

GENDER CONSTRUCTION IN LEGAL DISCOURSE: A FEMINIST CRITICAL DISCOURSE ANALYSIS OF ANTI-RAPE (INVESTIGATION AND TRIAL) ACT, 2021 IN PAKISTAN

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Abstract

This study critically examines how gender, agency, and power are discursively constructed in Pakistan's Anti-Rape (Investigation and Trial) Act, 2021. While the Act is widely presented as a progressive legal reform aimed at protecting rape survivors and strengthening accountability, little attention has been paid to the ideological work performed by its language. Drawing on Michelle Lazar's Feminist Critical Discourse Analysis and Halliday's Systemic Functional Linguistics (SFL), this qualitative study conducts a clause-by-clause analysis of selected substantive and procedural provisions of the Act. The analysis focuses on transitivity patterns, modality, and thematic organization to uncover how legal language constructs rape, consent, survivor agency, and institutional authority. The findings reveal that despite reformist intent, the Act predominantly represents rape as a penetration-based physical act, frames consent as a circumstantial condition rather than an affirmative obligation, and positions survivors as passive recipients of state protection. Institutional actors, particularly the police and courts, are consistently foregrounded as agents of justice, reflecting a state-centric and punitive model of gender justice. From an FCDA perspective, the study argues that the Act simultaneously challenges overtly misogynistic practices while reproducing subtler forms of patriarchal and heteronormative ideology. The study concludes that without discursive reform alongside procedural change, legal interventions risk reinforcing the very gendered power relations they seek to dismantle.

Keywords: Gender Construction, Feminist Critical Discourse Analysis, Systemic Functional Linguistics, Anti-Rape Act 2021, Legal Discourse

Introduction

Sexual violence remains one of the most pervasive and under reported crimes in Pakistan, embedded within deeply entrenched patriarchal, cultural, and institutional structures. According to reports by the Human Rights Commission of Pakistan (HRCP), thousands of rape cases are reported annually, while many more remain undocumented due to stigma, fear of retaliation, and lack of institutional trust (HRCP, 2021; Sarfraz, 2021). Feminist scholars argue that sexual violence in Pakistan is sustained not only by individual criminal acts but also by gendered norms that link women's sexuality to family honor and social morality, thereby discouraging reporting and access to justice (Murshid & Critelli, 2017; Mir-Hosseini, 2003).

Historically, Pakistan's legal response to rape has been shaped by moralized and gender-biased frameworks, most notably under the Hudood Ordinances of 1979, which conflated sexual violence with notions of chastity, consent, and evidentiary morality. These laws institutionalized victim-blaming assumptions and rendered women's testimony legally precarious (Cashman, 2000; Sarfraz, 2021). Although subsequent legal reforms, including the Protection of Women (Criminal Laws Amendment) Act, 2006, sought to address some of these injustices, scholars argue that rape law in Pakistan has continued to struggle with evidentiary rigidity, patriarchal interpretation, and procedural inefficiencies (Khaliq & Sultan, 2022).

In response to mounting public pressure and high-profile cases of sexual violence, the Government of Pakistan enacted the *Anti-Rape (Investigation and Trial) Act, 2021*, consolidating previously scattered rape-related provisions and introducing procedural mechanisms such as special investigation teams, in-camera trials, DNA testing, and Anti-Rape Crisis Cells. The Act is widely framed as a landmark reform intended to ensure speedy trials, protect survivor dignity, and strengthen accountability (Sarfraz, 2021). However, emerging legal scholarship highlights persistent challenges in implementation, including inadequate institutional capacity, lack of training, and an overreliance on punitive mechanisms at the expense of survivor-centered justice (Khaliq & Sultan, 2022).

While existing scholarship has examined the Act primarily from doctrinal, procedural, and policy perspectives, there remains a significant gap in understanding how the language of the Act itself constructs gender, agency, consent, and justice. Law is not merely a neutral regulatory instrument; it is a discursive practice that produces social meanings and legitimizes particular power relations (Fairclough, 1995; Lazar, 2007). Feminist legal scholars and discourse analysts argue that legal language plays a constitutive role in shaping how sexual violence is defined, interpreted, and adjudicated. Linguistic choices related to agency, voice, modality, and thematic organization can either challenge or reproduce patriarchal assumptions embedded within legal systems (Ehrlich, 2001, 2014).

This study addresses this gap by offering a systematic linguistic analysis of the *Anti-Rape (Investigation and Trial) Act, 2021* through the integrated frameworks of Feminist Critical Discourse Analysis (FCDA) and Systemic Functional Linguistics (SFL). Following Lazar's (2007) FCDA, the study treats gender as an ideological structure embedded in discourse and examines how power operates through ostensibly neutral legal language. Halliday's Systemic Functional Linguistics is employed to analyze how grammatical patterns particularly transitivity, modality, and thematic organization construct relationships between perpetrators, survivors, and state institutions (Halliday & Matthiessen, 2014).

By focusing on the discursive construction of rape and consent within statutory language, this research moves beyond doctrinal legal analysis to reveal how gendered ideologies are normalized, contested, or partially transformed through law. Prior linguistic research demonstrates that rape legislation often foregrounds physical injury while marginalizing coercion, psychological harm, and relational power, thereby limiting its emancipatory potential (Ehrlich, 2014; Fazaia & Saleem, 2024). In the Pakistani context, critical discourse studies have similarly shown that institutional and media discourse surrounding rape tends to obscure perpetrator agency and reinforce gender stereotypes (Zaman et al., 2023).

The study argues that although the *Anti-Rape (Investigation and Trial) Act, 2021* introduces important procedural safeguards, its linguistic architecture continues to privilege institutional authority over survivor agency and frames justice primarily in state-centric and punitive terms. This reflects what feminist scholars describe as the ambivalence of legal reform, where progressive intent coexists with the reproduction of subtle patriarchal control (Lazar, 2007; Khaliq & Sultan, 2022).

