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1. Fact (Article 2(1)) A "fact" under the QSO means anything, state of things, or relation of things capable of being perceived by the senses, and includes any mental condition of which a person is conscious. This broad definition covers both physical facts (objects, events) and psychological facts (intention, knowledge, good faith). The distinction between fact and law is fundamental to evidentiary practice, as evidence is generally led to prove facts, not legal conclusions. Understanding what constitutes a "fact" is essential to determining relevancy and admissibility under subsequent provisions. This definitional foundation underlies the entire structure of the law of evidence.

2. Relevant Fact (Article 2(2)) A fact is said to be "relevant" to another when it is connected with it in any of the ways referred to in the provisions of the QSO relating to relevancy, particularly Articles 3 to 16. Relevancy is a logical concept determining what facts a court may receive to help prove or disprove a fact in issue. Not all relevant facts are automatically admissible, but generally, admissibility follows from relevancy under this law. This distinction between relevancy and admissibility is a frequently tested conceptual point in evidence law interviews. It forms the analytical starting point for deciding whether any piece of evidence can be placed before the court.

3. Facts in Issue (Article 2(3)) "Facts in issue" means any fact from which, either by itself or in connection with other facts, the existence, non-existence, nature, or extent of any right, liability, or disability asserted or denied in any suit or proceeding necessarily follows. These are the facts that the parties are actually disputing and which the court must determine to decide the case. They are typically identified from the pleadings in civil cases or the charge in criminal cases. Distinguishing facts in issue from merely relevant facts is essential for understanding the framing of issues and the scope of evidence. This concept is closely linked to Order XIV of the CPC regarding framing of issues.

4. Document (Article 2(4)) A "document" means any matter expressed or described upon any substance by means of letters, figures, or marks, or by more than one of those means, intended to be used for the purpose of recording that matter. This broad definition covers writings, maps, plans, inscriptions, and even electronic records under modern interpretation. Documents are central to documentary evidence and are governed by specific rules regarding proof, including primary and secondary evidence under Articles 73–90. The distinction between documents and oral evidence significantly affects the mode of proof required at trial. This definition remains foundational to understanding documentary evidence law in Pakistan.

5. Evidence (Article 2(5)) "Evidence" includes all statements which the court permits or requires to be made before it by witnesses in relation to matters of fact under inquiry (oral evidence), and all documents produced for the inspection of the court (documentary evidence). This twofold classification—oral and documentary—forms the basic structural division of evidence law. Both categories are subject to distinct rules regarding relevancy, proof, and admissibility. Understanding this classification is essential to appreciating how different types of evidence are treated procedurally at trial. It is the most fundamental definitional building block of the entire law of evidence.

6. Proved, Disproved, and Not Proved (Article 2(6), (7), (8)) A fact is "proved" when, after considering the matters before it, the court either believes it to exist or considers its existence so probable that a prudent man ought to act upon the supposition that it exists. A fact is

"disproved" when the court believes it does not exist or considers its non-existence so probable that a prudent man would act on that supposition. A fact is "not proved" when it is neither proved nor disproved. These definitions establish the standard of proof applicable in evaluating evidence, based on the "prudent man" test rather than absolute certainty. This standard underlies both civil (preponderance of probability) and criminal (proof beyond reasonable doubt) evidentiary thresholds, as further refined by case law.

7. Relevancy of Facts Forming Part of the Same Transaction — Res Gestae (Article 19)

Article 19 provides that facts which, though not in issue, are so connected with a fact in issue as to form part of the same transaction are relevant, whether they occurred at the same time and place or at different times and places. This is commonly known as the doctrine of res gestae, allowing spontaneous statements or acts closely connected to the main event to be admitted as evidence. Such statements must be contemporaneous or so closely connected to the transaction that they can be considered part of it. This doctrine is significant in criminal cases, particularly regarding statements made during or immediately after the commission of an offence. It is a frequently tested and practically significant relevancy provision.

