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# Scope and Admissibility of Circumstantial Evidence in Criminal Cases in Pakistan

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## Abstract

In a legal system, the courts have to rely on evidence for the dispensation of justice. The evidence may be either testimony of eyewitnesses or confession of the accused or other indirect evidence also known as circumstantial evidence. Circumstantial evidence holds greater significance in the dispensation of justice as many cases do not have enough direct evidence to prove the guilt of the accused. The court has to depend on circumstantial evidence because it establishes linkages between various events connecting the accused to the commission of crime. The principle of circumstantial evidence is that the circumstances presented should be capable of explaining the guilt of the accused only, while simultaneously ruling out any other hypothesis regarding their innocence. This research paper aims to explore the scope and importance of circumstantial evidence in criminal cases in Pakistan, considering the decisions of the higher courts of Pakistan. The study also examines the principles of the apex courts of Pakistan and other jurisdictions regarding circumstantial evidence, and the reliability of this evidence for the purpose of conviction.

**Keywords:** admissibility, circumstantial evidence, conviction and apex court, credibility, fact in issue, relevant facts, reliability

## Introduction

In the administration of justice, evidence is the only source to find the truth in order to resolve the matter involving any right or liability. The major role that any piece of evidence plays in criminal justice is to establish a connection between the accused and the victim or the crime scene. Key questions in criminal cases revolve around whether a crime was committed and whether the accused was accountable for the commission of that crime. Evidence also performs a crucial role in excluding the accused and in the exoneration of the individuals who have been wrongfully implicated. Generally, evidence may be classified as either direct evidence or

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circumstantial evidence, although oral accounts and documentary evidence are also significant types of evidence that are used in court proceedings. Direct evidence delivers proof about some fact in issue without necessitating the court to make assumptions or to draw inferences. It is evidence that unequivocally supports itself and logically points in a specific direction. Eyewitness testimony, incriminating statements made by the defendant, victim, or witness, and photographs and videos of a crime are classic examples of direct evidence.

Unlike direct evidence, which depends on personal knowledge or opinion, circumstantial evidence is based largely on inference and assumptions (Tapper, [2010](#)). It indirectly establishes a fact or occurrence that implies that the accused has committed the crime. When the evidence and inferences drawn from it can establish the accused's guilt beyond a reasonable doubt, circumstantial evidence is sufficient for conviction. This is the standard of evidence used in criminal proceedings to overwhelm the presumption that a person is innocent until proven guilty. Thus, evidence is required not to prove that the accused is undeniably guilty or guilty beyond any question, but rather that there are no other logical explanations resulting from the facts and circumstances of the case that anyone other than the accused could have committed the crime. The guilt of the accused can be proven by using a process of logical deduction. The onus of proving a case beyond a reasonable doubt rests with the prosecution. Weakness of defense cannot give any benefit to the prosecution. Evidence whether direct or circumstantial is a main tool of prosecution for proving the guilt of the accused person beyond the shadow of doubt. The circumstantial evidence consists of many links that are not connected with the main issue, but they are so connected with each other to reach the conclusion. The circumstantial evidence is not direct evidence relating to fact in issue but it is direct evidence to the relevant facts.

## **Evidence, Meaning and Explanation**

### ***Evidence (Defined)***

In general, evidence is referred to as ‘fact finding’. Evidence is a crucial component of every case in a court of law since every demand or claim made in court must be supported by evidence otherwise, it risks rejection. The word “evidence” is derived from the Latin phrase “Evidens Evidere”, which means “clear, apparent, or notorious state of proof”. Sir Taylor

defines the law of evidence as the use of argument to support or refute any statement of fact (Suman, [2015](#)).

In legal context, evidence refers to anything by which the existence or nonexistence of a fact is proved in court. However, for something to qualify as evidence, it must align with the provisions of the Evidence Act, even if it convinces the judge of its authenticity (Islam, [2021](#)).

According to Peter Murphy, the term “evidence” refers to any information that could influence the fact finder’s opinion with regard to a factual claim that is up for debate and needs to be resolved (Murphy & Glover, [2011](#), p. 2).

### *Classification of Evidence*

Under the Qanun-e-Shahadat Order, 1984, evidence may be of different types, categorized as either direct evidence pertaining to fact in issue or indirect evidence of that fact.