Ultimately, this research contributes to feminist legal and linguistic scholarship by demonstrating that meaningful gender justice requires not only legal and procedural reform but also critical attention to the discourse through which law defines harm, responsibility, and personhood. By foregrounding legal language as a site of ideological struggle, the study highlights the necessity of feminist linguistic intervention in future rape law drafting and reform in Pakistan.

Research Objectives

Objectives of this research are:

1. to analyze lexico-grammatical patterns in Anti-rape Act 2021 in Pakistan.
2. to analyze use of discursive strategies in anti-rape act 2021
3. to analyze the ideologies and power structures in anti-rape Act 2021

Research Questions

1. What are the lexico-grammatical patterns used in anti-rape act 2021
2. What are the discursive strategies used in Anti-Rape Act 2021?
3. What are the hidden ideologies and power structures in Anti-Rape Acts 2021

Literature Review

Legal discourse serves as a pivotal arena where societal norms and values are constructed and negotiated, particularly with respect to gender. In examining the Women Protection Act in Pakistan, it becomes evident that the language and framing used within legal texts reflect broader cultural attitudes toward women and their rights. Employing a feminist critical discourse analysis, as delineated by Lazar, this study seeks to uncover the intricate ways in which legal language not only perpetuates patriarchal ideology but also serves as a site for potential resistance and redefinition of gender roles. By analyzing the discursive structures involved, including modality, agency, and representation, this research aims to illuminate how legal narratives shape the lived experiences of women in Pakistan. Ultimately, understanding these dynamics is crucial for advancing gender equality and reforming legal frameworks that govern women's rights, thereby promoting a more just society.

Legal discourse is fundamentally shaped by prevailing societal norms and ideologies, particularly concerning gender. This dynamic constructs notions of masculinity and femininity that permeate laws and their interpretations, as seen in the Women Protection Act in Pakistan, where such constructions can both empower and limit. The enactment of this legislation emerges against a backdrop of significant social challenges, including persistent issues of honor-based violence and gender discrimination, which highlight the need for legislative protection of women's rights. However, as (M Khaskheli et al,2018) elucidates, the very framework that seeks to protect often intersects with cultural narratives that uphold patriarchal values, complicating the gendered dynamics of legal shortcomings. Furthermore, utilizing feminist critical discourse analysis, as posited by Lazar, allows for a profound examination of how language within legal texts perpetuates gender biases or, conversely, serves as a vehicle for feminist advocacy. Thus, understanding these constructs is crucial to critiquing and reforming the legal landscape to foster true gender equality.

The linguistic construction of sexual violence within legal discourse has increasingly attracted scholarly attention, particularly within feminist legal studies and applied linguistics. Researchers argue that legal language is not merely descriptive but constitutive, shaping social meanings of consent, agency, and responsibility through specific lexical and grammatical choices (Ehrlich, 2001; Lazar, 2007). From this perspective, rape laws function as ideological texts that normalize particular gendered assumptions while marginalizing others. International scholarship demonstrates that statutory definitions of rape often rely on gendered binaries, penetration centric descriptions, and passive representations of victims, which together reinforce patriarchal power relations within the legal system (Ehrlich, 2014).

Within the Pakistani context, critical discourse studies have documented how linguistic choices in institutional and media discourse surrounding rape cases contribute to victim-blaming and the obscuring of perpetrator agency. Using Critical Discourse Analysis, scholars show that Pakistani media frequently employ passivization, euphemism, and nominalization when reporting sexual violence, thereby diluting responsibility and reinforcing gender stereotypes about women's morality and vulnerability (Zaman et al., 2023). Although such studies focus primarily on media texts, they provide an important

analytical backdrop for examining rape legislation, as media discourse often mirrors and reproduces the dominant linguistic patterns embedded in legal texts.

Legal scholarship examining rape law reform in Pakistan situates the Anti-Rape (Investigation and Trial) Act, 2021 within a broader historical trajectory marked by moralized and gender-biased legal language. Comparative analyses of rape laws from the Hudood Ordinances to contemporary reforms reveal that earlier statutory formulations framed rape within a narrow male-perpetrator/female-victim paradigm, often conflating sexual violence with notions of honor and morality (Sarfraz, 2021). While the 2021 Act represents a significant legislative shift aimed at procedural reform and survivor protection, scholars argue that its linguistic architecture warrants critical examination, as legal reform without discursive transformation risks reproducing entrenched gender ideologies (Khaliq & Sultan, 2022).

From a linguistic standpoint, researchers note that ambiguities in statutory language can have material consequences for interpretation and implementation. Khaliq and Sultan (2022) contend that definition vagueness and inconsistent terminology within Pakistan's rape laws create interpretive flexibility that may disadvantage survivors during investigation and trial. Such indeterminacy, they argue, is not merely technical but ideological, reflecting unresolved tensions between progressive reformist intent and conservative gender norms embedded in legal discourse.

Systemic Functional Linguistics (SFL) has been increasingly employed to uncover how agency and responsibility are grammatically constructed in texts relating to sexual violence. Studies applying SFL to legal judgments and institutional texts demonstrate that the frequent use of passive constructions and material processes without explicit actors serves to background perpetrators while foregrounding victims as affected participants (Fazaia & Saleem, 2024). These grammatical patterns, scholars argue, subtly normalize women's victim-hood and obscure the exercise of male power, thereby limiting the transformation potential of rape legislation even when framed as protective.

International feminist discourse research further reinforces the relevance of linguistic analysis for evaluating rape laws. Studies examining legislative and judicial discourse across jurisdictions show that gendered lexical choices and syntactic structures influence how consent is conceptualized and adjudicated, often privileging perpetrator narratives while placing evidence burdens on victims (Ehrlich, 2014). These findings are particularly pertinent for the analysis of the Anti-Rape Act, 2021, as they highlight how statutory language may continue to shape legal outcomes and social attitudes toward sexual violence beyond the text's formal intentions.