8. Facts which are the Occasion, Cause, or Effect of Facts in Issue (Article 20) This article makes relevant facts that constitute the occasion, cause, or effect of the facts in issue or relevant facts, including facts that afforded an opportunity for their occurrence or transaction. This allows courts to consider the broader context and circumstances surrounding an event, such as motive-related circumstances or the aftermath of an incident. It provides a mechanism for admitting circumstantial evidence that helps establish the logical chain leading to or following from the fact in issue. This provision is frequently applied in criminal cases to establish the surrounding circumstances of an offence. It broadens the scope of admissible evidence beyond the immediate transaction itself.

9. Motive, Preparation, and Previous or Subsequent Conduct (Article 21) Article 21 makes relevant any fact showing or constituting motive or preparation for any fact in issue, as well as conduct of any party or their agent before, during, or after the occurrence of the fact in issue, if such conduct influences or is influenced by the fact in issue. This provision is extensively used in criminal trials to establish motive and to assess the conduct of the accused, such as flight after an offence or attempts to destroy evidence. Statements accompanying and explaining acts are also covered where relevant to conduct. This is one of the most frequently invoked relevancy provisions in criminal prosecutions. It provides crucial circumstantial evidence supporting or undermining the prosecution's or defense's case.

10. Admissions (Articles 30–37) An admission is a statement, oral or documentary, which suggests any inference as to a fact in issue or relevant fact, made by a party to the proceeding or specified other persons under defined circumstances. Admissions are generally relevant and can be used against the person who made them, though they are not conclusive proof and can be explained or rebutted. Article 33 particularly addresses admissions made in civil cases, while other provisions cover admissions by agents, persons with proprietary interest, or predecessors-in-interest. Admissions differ from confessions, which apply specifically to criminal matters. This is a frequently tested area given its significant evidentiary weight in both civil and criminal proceedings.

11. Confessions (Articles 37–43) A confession is a species of admission specifically referring to an acknowledgment of guilt made by an accused person in a criminal case. Article 37 addresses confessions caused by inducement, threat, or promise, rendering them irrelevant if

made under such circumstances. Article 38 renders confessions to police officers inadmissible, while Article 39 similarly excludes confessions made while in police custody unless made in the immediate presence of a Magistrate. These provisions reflect strong safeguards against coerced or unreliable confessions, given the serious consequences of criminal conviction. This is one of the most significant and frequently tested areas of evidence law in criminal practice.

12. Confession by Co-Accused (Article 43) Article 43 allows a court to take into consideration a confession made by one accused person that also implicates a co-accused being jointly tried for the same offence, though such confession is considered weak evidence requiring corroboration. This provision permits limited use of a co-accused's confession, but courts have consistently held that conviction should not rest solely on such uncorroborated confession. It reflects the cautious approach evidence law takes toward statements made by one accused against another, given inherent reliability concerns. This provision is frequently discussed in cases involving multiple accused persons and conspiracy charges. It remains a nuanced and carefully scrutinized area of criminal evidentiary practice.

13. Dying Declaration (Article 46(1)) A dying declaration is a statement made by a person as to the cause of their death, or as to any circumstances of the transaction resulting in their death, which becomes relevant when the cause of that person's death is in question, regardless of whether the declarant was under expectation of death at the time of making the statement. Pakistani courts require that such statements be made voluntarily, while the declarant was of sound mind, and preferably recorded by a Magistrate or medical officer where feasible. Corroboration, while not always mandatory, strengthens the reliability of a dying declaration significantly. This is one of the most critical and frequently tested exceptions to the general rule against hearsay evidence. It plays a decisive role in homicide prosecutions.

