inferences regarding disputed question of facts. It is necessary to discuss succinctly the meaning of reasoning before analyzing how courts reason with evidence.

Reasoning is a conscious process of belief revision and it is controlled by certain rules (McHugh and Jonathan, 2018, p. 193). Similarly, Angeles (1981) views reasoning from three angles; firstly, to him, reasoning is the process of inferring conclusion from the statements. Secondly, reasoning is the application of logic or abstract ideas in the solution of problems. Thirdly, reasoning is the ability to know something without recourse directly to the sense perception or immediate experience Runes (2001) defines reasoning as "reasoning is the process of inference; it is the process of passing from certain propositions already known or assumed to be true, to another truth distinct from them but following from them; it is a discourse or argument which infers one proposition from another or from a group of others having some common elements between them. He added that reasoning is the act or process of exercising the mind from psychological perspective.

The judges evaluate evidence by deploying various kinds of reasoning methods and inferential reasoning is the most dominant and frequent method. Roberts and Aitken (2013) believes that inferential reasoning is the part and parcel of judicial process of proof since judges make decisions on the basis of inferences drawn from evidence. Warner (2005) is of the view that legal reasoning is a distinctive kind of practical reasoning. He added that practical reasoning tells what ought to do, legal reasoning also tells what ought to do on the basis of the applicable rules in the given situation. Carson (2009) points out that inferential reasoning can be carried out in three ways; deduction, induction, and abduction. He explained

that deductive reasoning is syllogistic and it involves drawing conclusion from premises. On the other hand, inductive reasoning involves the drawing inferences from already known facts where neither premises nor conclusion are certain. Similarly, abduction involves generating an inference that explains what is already known. Unlike the other forms of inferential reasoning, abductive reasoning generates ideas, theories of the case, and hypotheses (Carson, 2011, p. 84-85). The outcome of the legal reasoning is the inferences and Picinali (2012) believes that inferential reasoning is a process in which conclusion is drawn about the existence of any fact on the basis of the belief that another fact exists.

The judges use generalization while evaluating evidence to draw inferences. The use of generalization is indispensable in inferential reasoning since every inference in the process of judicial proof depends upon generalization (Anderson, 1999, p. 455). Generalizations are the general statements about how we think the world around us works, about human actions and intentions, about the environment and about the interaction between humans and their environment (Cohen, 1977, p. 274-276) which is implicitly or explicitly used to establish a conclusion. However, Walton (2005) point out that generalizations are tricky and unreliable (p.36), and Walker (2012) highlights that that the unscientific basis of generalization make them unreliable (Crimmon & Tiller (edited), 2012, p. 225). In the process of judicial proof, the generalization, in the judicial process of proof, is used for forming the case theory (Anderson et all, 2005) and assessing the credibility and reliability of witnesses' testimony (Pundik, 2017, p.27-28**).** The Pakistani courts have frequently used generalization to assess witnesses' credibility (Haji Qasim Khan versus Kabir Khan, YLR 2018 Peshawar 282), plausibility (Niamat Ali versus State, YLR 2018 Lahore 289), and to understand their behavior (Muhammad Irshad versus State, YLR 2018 Lahore 356). However, the guilt or innocence of accused cannot be established by using generalization (Pundik, 2017, p. 24) For that reason, article 67 of Qanoon e Shahadat order (1984) does not allow to adduce the evidence of bad character of the accused except in a few exceptional circumstances.

3. Conclusions

The evidential data in the judicial process of proof is managed at three different stages to become evidence which the courts can subsequently use to adjudicate a legal dispute. The three stages include the stage of the production of evidence, the admission of evidence and the evaluation of evidence. At the stage of production of evidence, the prosecution or the accused (if he wishes) can produce evidence in the court. The primary and the secondary legislation provide the legal mechanism for the production of evidence in the courts. As a general principle, the prosecution alone makes the decisions regarding what kind of evidence is to be produced in the courts. However, the law also empowers the courts to ask for the production of any documentary or oral evidence in the court. Nevertheless, the courts may refuse to call any person as witness if he is being called for the purpose of vexation or delay or defeating the ends of justice. In addition, the courts have power to allow or call for additional evidence necessary for the just decision of the case. On the other hand, the courts determine the relevancy and admissibility of evidence produced before them at the stage of the admission of evidence. The courts determine the relevancy of evidence in the light of QSO. In contrast, the courts determine the admissibility of evidence by evaluating the procedure of collecting evidence, exclusionary rules of evidence, and the purpose for which evidence is produced. The admission of evidence relates to the fitness and earliest recognition of evidence. Likewise, the final stage is the "evaluation of evidence" and the courts examine the quantity and quality of evidence at this stage. The quantity of evidence refers to the required number of witnesses or documentary evidence and the quality of evidence stands for analyzing the corroboration of evidence and prioritizing various pieces of evidence. In addition, the courts draw inferences from admitted evidence regarding the guilt or innocence of accused by employing inferential reasoning. The inferential reasoning may be carried out through deduction, induction and abduction. Whatever is the mode of drawing inferences, the courts rely on generalization to evaluate evidence, to form theory of the case and to assess the credibility and reliability of witnesses' testimony.

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