**Direct Evidence.** Direct evidence means the evidence of a fact directly based on the personal knowledge of the eyewitnesses and is regarded as the most reliable form of evidence in any case. Personal knowledge or observance of witness is the basic quality of direct evidence and it may be made the foundation of conviction if it convinces the court beyond a reasonable doubt of the accused’s guilt regarding the commission of the event. It may be either oral testimony or documentary proof of some event.

**Indirect Evidence.** The evidence which is not based on the personal knowledge or observance of a witness regarding a particular incident is known as indirect or circumstantial evidence. Circumstantial evidence is direct evidence of some other fact connected with fact in issue. Circumstantial evidence does not demonstrate the fact in issue directly, but it is based on inferences and presumptions. Where direct evidence is absent, the case is dependent on circumstantial evidence. Last seen evidence, recovery of any article of the victim/deceased from possession of accused, recovery of *carpus delicti* on pointing out of accused, and expert opinions are examples of circumstantial evidence.

### *Meaning of Circumstantial Evidence*

The term “circumstantial evidence” is not explicitly defined in the Qanun-e-Shahadat Order, 1984 but rather it provides the manner in which and when circumstantial evidence may be used in court. The meaning of

circumstantial evidence has evolved over time as a result of the interaction of numerous statutes and court judgments.

The evidence gathered from different circumstances occurs in a series, leading to the connection between the occurrence and the accused. This is the evidence of relevant facts or circumstances that are not directly in issue but connected with the fact in issue.

Circumstantial evidence is proof of pertinent facts from which one might deduce the presence of the facts at issue, or *factum probandum*, by a process of logical deduction (Ratanlal & Dhirajlal, [2018](#)).

In the Arabic language, the word *Qarinah* stands for circumstantial evidence, which denotes presumption, conjunction, linkage and indication.

### ***Fact in Issue (Defined)***

Fact in issue is that fact which relates to the existence or non-existence of any event, right or liability upon which the trial court is required to give its findings. These facts are directly concerned with matter and are also called *factum probandum*. These are the facts that have to be proven by any claimant to establish his claim with those facts which are also required by the defense to be proved for his defense (Keane & McKeown, [2012](#)).

“Facts in question, sometimes termed principal facts, are those required by law to prove the claim, responsibility, or defense, comprising the subject of the proceedings, and which are in controversy between the parties” (Ratanlal & Dhirajlal, [2018](#), p. 32).

### ***Relevant Fact (Defined)***

Relevant facts are those facts that are not directly in issue but are closely connected to the fact in issue and help to prove the fact in issue. These facts possess logical force, which shows the relationship between the evidence and fact in issue and is direct evidence of that relevant fact. According to Murphy, relevant evidence or facts are probative in nature and assist the judge or jury make a decision about fact in issue (Murphy & Glover, [2011](#)).

A relevant fact is a fact from which it is possible to deduce the existence or absence of a fact in question. It is sometimes referred to as an “evidentiary fact”, “fact relevant to the issue” or *factum probans* (Keane & McKeown, [2012](#)).

### ***Collateral Facts (Defined)***

Apart from the fact in issue and relevant facts, some other facts connected with the testimony of witnesses are also required to be proved, for admissibility of evidence on facts of issue and relevant facts. These facts may pertain to the competence and credibility of the witness. Collateral or “there are three types of ‘subordinate facts’: (i) facts affecting a witness’s competence; (ii) facts affecting a witness’s credibility; and (iii) and facts, sometimes referred to as ‘preliminary facts,’ which must be established as a condition precedent to the admissibility of certain items of evidence tendered to establish a fact in controversy or a relevant fact (Keane & McKeown, [2012](#)).

### ***The Origin of Circumstantial Evidence***

Circumstantial evidence may not be traced back to its origin with any accuracy. English judge Sir James Stephen first used the term “circumstantial evidence.” He defined “circumstantial evidence” as consisting of facts related to other facts or that may be proven by other facts (Catherine, [2022](#)). Up until the 15th century, Roman canonists largely disregarded circumstantial evidence due to its ambiguities, making conviction based on such evidence nearly impossible

A major change in the approach to circumstantial evidence occurred in the sixteenth century. In England, juries increasingly shifted their focus from “personal knowledge” to “evaluation of the evidence” (Catherine, [2022](#)). Even though the courts primarily doubted the importance of indirect evidence, they eventually accepted it and became reliant on it. However, Treatises on English Law rapidly realized that crimes like poisoning, rape, and other such crimes could only be proven by circumstantial evidence. Circumstantial evidence was famous and recognized by the legal community in the sixteenth century (Catherine, [2022](#)).