14. Statements by Persons Who Cannot Be Called as Witnesses (Article 46) Beyond dying declarations, Article 46 makes relevant statements of persons who are dead, cannot be found, have become incapable of giving evidence, or whose attendance cannot be procured without unreasonable delay or expense, under specified circumstances such as statements made in the course of business or against the maker's own interest. This provision represents a significant, carefully circumscribed exception to the general exclusion of hearsay evidence. Each sub-category requires specific conditions to be satisfied before such statements become admissible. This reflects the law's pragmatic balance between strict evidentiary rules and practical necessity where direct testimony is unavailable. It is a frequently examined area regarding exceptions to the hearsay rule.

15. Opinions of Experts (Article 59) Article 59 makes relevant the opinions of persons specially skilled in foreign law, science, art, or questions of identity of handwriting or finger impressions, when the court has to form an opinion on such matters. Expert opinion assists the court in technical matters beyond ordinary judicial knowledge, such as forensic, medical, or handwriting analysis. Such opinions must be based on the expert's specialized knowledge and are subject to cross-examination regarding their basis and reliability. Courts are not bound to accept expert opinion and must independently evaluate it alongside other evidence. This provision is increasingly significant given the growing role of forensic and scientific evidence in modern criminal trials.

16. Opinion as to Handwriting (Articles 60–61) Articles 60 and 61 address relevancy of opinions regarding handwriting, allowing both expert testimony and opinion of persons familiar with the handwriting of the person in question through prior acquaintance or

correspondence. Courts may also independently compare disputed handwriting with admittedly genuine specimens under Article 84. This provision is frequently invoked in forgery cases, disputed wills, and contested documents. The reliability of handwriting evidence depends significantly on the quality of comparison specimens and the expert's methodology. This remains a practically significant area given the frequency of document-related disputes in both civil and criminal litigation.

17. Character Evidence (Articles 64–71) These articles address the relevancy of character evidence in both civil and criminal cases, generally restricting its use except in specific circumstances, such as when character is itself a fact in issue or when the accused puts their own good character in issue. In civil cases, character evidence to prove conduct is generally excluded except when relevant to assessing damages. In criminal cases, evidence of the accused's bad character is generally inadmissible unless the accused has given evidence of good character or it becomes otherwise relevant. This reflects the law's caution against allowing character evidence to unduly prejudice the fact-finding process. This remains a carefully balanced and frequently examined area regarding fairness in criminal trials.

18. Burden of Proof (Articles 117–121) Article 117 establishes the general principle that the burden of proving a fact lies on the person who asserts it, requiring them to prove its existence before the court will act on the assumption of its truth. Article 118 addresses the burden of proof regarding particular facts within a broader claim, while Article 119 deals with the burden of proving facts especially within the knowledge of a party. These provisions establish the foundational allocation of responsibility for presenting evidence in both civil and criminal proceedings. Understanding burden of proof is essential to determining which party must fail if no evidence is presented on a particular point. This is one of the most fundamental and frequently tested concepts in evidence law.

19. Presumptions (Articles 122–129) The QSO recognizes various categories of presumptions: "may presume" (discretionary), "shall presume" (mandatory unless rebutted), and "conclusive proof" (irrebuttable). These provisions allow courts to infer certain facts from proven circumstances without requiring direct proof, streamlining the evidentiary process for commonly recurring situations. Examples include presumptions regarding genuineness of certified copies, regularity of official acts, and legitimacy of children born during a valid marriage. Presumptions shift the evidentiary burden onto the opposing party to rebut the presumed fact where the law permits rebuttal. This is a conceptually rich and frequently tested area distinguishing different strengths of legal presumption.

20. Presumption of Legitimacy (Article 128) Article 128 provides that the fact that a person was born during the continuance of a valid marriage between their mother and any man, or within 280 days after its dissolution while the mother remained unmarried, shall be conclusive proof of legitimacy, unless it can be shown the parties had no access to each other at the relevant time. This presumption reflects strong policy considerations favoring the stability of family relationships and protection of children's status. It is one of the few "conclusive proof" presumptions under the QSO, meaning it generally cannot be rebutted except by proving non-access. This provision frequently arises in inheritance, family, and personal status litigation. It represents an important intersection between evidence law and family law principles.