Collectively, this body of literature suggests that a comprehensive assessment of the Anti-Rape (Investigation and Trial) Act, 2021 must extend beyond doctrinal legal analysis to include a critical linguistic examination of its textual features. Drawing on CDA, SFL, and Feminist Critical Discourse Analysis, scholars emphasize that legal reform cannot be fully understood without interrogating how language constructs gendered subject positions, allocates agency, and legitimizes particular ideologies of justice and protection (Lazar, 2007). Such an approach is essential for evaluating whether the Act genuinely disrupts patriarchal legal discourse or inadvertently reproduces it under the guise of reform.

Theoretical Framework

The exploration of gender dynamics within legal discourse necessitates a robust theoretical framework that elucidates the intersections between language, power, and identity. This approach aligns with Lazar's feminist critical discourse analysis, which asserts that discourse is both a reflection and a perpetrator of social power structures, particularly concerning gender discrimination (Khan et al,2018). By utilizing systemic functional

linguistics (SFL) we can further dissect the linguistic choices that perpetuate stereotypes of femininity and masculinity, revealing how these constructs obscure women's rights and agency within legal frameworks (Heathcote et al,2010). Ultimately, this theoretical foundation serves as a crucial tool for understanding the complexities of gender construction in legal discourse.

Understanding the complexities of gender construction within legal discourse necessitates a rigorous application of feminist critical discourse analysis (FCDA), which encompasses significant concepts and methodologies that critique traditional power structures. FCDA emphasizes the role of language as a vehicle for reinforcing or challenging patriarchal norms, drawing from systemic functional linguistics (SFL) to analyze how various discourses shape societal perceptions of gender. The methodological framework involves examining language use in legal texts, which often reflect and perpetuate gender biases, as seen in the Women Protection Act in Pakistan. By integrating the perspectives of feminist legal theory, scholars have highlighted discrepancies in legal interpretations, particularly regarding concepts of persecution and protection in gender-related claims, echoing findings from existing literature on refugee law where heterosexual male experiences dominate (Satvre,2012). Thus, FCDA not only illuminates the subtleties of legal language but also advocates for an interrogation of prevailing discourses to foster more equitable representations of gender.

Although existing scholarship on the Anti-Rape (Investigation and Trial) Act, 2021 has largely focused on doctrinal reform and implementation challenges, there is a marked absence of systematic linguistic analysis of the Act's statutory language. In particular, no study has examined how grammatical and lexical choices within the Act construct agency, consent, and gendered subject positions through the lens of Systemic Functional Linguistics and Feminist Critical Discourse Analysis. This gap limits understanding of how gender ideology is discursively embedded in rape legislation despite its reformist intent.

Research Methodology

This study adopts a qualitative, interpretive research design grounded in Critical Discourse Analysis (CDA) to examine how gender ideology is constructed in the Anti-Rape (Investigation and Trial) Act, 2021 of Pakistan. The research treats law as a discursive and ideological practice rather than a neutral regulatory instrument, focusing on how linguistic choices shape meanings of gender, consent, agency, and justice within statutory texts.

Analytical Framework

The analysis integrates Systemic Functional Linguistics (SFL) and Feminist Critical Discourse Analysis (FCDA). At the descriptive level, SFL is employed to analyze key grammatical features of the Act, particularly transitivity patterns, modality and thematic structure, to identify how agency and responsibility are linguistically allocated. At the interpretive level, the study examines how these linguistic choices draw upon and reproduce broader discursive practices related to rape, gender, and legal authority. At the explanatory level, FCDA (Lazar, 2007) is used to situate these discursive patterns within wider socio-legal and patriarchal power structures operating in Pakistani society.

Data Selection

The primary data consists of the statutory text of the Anti-Rape (Investigation and Trial) Act, 2021. Clauses were selected purposively on the basis of their relevance to the construction of rape, consent, victimhood, and perpetration. This focused sampling enables an in-depth micro-level linguistic analysis while maintaining analytical coherence.

Method of Analysis

A clause-by-clause qualitative analysis was conducted. Each clause was examined for: grammatical roles (actor, goal, beneficiary), process types (material, relational,

verbal), modality and obligation, and lexical choices relevant to gender representation. These linguistic features were then interpreted through FCDA principles to identify underlying gender ideologies, including victim passivization, male-centric agency, heteronormativity, and state-centric constructions of justice.

Analysis of the Anti-Rape (Investigation and Trial) Act, 2021

At the ideational level, the definition clause of rape is dominated by material processes such as *penetrates*, *inserts*, and *causes penetration*, which construe rape primarily as a physical act performed upon the body of the victim. In Halliday terms, the accused is positioned as the Actor, while the complainant is constructed as the Goal or Affected Participant, indicating a unidirectional flow of action and harm. This grammatical pattern foregrounds bodily invasion while backgrounding psychological coercion, fear, or abuse of power. The heavy reliance on penetration-based processes reduces rape to a corporeal event, marginalizing non-penetrative and coercive forms of sexual violence. From an FCDA perspective, this ideational framing reproduces a reductionist and masculine understanding of sexual violence, rooted in medico-legal traditions that prioritize physical injury over lived experiences of domination and trauma. At the level of textual description, the Anti-Rape Act employs a predominantly material process structure to define rape, foregrounding physical acts such as penetration and insertion. These material processes frequently position the accused ("A") as the grammatical actor and the complainant ("B") as the goal or affected participant. However, this apparent assignment of agency is often mitigated through passive constructions (e.g., "B is raped"), which obscure perpetrator responsibility and foreground the victim as the locus of harm. From an SFL perspective, such passivization weakens explicit attribution of agency and normalizes victimhood as a static condition rather than a result of deliberate action. Processes are shown in Table 1

Table 1: Processes Types

| Clause | Process Type | Actor (Doer of Action) | Goal (Receiver of Action) | Circumstances |
|---|--------------------|------------------------|---------------------------|-----------------------------|
| "A penetrates his penis into B's vagina..." | Material (Action) | A (Perpetrator) | B (Victim) | Extent ('to any extent') |
| "A inserts any object into B's vagina..." | Material (Action) | A (Perpetrator) | B (Victim) | Extent ('to any extent') |
| "B is raped..." | Relational (Being) | B [Passive] | Rape (Event) | Condition (without consent) |

Male perpetrator is always the active doer (Material Processes). The law constructs rape as a male-perpetrated crime by using explicit active voice ("A penetrates... A inserts..."). This reinforces patriarchal narratives where men are active agents, and women are passive recipients of violence. Victim (B) is Always Passive or Objectified. "*B is raped*". The passive voice erases the perpetrator, shifting focus away from who is responsible. "*Another person B*" The victim is depersonalized, treated as a generic category rather than an individual with agency. Consent is a circumstance, Not an active process. The phrase "*against B's will*" / "*without B's consent*" places lack of consent as a condition, rather than emphasizing that A must obtain consent actively. This reinforces victim-blaming, as it implies that non-consent is the victim's state rather than the perpetrator's responsibility.