### ***Circumstantial Evidence in Islam***

In Islamic law of evidence, we can find the acceptance of the concept of circumstantial evidence for proof of a fact. The incident which took place between Hazrat Yousaf (PBUH), the Prophet of Allah, and Zulaikha reflects the first example of circumstantial evidence in Islam. The Holy Quran has reported the incident in Surah Yousaf as:

As they arrived at the door, she tore his shirt off from behind before they ran into her husband. What punishment awaits the person who wishes ill on your people, she asked, besides imprisonment or a torturous end? She was the one who requested an evil deed from me, and a member of her own tribe testified: if his shirt is torn from the front, then she is telling the truth, and he is lying. Additionally, if his shirt is torn from behind, she has lied while he is telling the truth. He therefore exclaimed, “Lo!” after noticing his shirt torn from behind. This is trick you women are using. Lo! You have a lot of deceit.

Circumstantial evidence’s authenticity has also been accepted in hadith and an example of its validity can be found in the hadith of the Holy Prophet S.W narrated in the authentic book Sahih Bukhari 8:407. The Holy Prophet (PBUH) also showed his acceptance of an expert’s judgment.

Aisha (May Allah be pleased with her) narrated: Allah’s Apostle (May Blessing and Peace of Allah Be Upon Him) once entered upon me in a very happy mood, with his features glittering, with joy and said, O Aisha! Do not you see that Mujazziz (An Expert in noticing the resemblance between persons belonging to the same lineage.) Looked just now at Zaid bin Harisah and Usama bin Zaid and said, “These feet (of Usama and his father) belong to each other.

### **Need of Circumstantial Evidence**

To establish a disputed fact, it is the duty of the party making a claim, to provide evidence either through oral testimony or documentary evidence. Direct evidence, such as eyewitness accounts or primary documentary evidence, is preferred whenever available. However, in cases where direct evidence is lacking, circumstantial evidence can serve to establish the truth.

Circumstantial evidence is comprised of various interconnected facts related to the issue at hand. Although it is not direct testimony of the fact in dispute but being the direct testimony of a relevant fact, the circumstantial evidence may be conclusive in its nature and can still be compelling and relied upon by the court to determine the guilt or innocence of the accused. Its probative value should not be discounted solely because it is circumstantial; if it effectively proves a fact, it should be considered.

## **Circumstantial Evidence in Pakistan and Difficulties in its Acceptability**

Circumstantial evidence was established indirectly in Pakistan through the Evidence Act, 1872, which was subsequently converted into The Qanun-e-Shahadat Order 1984.

Article 17(2)b of Qanun-e-Shahadat Order, 1984, empowers the court to consider the testimony of a single individual, whether male, female or any other evidence that the particulars of the case may require. The last portion of this sub-article is the base of circumstantial evidence. Article 17 of this order deals, mainly with the number of witnesses required by the court in cases but the concept of circumstantial evidence is derived from the above-mentioned portion by the courts of law.

When prosecution uses circumstantial evidence to support their case, they frequently face tough challenges. Contrary to direct evidence, which presents a factual case, circumstantial evidence is interpretive and inferential, leaving room for competing theories. The possibility that judges may question the case's viability stems from the fact that circumstantial evidence could not be as clear-cut as direct proof. Skepticism might enter the courtroom if judges doubt the validity of links made between different pieces of circumstantial evidence. In cases when there isn't a clear connection between the evidence and the crime, it can create uncertainty. For this reason, prosecutors must carefully craft a convincing story that can hold up to the doubts of a judge.

### **Scope and Admissibility of Circumstantial Evidence**

In the administration of justice, direct evidence, which is considered the most reliable form of evidence, may not always be available in all cases. However, courts have devised methods to arrive at just conclusions for the dispensation of justice. Sometimes, without a direct eyewitness to the incident, the court must determine the accused's guilt or innocence. In order to achieve a fair judgment, the court may draw conclusions from certain other related facts. Circumstantial evidence being the evidence of connected relevant facts is admissible and may be trusted by the court for passing the conviction of the accused if such evidence maintains the links of all relevant and connected facts leading to the guilt or innocence of the accused.