21. Doctrine of Estoppel (Articles 113–116) Estoppel prevents a person from denying the truth of a representation they previously made, where another person has acted upon that representation to their detriment. Article 114 embodies the general principle of estoppel by

representation, while related provisions address estoppel in the context of tenancy, licensor-licensee relationships, and acceptor of bills of exchange. Estoppel operates as a rule of evidence rather than substantive law, preventing a party from leading evidence contrary to their prior representation. This doctrine promotes consistency, fairness, and reliance-based justice in legal relationships. It remains a frequently tested and practically significant equitable principle within evidence law.

22. Competency of Witnesses (Article 3) Article 3 provides that all persons are competent to testify unless the court considers they are prevented from understanding the questions or giving rational answers due to tender age, extreme old age, disease of body or mind, or similar cause. This establishes a broad presumption of competency, with incompetency being the exception requiring specific judicial determination. Even a person of unsound mind is not automatically incompetent unless their condition prevents rational understanding and communication. This provision reflects the modern, inclusive approach to witness competency, focusing on functional capacity rather than categorical exclusions. It is a foundational provision determining who may give testimony before the court.

23. Privileged Communications (Articles 8–17) These provisions protect certain categories of communication from compelled disclosure, including affairs of state (Article 8), official communications (Article 9), and communications between spouses during marriage (Article 8, related provisions). Privileged communications reflect important public policy considerations, such as protecting marital confidentiality or safeguarding sensitive state information from disclosure that could harm public interest. These privileges are not absolute and may be subject to specific exceptions or judicial balancing in appropriate circumstances. Understanding which communications are privileged is essential for both prosecution and defense in managing evidentiary strategy. This area frequently intersects with constitutional and public interest considerations in litigation.

24. Professional Communications — Legal Privilege (Articles 8–9, related to legal advisers) Communications between a legal practitioner and their client made in the course of and for the purpose of professional employment are generally protected from disclosure, reflecting the fundamental importance of confidential legal advice to the proper functioning of the justice system. This privilege belongs to the client and can generally only be waived by them, not by the legal practitioner. Exceptions exist where the communication was made in furtherance of an illegal purpose or reveals a crime or fraud committed since the commencement of employment. This privilege is essential to maintaining trust in the lawyer-client relationship and encouraging full and frank disclosure necessary for effective legal representation. It remains a cornerstone protection within the professional practice of law.

25. Number of Witnesses (Article 17) Article 17 establishes that no particular number of witnesses is required for proof of any fact, except as otherwise provided by law, reflecting the general principle that evidence is weighed on its quality rather than quantity. However, Article 17 also incorporates specific requirements under Islamic law principles for certain matters, particularly financial transactions and contracts, requiring two male witnesses or one male and two female witnesses under specified circumstances, reflecting the Islamic character of the QSO's enactment. This provision represents an important intersection between general evidentiary principles and specific religious law requirements. Courts must carefully distinguish between matters governed by ordinary evidentiary standards and those subject to specific witness-number requirements. This remains a distinctive and occasionally debated feature of Pakistan's evidence law framework.

26. Examination of Witnesses — Chief, Cross, and Re-examination (Articles 133–142)

These provisions govern the structured process of witness examination, comprising examination-in-chief (by the party calling the witness), cross-examination (by the opposing party), and re-examination (by the original party to clarify matters raised in cross-examination). Cross-examination is not limited to facts raised in examination-in-chief and may extend to test credibility, while re-examination must generally be confined to matters arising from cross-examination. Leading questions are generally prohibited in examination-in-chief but permitted in cross-examination, reflecting differing purposes of each stage. This structured process is fundamental to ensuring a fair and thorough testing of witness testimony. It represents the practical operational mechanism through which oral evidence is elicited and tested at trial.