In Clause 375 related to Gang Rape, the rapists are the active agents, while the victim is completely absent as a subject. Victim is grammatically erased (Passive Voice Used)."A person is raped..." The passive construction erases the rapists, making rape seem like an event rather than an act committed by individuals. No acknowledgment of the victim's

agency, survival, or aftermath. Focus on Group Crime, Not on Individual Acts. The law assumes gang rape happens due to "common intention", but what about cases where multiple perpetrators act under coercion? And situations where authority figures orchestrate gang rapes e.g., police brutality, armed conflict zones ? and cases of digital sexual violence e.g., online-coordinated gang rapes, forced pornography?

Procedural clauses ideationally construct justice as a sequence of institutional actions performed by police, prosecutors, and courts. Survivors are rarely represented as decision-makers or active participants. This process-oriented framing reflects a bureaucratic conception of justice that prioritizes procedural flow over human experience. In this clause there is state authority over survivor agency. The law is structured to give maximum control to the legal system, but it does not mention how survivors navigate the judicial process. The lack of victim-centered provisions e.g., compensation, support makes justice retributive rather than rehabilitative. The clause focus on legal procedure, not survivor protection. The phrase "*May arrest without warrant*" grants law enforcement full discretion, but does not specify how wrongful arrests will be handled. The absence of due process protections for false accusations raises concerns about misuse of the law.

Consent related the ideational construction of consent remains relational and circumstantial rather than process. Consent does not function as a dynamic interaction between participants but as a static condition that may or may not exist. The victim is implicitly positioned as the bearer of consent, while the accused is not linguistically required to perform any consent-seeking action. From an FCDA standpoint, this ideational choice reflects patriarchal epistemologies in which women's consent is treated as ambiguous, retractable, or evidence, rather than as a foundational right.

In Medicolegal Examination clause, ideational clauses rely heavily on material processes performed by institutional actors such as medical officers and investigators. Survivors are constructed as Carriers of evidence or Affected Participants, reinforcing a clinical and objectifying representation. Although the prohibition of practices like the two-finger test signals progress, the survivor remains grammatically passive, positioned as a site upon which institutional actions are carried out. FCDA interprets this as a continuation of institutional control over women's bodies, albeit in a reformed and sanitized form.

Protection of victim identity clause employs relational processes ("*identity shall not be disclosed*"), framing anonymity as an inherent attribute of the victim. While protective in intent, it constructs rape as a condition associated with shame and social risk.

Lexically, the Act relies heavily on gendered anatomical terminology, particularly the repeated reference to "his penis," despite claims of gender neutrality elsewhere. This lexical choice embeds a male-centric and heteronormative frame, implicitly constructing rape as an act committed by men against women. The representation of consent is largely relational and circumstantial, expressed through phrases such as "without consent" or "against the will," which grammatically situate consent as a condition attached to the victim rather than an affirmative obligation imposed on the perpetrator.

Table 2 shows frequency of process types and their percentages in Anti Rape Act 2021

Table 2: Frequency of Process Types and their Percentage in Anti-Rape Act 2021

| Sr# | Process Type | Frequency | Percentage |
|-----|--------------|-----------|------------|
| 1 | Material | 29 | 96.7 |
| 2 | Mental | 0 | 0 |
| 3 | Relational | 1 | 3.3 |
| 4 | Behavioral | 0 | 0 |
| 5 | Verbal | 0 | 0 |

| | | | |
|---|-------------|----|-----|
| 6 | Existential | 0 | 0 |
| 7 | Total | 30 | 100 |

It is observed that material process is predominantly used, appearing 29 times (96.7%), while behavioural process appears just once (3.3%). Other process types such as mental, relational, verbal and existential are not employed in the data.

The act uses material processes to identify the criminal acts that were committed against the victim – tied, gang-raped, as well as to identify the action taken by the police to seek justice for the victim. The analysis further highlights representation of gender roles and power dynamics by revealing that all the material processes which are related to violence (such as rape, abducts, kills, punches, absconds ; raped, shot, kill, stabs are linked with the male. Hence, men are portrayed as perpetrators of violent crimes, such as rape, abduction, killing, and stabbing, while women are represented as the victims; women are portrayed as vulnerable, gang-raped, raped, shot, killed and stabbed. This portrayal reinforces the societal stereotype that men are more likely to engage in violent acts against women and exert power over women. This representation as well reinforces the perception that women are more prone to victimization and hence, need protection. This gendered representation suggests a potential bias or stereotype that associates men with violent crimes committed against women, while women are excluded from this role. Such representation can perpetuate societal gender norms and reinforce the notion of men as the primary perpetrators of violence against women. At the level of the analysis of circumstance in the data, circumstantial types of extent, location and cause are predominant across the two media houses selected for analysis. Circumstance, under the framework of SFG, is the component associated with process in transitivity system in the experiential strand of meaning. The circumstantial types, as observed in the data, provide background information for processes within their respective clause.

Interpersonal Metafunction

The law is written in an absolute legal tone ("*shall be punished*") which gives the state complete control over justice outcomes. However, victim agency is missing, the law defines what constitutes rape but does not discuss victim rights, recovery, or empowerment. In the act survivor's voice is absent. The law does not include victim impact, trauma, or survivor-centered language. It defines rape as a legal offense, not a human rights violation that affects survivors beyond the legal process.