Circumstantial evidence is comprised of different parts of evidence that had to establish unbroken one chain in which one link touches the body of



the deceased and the other end to the neck of the suspect and if any of such links is absent, then no conviction can be awarded in offences of capital punishment (Azeem Khan v. Mujahid Khan, [2016](#)). If circumstantial evidence is incongruous with an accused person's innocence and is not comprehensible by any other reasonable hypothesis than the accused person's guilt, it may be used to record an accused person's conviction (Nasir Javid v. The State, [2016](#)).

Under the law of evidence, relevancy and admissibility of evidence are interconnected terms having different legal implications. Question regarding the admissibility of evidence is solely dependent on the relevancy of the evidence. Sometimes, relevant facts may not be admissible, like communication between the spouses or between advocate and client. For admissible evidence, it is necessary that such evidence must be relevant either to the principal fact or to relevant fact. Circumstantial evidence being the direct evidence of relevant facts, is an admissible piece of evidence under The Qanun-e-Shahadat Order 1984. According to Article 18 of the Order, evidence may be adduced only either of facts in issue or relevant facts or of no other facts. Article 18 says as under: "Evidence may be given in any suit or proceedings of existence or non-existence of every in issue and of such other facts are hereinafter declared to be relevant, and of no others".

This article allows evidence of relevant facts admissible and gives the details after that of the facts which are relevant to the fact in issue. So circumstantial evidence, being the direct evidence on relevant facts, is admissible evidence under the domain of the above article of the Order.

When direct proof was either unavailable or was not deemed sufficient, circumstantial evidence may be relied upon by court (Habib-ur-Rehman v. The State, [1983](#); Muhammad Arshad v. The State, [1992](#)).

### **Standard of Evaluation**

The standard of evaluation of any piece of evidence involves the yardstick to prove some facts. It is a general rule that the prosecution has a primary duty to prove its case beyond any shadow of doubt and if there is any doubt, even the slightest, the accused will take that's benefit in way of his acquittal. The principles regarding the evaluation of circumstantial evidence are well settled by the courts. *Firstly*, the circumstances put forward by the prosecution must be established affirmatively. *Secondly*, the

circumstance's overall consideration must be only consistent with the guilt of the accused, and *thirdly*, such circumstances should be contradictory to the accused's innocence (Field, [1987](#), p. 62). The evaluating criteria or standard for circumstantial evidence and eyewitness testimony would be somewhat different in both evidence:

- a) *Case of circumstantial evidence*: in case of circumstantial evidence, the chain of the circumstances against an accused must be pointed only toward the guilt of the accused and acknowledge no other hypothesis, whereas in
- b) *Case of eyewitnesses*: in the case based on the evidence of eyewitnesses, a chain of circumstances is not needed, and one good and reliable eyewitness is enough to record the conviction (Ratanlal & Dhirajlal, [2018](#), p. 52).

### **Circumstantial Evidence and Principle of Res Gestae**

Under the principle of res gestae, facts that are connected with the issues at hand and forming part of the same transaction are deemed relevant under Article 19 of the Qanun-e-Shahadat Order, 1984. The facts which surround the happening of these connected facts are their gestae and may be proved by giving evidence. The phrase is of Latin words, the literal meaning of which is “things done” and the English translation of the phrase means that “acts done and things said during a transaction” (Singh, [1990](#)). Such incidental events are described, rather unfortunately, as constituting part of the res gestae of the relevant facts and are susceptible to proof (Murphy & Glover, [2011](#))

### **Broken Link of Circumstantial Evidence**

The chain of the circumstances consisting of the accused's guilt, is a basic requirement in the case reliant on the circumstantial evidence. The prosecution can only succeed in achieving the conviction of the accused if every link in the chain connects the accused to the crime scene or the commission of the offense. Each and every link of the circumstantial evidence is required to be proved by convincing and cogent evidence and the prosecution has to establish each piece of circumstantial evidence, available on record connected with the other piece of evidence in such chain and each of the piece corroborates the other piece on record (Khuda Bukhsh v. The State, [1999](#)). If there is a missing link in the chain of events that would prove the facts against the accused categorically, the accused cannot

be found guilty based solely on circumstantial evidence (Ratanlal & Dhirajlal, [2018](#)).