27. Leading Questions (Articles 139–140) A leading question is one that suggests the answer the questioner wishes to receive, and Article 139 generally prohibits such questions during examination-in-chief or re-examination, except with the court's permission on introductory or undisputed matters. Article 140 permits leading questions during cross-examination, reflecting its adversarial purpose of testing and challenging the witness's testimony. This distinction ensures that a witness's own account is elicited without undue suggestion during direct examination, preserving the reliability and spontaneity of testimony. Courts retain discretion to permit leading questions in appropriate circumstances, such as with hostile or child witnesses. This is a frequently tested practical aspect of trial advocacy and witness examination technique.

28. Hostile Witness (Article 150, related to impeachment of credit) Although not explicitly defined by that term in the QSO, the concept of a hostile witness arises where a witness called by a party turns adverse to that party's interest, permitting the court, under Article 150, to allow the party calling the witness to cross-examine and impeach the credit of their own witness with the court's permission. This provision addresses the practical reality that a witness may not always support the case of the party who called them, whether due to fear, inducement, or changed circumstances. Declaring a witness hostile allows for more effective cross-examination, including confrontation with prior inconsistent statements. This remains a significant and frequently applied procedural tool, particularly in criminal trials involving witness intimidation or turning.

29. Impeaching Credit of Witness (Article 151) Article 151 provides the specific grounds upon which the credit of a witness may be impeached, including proof of statements inconsistent with their testimony, evidence of general bad character affecting credibility, and evidence that the witness has been bribed or offered inducement to testify falsely. This provision allows the opposing party to challenge the reliability and truthfulness of a witness's testimony through legitimate, structured means. Impeachment must generally comply with procedural formalities, including confronting the witness with the alleged inconsistency during cross-examination. This is a fundamental adversarial tool ensuring testimony is subjected to rigorous scrutiny before being relied upon. It plays a crucial role in maintaining the overall reliability of oral evidence presented to the court.

30. Corroboration (Various Articles, notably regarding confessions, accomplice evidence, dying declarations) While the QSO does not impose a blanket requirement for corroboration of all evidence, Pakistani courts have developed significant jurisprudence requiring corroboration in specific categories, including accomplice testimony, retracted confessions, and certain categories of interested witness testimony. Corroboration involves independent evidence supporting the reliability of a particular piece of testimony or confession, reducing

the risk of wrongful conviction based on potentially unreliable sole evidence. This judicially developed principle operates alongside statutory provisions to enhance the overall reliability and fairness of criminal adjudication. Understanding when corroboration is required, as a matter of law or prudence, is essential for competent criminal practice. This remains a critically important safeguard, particularly in serious criminal prosecutions.

31. Accomplice Evidence (Article 129, Illustration (b)) An accomplice is considered a competent witness against an accused person, but Pakistani courts have consistently held that conviction based solely on uncorroborated accomplice testimony is unsafe, given the inherent unreliability of a witness who participated in the crime. Article 129's illustrations provide guidance regarding presumptions that may be drawn, including caution against uncorroborated accomplice evidence. This principle reflects the broader concern that an accomplice may have motive to minimize their own culpability by implicating others. Courts typically require independent corroboration connecting the accused to the offence before relying on accomplice testimony for conviction. This remains a significant and carefully scrutinized area in criminal evidentiary practice.

32. Primary and Secondary Evidence (Articles 73–75) Article 73 defines primary evidence as the document itself produced for inspection of the court, representing the best and most direct form of documentary proof. Article 75 defines secondary evidence as including certified copies, copies made from the original, oral accounts of the document's contents by someone who has seen it, and counterparts. The general rule requires documents to be proved by primary evidence, with secondary evidence admissible only under specific circumstances outlined in Article 76. This hierarchy ensures the most reliable form of documentary evidence is presented wherever possible. This distinction is fundamental to documentary evidence practice and frequently tested regarding proper proof of documents.