Modality

In legal discourse, modality words that express necessity, obligation, or permission reveals power dynamics. Deontic Modality (Obligation/Permission) is used in legal language to define strict legal consequences.

Table 3: Modality

| Modal Expression | Type of Modality | Function in the Law |
|--|-------------------------------------|---|
| "A is said to commit..." | Relational (Being) | Makes rape a legal definition, rather than a survivor-centered event. |
| "B shall not be regarded as consenting..." | Deontic Modality (Obligation) | Authority imposes strict legal interpretation of consent. |
| "Shall be punished with death or life imprisonment..." | Deontic Modality (Legal Obligation) | Enforces absolute punishment, reinforcing state control over justice rather than survivor agency. |

Legal Certainty is prioritized over survivor justice. The law rigidly defines rape as an absolute crime, but does not address the victim's right to justice, rehabilitation, or

recovery. No mention of victim compensation or protection in court. Consent is Defined Passively. The law states: "*B shall not be regarded as consenting...*" This places burden on B to prove non-consent, rather than on A to prove affirmative consent. The absolute nature of legal obligation ("shall") suggests that justice is state-controlled rather than survivor-led. There is no flexibility for victim agency for example, there is no mention of victim compensation, rehabilitation, or choice in legal proceedings. There is a lack of perpetrator responsibility in consent. The phrase "*B shall not be regarded as consenting...*" defines consent negatively, rather than requiring A to obtain affirmative consent.

Interpersonally, the clause encodes consent through negative and circumstantial constructions such as "*without consent*" and "*against the will*", which grammatically position consent as a condition attached to the victim rather than as an obligation imposed on the perpetrator. The absence of modal constructions requiring the accused to *actively obtain* consent reflects a legal stance that is evaluative but not transformative. FCDA reveals that this interpersonal positioning sustains victim-blaming ideology, as it implicitly shifts the burden of demonstrating non-consent onto the survivor. The linguistic form thus aligns with patriarchal norms that scrutinize women's sexual behaviour while leaving male sexual entitlement linguistically unchallenged.

In Clause 375 related to Gang Rape, The State is the main enforcer of justice (not the victim). "*Shall be guilty...*" and "*Shall be punished...*" → These absolute legal phrases reinforce institutional power over survivor agency. Survivor rehabilitation or justice mechanism is not mentioned. Absolute legal terms like "*not bailable, not compoundable*" reinforce state control over justice. Power remains with the court and police, with no agency given to victims. The law treats rape as a state-controlled crime, rather than a survivor-centered human rights violation.

Interpersonally, Consent related provisions lack strong deontic modality directed at the perpetrator. There is no linguistic construction of obligation (e.g., *must ensure consent*), which weakens the normative force of the law in challenging sexual entitlement. The evaluative stance of the law thus remains conservative, reinforcing existing gender hierarchies rather than actively restructuring them. FCDA highlights that this interpersonal configuration maintains gendered power asymmetry, as it fails to redistribute responsibility within sexual encounters.

In Medico-legal examination clauses, the interpersonal dimension is marked by strong deontic modality "*shall be conducted*," "*shall not be carried out*", reflecting authoritative state control. While such modality protects survivors from overt abuse, it also reinforces a paternalistic relationship between the state and the survivor. FCDA identifies this as a form of protective patriarchy, where women are safeguarded but not empowered.

In investigation and trial procedure clauses the heavy use of deontic modality constructs the law as commanding and hierarchical. The survivor's role is implicitly subordinate, reinforcing a state-centric power structure. From an FCDA perspective, this aligns with carceral feminist ideology, where justice is equated with punishment rather than survivor agency or restorative outcomes. Interpersonally, the clause positions the state as guardian of honour and privacy. FCDA reveals that this reinforces honour-based gender ideology, where women require concealment to remain socially acceptable.

Modal verbs such as "shall" dominate the procedural sections of the Act, signaling strong deontic modality and reflecting the authoritative voice of the state. While this reinforces legal obligation, it also foregrounds punishment and procedure over survivor agency, recovery, or participation. SFL analysis demonstrates how language enforces legal power over rape survivors proving FCDA's claim that justice is framed as retribution rather than survivor-centered.

Clause 376 represent law enforcement discretion without accountability. The phrase "*May arrest without warrant*" gives unlimited power to police without specifying protections against abuse. There is rigid sentencing without judicial flexibility. "*Shall be punished with death or life imprisonment*" removes judicial discretion, meaning every case is treated the same, regardless of circumstances. Table 8 shows how power functions in Law

Textual Metafunction

Textually, the clause foregrounds the act itself rather than the social relations underpinning it. The thematic structure prioritizes action and anatomy over subjectivity, repeatedly thematizing penetration and bodily contact. Such thematic choices normalize a technical and depersonalized legal narrative, in which rape is abstracted from gendered power relations. FCDA interprets this textual organization as contributing to the naturalization of gendered violence, rendering it a neutral legal fact rather than a socially embedded act of domination. In Clause 375 "Gang Rape" is structurally separated from "Rape" in the law. This makes gang rape appear as a completely different crime rather than an aggravated form of rape. The focus is on legal guilt and punishment, rather than survivor recovery. Gang rape and individual rape are structurally separated, reinforcing the idea that they are different forms of crime rather than interconnected issues of sexual violence. Legal terminology dominates words like "*court of sessions*", "*punishable with death*", and "*not bailable*" indicate a judicially rigid approach. No mention of alternative forms of justice restorative justice, victim compensation, or community rehabilitation programs.

In consent-related provisions consent is positioned as supplementary information rather than as a central organizing theme. Its placement within clauses minimizes its discursive prominence, reinforcing its status as a secondary consideration. This textual marginalization mirrors broader legal and social discourses in Pakistan where consent is often overshadowed by moral judgments about women's character and behaviour. Textually, institutional actors are repeatedly foregrounded as themes, while survivors appear in Rheme positions or are omitted. This thematic pattern reinforces the dominance of institutional authority within the justice process and marginalizes survivor voice. Thematic choices consistently foreground institutions, reinforcing their legitimacy and authority. Survivors are discursively peripheral, which limits the transformative potential of the law.