### **Evidentiary Value of Circumstantial Evidence**

Charges against the accused regarding the commission of an offense may be proven in criminal proceedings either through direct evidence, circumstantial evidence, or a combination of both. The question arises as to whether if direct evidence is not available, can the accused be convicted solely based on circumstantial evidence?

In the case of Kamal Kumar Datta and Anr. vs Nandalal Dubey ([1928](#)) it is said that it is not unlawful to convict someone of a crime solely on the basis of circumstantial evidence if that evidence is of such a kind that it leads to the judgment that the offence was committed by the accused alone (Alamin & Rahman, [2015](#)).

The question of whether it is safe to convict a defendant whose case is solely supported by circumstantial evidence thus emerges. Legally, it is permissible to find someone guilty of a crime solely based on circumstantial evidence, provided that the evidence convincingly supports the notion that the accused alone is responsible for the incident.

After deciding the question of relevancy, the court must assess the admissibility and evidentiary value of the evidence presented. While appraising the evidence, the court has to judge how much weight, the certain piece of evidence carries, and circumstantial evidence as admissible evidence has its own value as the Supreme Court of Pakistan holds in its decisions.

In the case of Binyamin alis Khari and Others v. The State ([2007](#)), the August Court of Pakistan discussed the principles of circumstantial evidence. It acknowledged circumstantial evidence as a legitimate method rooted in Islam for determining the guilt or innocence of an accused. If such evidence employs logic and reason, and sufficiently links the accused with the commission of crime, it can support the imposition of the death penalty.

### **Apex Court's Principles on Circumstantial Evidence**

The evaluation of the evidence is within the domain of the courts and higher courts have formulated some principles governing the process of appreciation of evidence before them or the lower court. These principles are binding on these courts and govern the process of evaluation of

evidence. The apex court has laid down different philosophies for weighing the circumstantial evidence which must be followed in cases of circumstantial evidence. These principles on circumstantial evidence can be as under:

### ***Principles for Evaluation of Evidence***

With regard to circumstantial evidence, in any case, where the un-designed coincidence of such evidence is sufficiently strong, the court must infer that the accused is guilty since there is no other reasonable conclusion to be reached. In such a situation unless a reasonable doubt is created by the accused, it may be difficult to discard such circumstantial evidence against the accused. Principles (Talib Hussain v. The State, [1995](#)).

### ***Principles on Passing Conviction***

Where circumstantial evidence is used to support a case, the prosecution is further burdened to demonstrate the complete, unbroken chain of such evidence, linking one piece to the occurrence and the other to the accused. With the purpose of advancing justice, deeper scrutiny and minute examination of circumstantial evidence are required by the court to pass the conviction on the capital charge. Where the circumstantial evidence on record was short of such standard, it was better to discard the same than convicting any innocent person. The court has to apply strict standards of scrutiny to circumstantial evidence collected by the investigation agency. Principles.

### ***Principles on Dying Declaration***

In the case of Shams-Ud-Din, the Supreme Court discussed the principles on non-signing of the dying declaration by the deceased lady. The circumstantial evidence was duly supported by the dying declaration of the deceased lady and medical evidence of the burning of the deceased in which she suffered injuries on her whole body including the arms. The trial court convicted the two accused persons under section 308 PPC while the accused were acquitted by the High Court. In such conditions, the question of holding a pen to sign the statement did not arise and this defect cannot be taken as a tool for the accused's acquittal. The Supreme Court observed that the evidence available on record could not be discarded on the mere assumption of putting only thumb on the complaint but not signing the same. The High Court's decision to acquit the accused was reversed by the

Supreme Court, and the trial court's conviction was reinstated (Shams-Ud-Din v. Muhammad Shahbaz Qammar, [2009](#)).