33. Proof of Documents by Primary Evidence (Article 73) The general rule under the QSO requires that documents be proved by primary evidence, meaning the original document itself must be produced for the court's inspection wherever possible. This rule, sometimes called the "best evidence rule," ensures the highest reliability and reduces the risk of fraud or misrepresentation through altered or incomplete copies. Exceptions permitting secondary evidence are narrowly construed and require specific justification under Article 76. Failure to produce primary evidence without adequate explanation can result in exclusion of the documentary claim altogether. This principle underlies the careful, structured approach to documentary proof throughout Pakistani evidence law.

34. Cases in Which Secondary Evidence Relating to Documents May Be Given (Article 76) Article 76 enumerates specific circumstances permitting secondary evidence, including when the original is shown to be in the possession of the opposing party who fails to produce it after notice, when the original has been destroyed or lost, when the original is not easily movable, or when the original is a public document. Each ground requires the party seeking to introduce secondary evidence to first establish the factual predicate justifying departure from the primary evidence rule. This provision balances the strict requirement of primary evidence against practical realities where the original document is genuinely unavailable. This is a frequently tested and practically essential area in documentary evidence practice.

35. Public Documents (Article 85) Article 85 defines public documents as including documents forming the acts or records of sovereign authority, official bodies, tribunals, and public officers, as well as public records kept of private documents. Public documents carry a

presumption of genuineness under Article 129, and certified copies are generally admissible as secondary evidence without further proof of execution. This classification simplifies the process of proving official records, given the inherent reliability associated with their institutional origin. Understanding what qualifies as a public document is essential for practitioners relying on government records, court records, or official registers. This provision streamlines evidentiary procedure for a significant category of frequently used documentary evidence.

36. Private Documents (Article 86) Private documents encompass all documents other than public documents, including personal agreements, letters, and private records, generally requiring more rigorous proof of execution and authenticity compared to public documents. Unlike public documents, private documents do not carry an automatic presumption of genuineness and typically require testimony from the executant, an attesting witness, or handwriting evidence to establish authenticity. This distinction reflects the differing levels of institutional reliability between government-generated and privately-generated documents. Proper classification of a document as public or private significantly affects the mode and burden of proof required at trial. This remains an important practical distinction in documentary evidence law.

37. Presumption as to Genuineness of Certified Copies (Article 90) Article 90 provides a presumption that a certified copy of a document is genuine and that the officer who certified it held the official character they claimed at the time of certification, provided the copy is substantially in the form required by law. This presumption significantly simplifies the process of proving public documents through certified copies rather than requiring production of cumbersome originals. The presumption is rebuttable, allowing a party to challenge the certified copy's authenticity if genuine doubts arise. This provision reflects a pragmatic balance between evidentiary rigor and practical convenience in dealing with public records. It is frequently relevant in civil litigation involving revenue records, registration documents, and official certificates.

38. Exclusion of Oral Evidence by Documentary Evidence (Articles 91–92) Article 91 provides that when the terms of a contract, grant, or other disposition of property have been reduced to writing, no evidence shall be given to prove the terms except the document itself or admissible secondary evidence, subject to limited exceptions. Article 92 further restricts oral evidence to vary, contradict, add to, or subtract from the terms of such a document, though certain exceptions exist for matters like fraud, mistake, or subsequent oral agreements varying the contract. This principle, often referred to as the parol evidence rule, ensures certainty and reliability in written contractual and legal instruments. Understanding the exceptions to this general rule is essential for effective contractual and property litigation. This remains a foundational principle governing the interaction between oral testimony and written instruments.