In clause related to Protection of Victim Identity, concealment is foregrounded as a central concern, reinforcing the cultural association between sexual violence and social stigma.

This section applies Michelle Lazar's Feminist Critical Discourse Analysis (FCDA) framework to the Anti-Rape (Investigation and Trial) Act, 2021, focusing on how gendered power relations are discursively produced, sustained, and legitimized through legal language.

Gender as an Ideological Structure

The Act constructs gender not explicitly but ideologically, through ostensibly neutral legal language. Although the text avoids overt gender stereotyping, gender ideology is embedded in the grammatical organization of agency, consent, and victimhood. Women are consistently positioned as passive recipients of protection, while men remain implicit sexual agents, particularly through male-referential anatomical terminology and penetration-focused definitions of rape.

This ideological structuring reflects what Lazar identifies as the naturalization of gender hierarchy, where male dominance is rendered invisible by legal neutrality. Gender inequality is thus reproduced not through explicit bias but through normalized linguistic patterns that present themselves as objective and universal.

Legal discourse shapes how gender roles are constructed and maintained in society. The Anti-Rape Act assumes rape is a male-against-female crime, reinforcing gender binaries and exclusion of other victims (e.g., transgender individuals, male victims).

SFL's lexical analysis uncovers how gender ideology is embedded in law, proving FCDA's claim that patriarchal legal discourse frames men as dominant and women as passive victims. The definition clauses of rape and related amendments construct sexual violence primarily through material processes such as *penetrates*, *inserts*, and *causes penetration*. These clauses consistently encode the accused as Actor and the complainant as Goal, thereby representing rape as a physical act rather than a relational or structural abuse of power. Gendered anatomical references (e.g., "his penis") further stabilize a male-perpetrator/female-victim configuration, despite the law's ostensibly gender-neutral framing.

From an FCDA perspective, these linguistic choices reveal gender functioning as an ideological structure (Lazar). Gender hierarchy is not stated overtly but is normalized through grammatical patterns that present heterosexual male agency as unmarked and legally intelligible, while women's bodies become the primary sites of legal violation.

Complexity of Gender and Power Relations

The law does not give survivors legal agency. Instead, it focuses on punishing the perpetrator, reinforcing state power over justice. The fact is shown in Table 10 below.

SFL's modality analysis reveals how law enforces power relations—the state controls justice rather than centering the victim's needs. The Act reflects a complex and layered configuration of power, rather than a simple male-female binary. While the law appears progressive by strengthening procedural safeguards, it simultaneously consolidates state and institutional authority over survivors. Power is redistributed away from perpetrators only partially, while survivors remain subordinated to legal, medical, and judicial institutions. From an FCDA perspective, this demonstrates that gendered power operates intersectionally through law, medicine, and bureaucracy rather than solely through interpersonal violence. The survivor is positioned at the intersection of these power structures, reinforcing dependency and limited agency.

Procedural clauses governing investigation, medical examination, and trial consistently allocate agency to institutional actors—police officers, medical practitioners, prosecutors, and courts—through active material processes. Survivors are grammatically positioned as passive participants, often realized as Carriers of evidence or Affected entities rather than decision-making subjects.

This reflects Lazar's principle concerning the complexity of gender and power relations, where domination operates not solely through men over women but through layered institutional mechanisms. The results show that while the Act constrains perpetrator behavior procedurally, it simultaneously expands bureaucratic authority over survivors' bodies, narratives, and timelines.

Discourse in the De(Construction) of Gender

Feminist activism seeks to deconstruct gendered power structures in legal discourse and reconstruct more equitable laws. SFL's textual analysis shows how legal discourse structurally prioritizes the crime and punishment rather than survivor rehabilitation, reinforcing FCDA's claim that patriarchal law protects the state over victims. Clauses addressing consent and medico-legal procedures show partial discursive reform. The explicit prohibition of degrading practices such as the two-finger test marks a significant linguistic and ideological shift. However, consent continues to be framed as a circumstantial qualifier "without consent," "against her will"), not as an affirmative obligation placed on the accused.

These findings demonstrate how discourse simultaneously deconstructs and reconstructs gender (Lazar). While older misogynistic evidentiary regimes are dismantled,

subtler patriarchal assumptions persist, particularly the idea that women's consent is an evidentiary condition to be evaluated rather than a right to be ensured.

Across multiple clauses, the Act relies heavily on deontic modality ("shall," "must"), particularly in relation to procedural timelines, trial conduct, and evidentiary rules. These clauses thematically foreground state institutions, positioning them as primary agents of justice while marginalizing survivor presence within the textual structure. This reflects Lazar's principle of ideology operating through institutional discourse, where power is exercised via bureaucratic rationality rather than explicit coercion. Justice is linguistically constructed as a state-managed process, emphasizing efficiency and control over participation and voice. SFL's textual analysis shows how legal discourse structurally prioritizes the crime and punishment rather than survivor rehabilitation, reinforcing FCDA's claim that patriarchal law protects the state over victims.

Although the Act claims to reform rape law, its discourse only partially deconstructs patriarchal gender norms. The removal of degrading evidentiary practices and the emphasis on confidentiality represent discursive challenges to earlier victim-blaming regimes. However, the continued construction of consent as circumstantial and the survivor as an evidentiary object reconstitute traditional gender roles. Thus, the Act simultaneously deconstructs overt misogyny while reconstructing subtle forms of patriarchal control, illustrating Lazar's assertion that feminist gains in discourse are often ambivalent and incomplete.

Legal discourse in the Act operates as a form of institutionalized patriarchal power, where authority is exercised through modality, procedural sequencing, and thematic prioritization. The frequent use of obligatory modality ("shall") constructs compliance rather than empowerment, reinforcing a command-based relationship between the state and the survivor. This institutional framing aligns with Lazar's view that power in modern discourse is often bureaucratic rather than overt, making domination less visible and more difficult to contest.