### ***Principles on Last Seen Evidence***

The last evidence is also a part of circumstantial evidence and is a relevant fact in unseen occurrence cases. The Supreme Court of Pakistan reiterated the principles on last seen evidence that the theory of last seen evidence was that the two persons were lastly seen together alive and after that one of them was found dead in a short period, then there is a presumption that alive person was the author of other's death. The theory of "last seen together" found its root in the principles of probability, cause, connection that the dead person was presumed with the accused, the proximity of the place of occurrence, the time between last sight and offence, no possibility of other person connection, motive and death time, etc. were not enough to prove the charge against the accused person. There should be a link to connect the accused with the death of his mate like implicating evidence on the facts such as motive, recovery and time gap between last seen and death. The evidence of last seen was inconsistent with the innocence of the accused and no other conclusion except the guilt could be drawn from that evidence. The evidence of last seen, motive and blood-stained clothes were discarded by the Pakistani Supreme Court in the case of Naveed Asghar and 2 others v. The State ([2021](#)). Because uncorroborated last-seen evidence was a weak sort of evidence in instances involving death punishment, last-seen evidence must be supported by independent evidence that originates from an unimpeachable source.

### **Circumstantial Evidence, Sole Basis of Conviction**

Circumstantial evidence may be relied upon in those cases where no direct evidence is available or is deemed unsatisfactory. In the criminal administration of justice, circumstantial evidence can be relied upon for conviction, where the circumstantial evidence is of such a nature that furnishes no other supposition except the guilt of the accused. In the cases where there is no direct proof to prove that in what manners the occurrence in question was committed, then the courts must examine the facts and circumstances of the case in the light of indirect or circumstantial evidence, which once found to have been established, may well furnish a good basis for decision than any other type of evidence. "Circumstantial evidence must be beyond a reasonable doubt and there must be no plausible explanation

other than the guilt of the accused” for it to serve as the basis for a conviction. A conviction may be awarded on solely the basis of circumstantial evidence (Mahmood, [2012](#)). Circumstantial evidence could be the basis for a conviction if it contradicts the accused’s innocence and cannot be explained by any other reasonable hypothesis than his guilt (Nasir Javid v. The State, [2016](#)). Where a case is totally dependent on circumstantial evidence, the court needs to exercise due caution and see whether every part of the evidence provides a link making the chain in which touches the accused person’s neck with one end and the dead body with the other. Where any link is absent that would break the entire chain and, in that case, conviction could not be safely recorded. So, the courts had to be cautious in accepting the circumstantial evidence and making the opinion of the guilt of the accused on such evidence (Imran Alias Dully v. The State, [2015](#)).

### **Circumstantial Evidence and Capital Punishment**

As discussed above, the circumstantial evidence if proved while maintaining all its links, making the chain of evidence, can be considered for conviction on capital charges where the evidence furnishes sufficient grounds for the guilt of the accused and further excludes any other hypothesis on the innocence of the accused. “There is no law prohibiting the death penalty from being imposed in the absence of direct proof where an accused person’s guilt has been established beyond a reasonable doubt through circumstantial evidence” (Hamid Mehmood & another v. The State, [2013](#)). On the basis of circumstantial evidence, an accused person may get a death sentence where the circumstance so put make of chain establishing the guilt of the accused beyond reasonable doubt (Muhammad Ishaq v. The State, [2009](#)).

In cases of circumstantial evidence that involve the sentence of death, it must be of the type that all circumstances must be thus interconnected, creating one unbroken chain where one link of evidence hits the corpse and the other link touches the neck of the accused, in order to rely on such evidence. Any missing pieces would make the entire body of evidence questionable for a capital charge conviction. In the cases of circumstantial evidence, the courts are required to exercise much care and to do a close examination of the evidence for its reliability (Hashim Qasim v. The State, [2017](#)).

## International Perspectives

The case of the Corfu Channel (International Court of Justice, [1949](#)) sets out how to deal with circumstantial evidence. In this case, the United Kingdom took action against Albania, accusing it of being responsible for the mines in the Corfu Canal, which connects Albania and Greece. Thus, circumstantial evidence was utilized to establish Albania's knowledge of the minefield's presence (Choudhary, [2021](#)). Thus, the court of international law relied on circumstantial evidence in bringing the case on behalf of the relevant parties (Choudhary, [2021](#)). However, in the Nicaragua case, it was established that circumstantial evidence alone is insufficient to establish a case in the absence of direct proof (Nicaragua v. The United States of America, [1986](#)). Unlike in the Corfu case, circumstantial evidence was rarely relied upon in other cases (Choudhary, [2021](#)). For example, in the case of the Genocide Convention, circumstantial evidence established that Serbia committed genocide. However, the court imposed no liability on Serbia based on the evidence and thus held that Serbia failed to prevent and punish genocide (Bosnia and Herzegovina v. Serbia and Montenegro, [2007](#)).