39. Interpretation of Documents (Articles 96–98) These articles address principles for interpreting ambiguous or unclear language in documents, permitting evidence to clarify the meaning of technical terms, local usage, or ambiguous references to persons or things, while generally prohibiting evidence that would contradict the plain meaning of unambiguous language. Article 98 specifically addresses situations of patent versus latent ambiguity, with different evidentiary approaches applicable to each. These provisions help courts give practical effect to the genuine intention of parties where document language alone is insufficient to resolve disputes. This area intersects significantly with contract law and property law

interpretation principles. It remains an important tool for resolving genuine ambiguities without undermining the general preference for written evidence.

40. Facts Which Need Not Be Proved — Judicial Notice (Article 111) Article 111 enumerates matters of which courts must take judicial notice without requiring formal proof, including laws in force in Pakistan, matters of public history, and the seals of various courts and authorities. This provision streamlines proceedings by eliminating the need for formal evidence on matters of common or official knowledge already within the court's cognizance. Judicial notice reflects practical efficiency, avoiding unnecessary evidentiary burden on well-established or officially recognized facts. Courts may also refer to appropriate books or documents for the purpose of informing themselves regarding matters subject to judicial notice. This is a frequently tested procedural efficiency mechanism within evidence law.

41. Facts Admitted Need Not Be Proved (Article 112) Article 112 provides that facts admitted by a party in the pleadings or otherwise need not be proved, unless the court, in its discretion, requires such facts to be proved notwithstanding the admission. This provision streamlines trial proceedings by focusing evidence on genuinely contested matters rather than requiring redundant proof of undisputed facts. Courts retain discretion to require proof despite admission in exceptional circumstances, such as suspected collusion between parties. This principle promotes judicial efficiency while preserving judicial oversight to prevent potential abuse through improper or collusive admissions. It works closely alongside Order XII of the CPC regarding formal admissions in civil proceedings.

42. Presumption as to Electronic and Modern Forms of Evidence (Related provisions, post-amendment developments) Following legislative developments recognizing electronic transactions and digital evidence, Pakistani evidence law has increasingly grappled with the admissibility and proof of electronic documents, including emails, digital records, and data messages, often read alongside the Electronic Transactions Ordinance, 2002. Courts require appropriate certification and authentication procedures to establish the reliability and integrity of electronic evidence before admission. This evolving area reflects the law's adaptation to technological change while maintaining core evidentiary principles regarding reliability and authenticity. Understanding these modern developments is increasingly relevant given the growing role of digital evidence in contemporary litigation. This remains a developing and practically significant frontier within Pakistani evidence law.

43. Presumption of Continuance (Article 129, Illustration principles) Courts may presume that a state of things known to have existed at a particular time continues to exist, particularly where the nature of the thing is such that it would ordinarily continue absent evidence of change, such as continuance of a partnership, marriage, or possession. This presumption, drawn from general principles under Article 129, assists in resolving evidentiary gaps where direct proof of continuing status is impractical to obtain for every relevant point in time. It shifts the burden onto the party asserting discontinuance or change to provide evidence rebutting the presumption. This principle is frequently applied in property, family status, and commercial relationship disputes. It reflects a practical, common-sense approach to filling evidentiary gaps regarding ongoing states of affairs.

44. Presumption as to Absence of Person Unheard of for Seven Years (Article 112, illustration; related to general law) Pakistani evidentiary and personal status law recognizes a presumption of death where a person has not been heard of for seven years by those who would naturally have heard from them if alive, shifting the burden to whoever asserts the person

is still alive. This presumption has significant practical implications for inheritance, remarriage, and insurance claims involving long-missing persons. Courts require evidence establishing genuine efforts to locate or hear from the missing person before applying this presumption. This principle intersects closely with family law and succession law, given its impact on determining legal status and rights of dependents. It remains an important, practically significant presumption in cases involving prolonged and unexplained absence.