Critical Reflexivity as Praxis

While FCDA is explicitly political, the Act itself lacks reflexivity regarding its own gender assumptions. The absence of survivor-centered language, participatory mechanisms, or affirmative consent framing indicates limited feminist consciousness within the legal text. The law speaks *about* women rather than *with* them. From an FCDA standpoint, this reflects a constrained feminist project one that prioritizes procedural reform over epistemic justice and discursive transformation. This section interprets the FCDA analysis in relation to feminist theory, legal reform, and the broader socio-legal context of Pakistan.

The FCDA findings indicate that the Act institutionalizes a form of protective patriarchy, where women are framed as vulnerable subjects requiring state guardianship. While protection is essential, its discursive realization reinforces dependence and limits women's autonomy as legal actors. This confirms Lazar's argument that gender inequality persists when protection replaces empowerment, particularly in state-centric feminist reforms. The Act's heavy reliance on punishment, surveillance, and procedural control aligns with critiques of carceral feminism, where gender justice is pursued through penal expansion rather than social transformation. The survivor's role is reduced to that of a complainant and witness, while justice is monopolized by institutions. From an FCDA perspective, this model risks reproducing harm by sidelining survivor agency and ignoring structural causes of sexual violence. Although the Act represents a legal milestone, the FCDA analysis reveals that discursive reform has lagged behind procedural reform. Without reconfiguring how consent, agency, and gender are linguistically encoded, the law's emancipatory potential remains constrained. This supports Lazar's contention that language is not merely reflective but

constitutive of social change, and that feminist legal reform must intervene at the level of discourse to be transformative.

Discussion

This section presents the findings of the clause-wise linguistic analysis of the Anti-Rape (Investigation and Trial) Act, 2021, organized according to SFL metafunctions and applied consistently across substantive and procedural clauses.

Across clauses, the SFL metafunctional analysis reveals a consistent pattern. Rape is ideationally reduced to physical acts, interpersonally regulated through state authority rather than gender equality, and textually organized around institutional dominance rather than survivor voice. When interpreted through FCDA, these linguistic choices demonstrate that despite reformist intent, the Anti-Rape (Investigation and Trial) Act, 2021 continues to reproduce patriarchal, heteronormative, and state-centric gender ideologies. The law thus operates not merely as a legal remedy but as a discursive mechanism that normalizes existing power relations while appearing progressive.

The analysis reveals that the Act predominantly construes rape through material processes, particularly in its definition clause, using verbs such as *penetrates*, *inserts*, and *causes penetration*. These processes represent rape as a physical act of bodily invasion, with the accused functioning as the Actor and the complainant as the Goal or Affected Participant. Psychological coercion, abuse of authority, and relational power dynamics are linguistically marginalized, as they are not foregrounded through mental or relational processes. Consent is ideationally realized as a circumstantial condition (e.g., *without consent*, *against the will*), rather than as a process or obligation enacted by the accused. This grammatical construction positions consent as something possessed or withheld by the victim, rather than something that must be actively obtained. Across medico-legal and procedural clauses, survivors are consistently represented as passive participants, carriers of evidence or affected entities while institutional actors (medical officers, investigators, courts) are assigned active roles through material processes.

Interpersonally, the Act is characterized by the extensive use of strong deontic modality, particularly through the modal verb *shall*. This constructs legal processes as compulsory and authoritative, reinforcing the commanding voice of the state. While such modality strengthens procedural enforcement, it does not extend to imposing affirmative obligations on the accused in relation to consent.

Evaluative positioning within the Act remains largely implicit. Survivors are protected in procedure but are not discursively empowered as active legal subjects. The absence of modal constructions requiring the perpetrator to ensure consent reflects a limited redistribution of sexual responsibility within the legal framework.

The interpersonal relationship established by the Act is thus hierarchical: the state exercises authority, institutional actors implement it, and survivors remain recipients of protection rather than agents of justice.

Textually, the Act consistently foregrounds institutions and procedures as thematic elements. Clauses frequently begin with references to courts, investigating authorities, or medical officers, positioning them as primary Themes. Survivors, when present, appear in Rheme positions or are omitted altogether.

The definition and procedural clauses thematize action, evidence, and regulation rather than subjectivity or lived experience. Consent, although legally central, is textually marginalized, appearing as supplementary information rather than as a thematic anchor. These thematic patterns create a depersonalized legal narrative in which institutional efficiency and control are prioritized over survivor voice.

The ideational dominance of material processes demonstrates that the Act continues to conceptualize rape primarily as a physical violation, rather than as a gendered exercise of power. From an FCDA perspective, this reflects a masculinist and medico-legal ideology that privileges bodily injury over psychological harm and structural inequality. By limiting rape to penetrative acts, the law reproduces a narrow understanding of sexual violence that marginalizes non-normative experiences.

The circumstantial construction of consent further entrenches patriarchal sexual ideology, as it places interpretive and evidentiary burdens on the survivor. Rather than challenging gendered sexual entitlement, the law linguistically preserves it by failing to encode affirmative consent as a perpetrator responsibility.

The consistent passivization of survivors across clauses reveals a persistent discursive pattern in which women are constructed as objects of legal and medical intervention rather than subjects with agency. Although the prohibition of degrading medico-legal practices signals reform, the survivor remains linguistically subordinated to institutional authority. From an FCDA lens, this reflects a form of protective patriarchy, where women are safeguarded but not empowered. The state assumes the role of guardian, reinforcing dependency rather than autonomy.

The strong deontic modality and institutional thematization evident in the Act construct justice as a state-owned and punitive process. This aligns with what feminist scholars describe as carceral feminism, wherein gender justice is pursued primarily through punishment and regulation rather than through survivor-centered or transformative approaches. The textual marginalization of survivor voice limits the law's emancipatory potential. Justice is framed as something done *for* survivors rather than *with* them, reinforcing hierarchical power relations within the legal system. While the Anti-Rape (Investigation and Trial) Act, 2021 introduces procedural reforms and symbolic protections, the linguistic analysis reveals substantial discursive continuity with earlier patriarchal legal frameworks. The Act modifies procedures without fully reconfiguring the gendered assumptions embedded in legal language.