As a result, it seems that the Court of International Law has two contradictory approaches regarding the admissibility of circumstantial evidence. It barely relies on circumstantial evidence.

### *In India*

The apex court of India while dealing with the case of circumstantial evidence, reiterates the same principles of circumstantial evidence as the Pakistani Supreme Court follows that it should maintain its chain of all circumstances put by the prosecution and the circumstances should only be consistent only with the hypothesis of the guilt of the accused but they should not explain any other hypothesis except the guilt of accused. The circumstances should be conclusive in nature and point to the accused's guilt and such circumstances should exclude every possible hypothesis except the one to be proved (Sharad Birdhi Chand Sarada vs the State of Maharashtra, [1984](#)). Where the circumstantial evidence fulfils such conditions and maintains its necessary chain then conviction can be passed on this evidence.

### *In UK*

Unlike Pakistan and India, the courts in the UK see the overall impact of all circumstances of evidence in a case rather than the linkage and chain of the circumstances but where all circumstances work together. In a case (*Director of Public Prosecutions v. Kilbourne*, [1973](#)) it was observed that “Circumstantial evidence has been compared as a rope made up of multiple cords since it eliminates other options geometrically and cumulatively: Three strands of the cord may have enough strength to support the weight even if one strand may not be strong enough to do so. As a result, circumstantial evidence may consist of multiple elements, none of which alone would be sufficient to support a conviction, but when combined, three factors may lead to the strongest possible judgment of guilt” (McKeown, [2012](#), p. 12).

In the United Kingdom, the court takes into account the rules about which evidence can be used. This principle establishes whether certain evidence is acceptable in a court of law and whether the evidence would be considered relevant by the system of justice. Therefore, prior to presenting any evidence in the court, it must be determined whether it is admissible or inadmissible. Circumstantial evidence is also applicable in the courts of the United Kingdom.

### **Recommendations and Concluding Remarks**

The role of circumstantial evidence in the criminal justice system is paramount, not only in Pakistan but also in many other countries. Like Pakistan, many countries accept that circumstantial evidence must be compelling enough to preclude a hypothesis of the innocence of the accused. The Supreme Court of Pakistan analyzed circumstantial evidence in different cases and developed some principles through judgments. In Pakistan, the court opines that if circumstantial evidence conclusively proves the accused’s guilt, then it may be the only factor leading to conviction. However, besides this, some more conditions should be set for accepting circumstantial evidence as the sole basis for conviction. Moreover, the court should take extra caution while analyzing circumstantial evidence in order to avoid any possibility of a miscarriage of justice. Additionally, clear guidelines should be established, particularly in cases where the death penalty is a potential outcome, to prevent ambiguity and ensure consistency in sentencing.



The law of evidence in Pakistan permits circumstantial evidence as a means of proving fact. It appears that the courts take extra care in examining the circumstances of the story and drawing conclusions to avoid a miscarriage of justice. In the absence of direct evidence, courts evaluate circumstantial evidence with care. Evidence law appears to value circumstantial evidence as direct evidence. Besides judgements of higher courts, proper legislation should be made regarding the admissibility of the circumstantial evidence, so that no criminal could be escaped from the clutches of law. In this modern era criminals are so clever and evil genius that they commit offences by avoiding direct evidence and concealing themselves. Especially in white-collar crimes, the availability of direct evidence is very rare as these crimes are committed with preplanning. Therefore, in such cases, circumstantial evidence is very necessary for proving the guilt of the accused.

There is a significant difference between collection of evidence and the appreciation of evidence in Pakistan. The Pakistani courts required much reliable circumstantial evidence as collected by the investigating officers who may lack qualifications and access to modern tools. They fail to collect evidence in cases purely based on circumstantial evidence. Circumstantial evidence is an important tool in modern times to dispense justice and punish accused who cannot be caught and punished through traditional methods of collecting direct evidence. It is therefore recommended that to dispense justice in its true sense, the legislature and courts should devise legal mechanisms that ensure justice and punish the accused solely on circumstantial evidence. Additionally, it is also imperative to provide training to the legal fraternity especially to investigating officers regarding the collection of evidence and access to modern devices so that they collect sufficiently reliable circumstantial evidence that can convict the accused and provide justice.

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