45. Oral Evidence Must Be Direct (Article 71) Article 71 requires that oral evidence must, in all cases, be direct, meaning a witness must testify to what they personally saw, heard, or perceived through their own senses, rather than relaying information received from another person, subject to specific exceptions like expert opinion and admissible hearsay exceptions. This principle underlies the general exclusion of hearsay evidence, ensuring the court hears directly from those with firsthand knowledge of the relevant facts, subject to cross-examination. Violation of this rule generally renders such indirect testimony inadmissible, absent a recognized exception. This is one of the most fundamental structural principles distinguishing admissible from inadmissible oral testimony. It underlies the broader architecture of witness examination and hearsay exceptions throughout the QSO.

46. Refreshing Memory (Articles 161–163) These provisions allow a witness to refresh their memory by referring to a document made or verified by them at or near the time of the event in question, while testifying, subject to specific conditions ensuring reliability. The opposing party is entitled to inspect any such document used to refresh memory and may cross-examine the witness regarding it. This mechanism accommodates the practical reality that witnesses may not recall every detail without assistance, while maintaining safeguards against fabricated or unreliable reconstructions. Proper use of this provision is particularly relevant for expert witnesses, investigating officers, and professionals testifying regarding technical or detailed matters. This remains a practically important tool in managing witness testimony during trial.

47. Production of Documents or Electronic Records (Articles 163–165, related to summons for production) These provisions empower courts to compel production of documents or records relevant to the proceedings from persons possessing them, including third parties not otherwise directly involved in the litigation. Refusal to produce documents without lawful justification can result in adverse consequences, including permitting secondary evidence or adverse inference against the non-producing party. This mechanism ensures parties cannot unfairly withhold crucial evidence within their control, promoting transparency and completeness in fact-finding. It operates alongside similar discovery mechanisms under the CPC in civil proceedings. This remains an essential procedural tool for ensuring comprehensive presentation of relevant evidence before the court.

48. Judge's Power to Put Questions (Article 161, related to Article 165 of the earlier Evidence Act tradition) The QSO preserves the court's inherent power to ask any question it deems fit, in any form, at any time, of any witness or party, to discover or obtain proper proof of relevant facts, reflecting the judge's active role in ascertaining truth rather than functioning purely as a passive arbiter. This power must be exercised judiciously, without descending into the arena or displaying bias toward either party. Judicial questioning can be crucial in clarifying ambiguous testimony or ensuring justice is not defeated by inadequate advocacy from either side. This power reflects the inquisitorial dimension embedded within Pakistan's otherwise largely adversarial trial system. It remains a significant tool for judicial officers seeking clarity and completeness in the evidentiary record.

49. Improper Admission and Rejection of Evidence (Article 167) Article 167 provides that improper admission or rejection of evidence shall not itself be a ground for reversing a decision, unless the appellate court is satisfied that the error affected the merits of the case or resulted in a miscarriage of justice. This principle reflects a pragmatic approach preventing purely technical evidentiary errors from automatically vitiating otherwise sound judgments. Appellate courts must assess whether the improperly admitted or excluded evidence had a material impact on the outcome of the case. This provision balances the importance of evidentiary rules with the broader interest in achieving substantial justice without undue technicality. It is frequently invoked in appellate practice when challenging evidentiary rulings made during trial.

50. Standard of Proof — Civil versus Criminal Cases (General principle, drawn from Articles 117 and 129, and judicial interpretation) While not explicitly codified as a single article, Pakistani evidence law, consistent with common law tradition, distinguishes between the civil standard of proof (preponderance of probability, meaning the fact is more likely than not to be true) and the criminal standard (proof beyond reasonable doubt, reflecting the higher stakes of personal liberty involved). This distinction significantly shapes how courts evaluate the same or similar evidence differently depending on whether the proceeding is civil or criminal in nature. Understanding this differential standard is essential when assessing case strength and formulating both prosecutorial and defense strategy. Pakistani superior courts have extensively elaborated on the practical application of these standards through case law, particularly regarding circumstantial evidence and coincidence of guilt. This remains one of the most foundational and consistently tested concepts underlying the entire framework of evidence law.