From an FCDA perspective, this demonstrates that legal reform without linguistic reform remains ideologically incomplete. The Act simultaneously challenges and reproduces gender inequality, operating as a site where progressive intent and patriarchal discourse coexist.

Overall, the findings indicate that the Anti-Rape (Investigation and Trial) Act, 2021 functions not only as a legal instrument but as a discursive mechanism that normalizes gendered power relations under the guise of protection and reform. A feminist linguistic reconfiguration particularly of consent, agency, and thematic focus is necessary for the law to move beyond procedural efficiency toward substantive gender justice.

Results

This section presents the clause-wise findings of the Anti-Rape (Investigation and Trial) Act, 2021 by integrating SFL metafunctional analysis with FCDA-sensitive observations, showing how gendered meanings systematically emerge from specific clauses.

The ideational findings confirm Lazar's argument that gender ideology often operates through discursive invisibility. Although the Act avoids explicitly gendered language, its reliance on male-centric anatomical references and penetration-based definitions reproduces a masculinist legal understanding of sexual violence. Gender hierarchy is thus normalized under the guise of neutrality and reform. This suggests that legal modernization alone does not dismantle patriarchal ideology unless the underlying linguistic architecture is also transformed.

The results demonstrate that power in the Act is redistributed vertically from perpetrators to institutions rather than horizontally toward survivors. This supports Lazar's view that gender oppression in modern legal systems is frequently institutionalized. Survivors are protected but simultaneously governed, reinforcing dependency rather than autonomy. Such institutional dominance aligns with feminist critiques of state-centric justice models, where women gain procedural safeguards without discursive agency.

The coexistence of progressive and regressive linguistic patterns illustrates what Lazar identifies as the ambivalence of feminist reform. The rejection of degrading medico-legal practices represents genuine discursive progress, yet the continued circumstantial framing of consent and survivor passivization limits transformative potential. This ambivalence reveals that the Act deconstructs overt misogyny while reconstructing subtler patriarchal norms, particularly those related to sexual responsibility and credibility. Finally, the analysis highlights a lack of reflexive feminist consciousness within the legal text. The Act does not acknowledge structural gender inequality, nor does it linguistically position survivors as knowing subjects or rights-bearing agents. As Lazar argues, feminist discourse must be politically committed and self-aware; procedural reform without discursive reflexivity risks reproducing the very hierarchies it seeks to dismantle. By integrating SFL and FCDA, the analysis demonstrates that the Anti-Rape (Investigation and Trial) Act, 2021 operates as a discursive site of ideological struggle. While it introduces meaningful procedural reforms, its language continues to encode patriarchal gender relations through institutional dominance, conditional consent, and survivor passivization. This confirms Lazar's central claim that gender justice cannot be achieved without transforming the discourse of law itself.

Conclusion

This study set out to examine how the Anti-Rape (Investigation and Trial) Act, 2021 discursively constructs rape, consent, agency, and gender through legal language. By integrating Fairclough's Critical Discourse Analysis with Systemic Functional Linguistics, the analysis demonstrated that the Act functions not merely as a procedural legal instrument but as a powerful site of gendered meaning-making. While the Act introduces significant procedural reforms aimed at expediting trials and preventing overtly degrading practices, its linguistic architecture continues to reproduce entrenched patriarchal ideologies.

At the ideational level, rape is predominantly constructed as a physical, penetration-based act, marginalizing psychological coercion and structural power relations. Consent remains circumstantially framed rather than affirmatively encoded, positioning women as evidentiary sites rather than autonomous sexual agents. Interpersonally, the Act privileges institutional authority through strong deontic modality, while survivors are discursively positioned as passive recipients of protection. Textually, the thematic prioritization of state institutions over survivor subjectivity reinforces a state-centric conception of justice.

Through the lens of Feminist Critical Discourse Analysis, particularly Lazar's principles, these findings reveal that gender operates as an ideological structure embedded within ostensibly neutral legal discourse. The Act simultaneously challenges earlier misogynistic practices and reproduces subtler forms of patriarchal control, illustrating the ambivalence of feminist legal reform. Consequently, the study concludes that procedural change without linguistic and ideological transformation remains insufficient for achieving substantive gender justice.

Policy Implications for Feminist Legal Reform

The findings of this study carry important implications for future rape law drafting and reform in Pakistan, highlighting the need to treat legal language as a central site of feminist intervention rather than a neutral medium. After the analysis of Anti Rape

Act, several key patterns and issues emerge regarding gender representation, legal authority, and linguistic structuring

First, affirmative consent must be linguistically foregrounded. Drafting reforms should reconfigure consent from a circumstantial qualifier to an explicit obligation placed on the accused, thereby redistributing sexual responsibility and dismantling entrenched assumptions of male entitlement.

Second, survivor agency should be discursively strengthened. Legal provisions should thematically and grammatically position survivors as active rights-holders participants in justice rather than objects of investigation by incorporating language that recognizes voice, choice, and autonomy within procedural clauses.

Third, rape definitions should move beyond penetration-centric formulations to explicitly recognize coercion, abuse of authority, psychological harm, and relational power. Such linguistic expansion would align statutory language with feminist understandings of sexual violence as a manifestation of gendered domination rather than a purely physical act.

Fourth, institutional authority should be balanced with participatory justice. While procedural efficiency is essential, excessive reliance on command-based modality reinforces bureaucratic dominance. Drafting reforms should integrate survivor-centered and restorative language that reflects justice as relational and transformative, not merely punitive.

Finally, feminist legal reform must adopt discursive reflexivity. Legislators and drafters should explicitly acknowledge gendered power relations within statutory texts, ensuring that laws framed as “protective” do not inadvertently reproduce dependency or paternalism.

Ultimately, this study underscores that gender justice cannot be achieved through legal reform alone; it requires a deliberate reworking of the discourse through which law defines harm, responsibility, and personhood. Without feminist linguistic reform, even progressive statutes risk sustaining the very hierarchies they seek to dismantle. Embedding SFL- and FCDA-informed insights into legislative drafting offers a concrete pathway toward more equitable, survivor-centered rape law in Pakistan.

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