



## HOW REALITY IS CONSTRUED IN LEGAL JUDGMENTS: AN SFL ANALYSIS OF A PAKISTANI APPELLATE DECISION ON SEXUAL ASSAULT

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### Abstract

This paper examines the linguistic construction of the victims' and perpetrators' experiences as depicted in an appellate decision on a sexual assault judgment by a Pakistani High Court in 2022. Using Halliday and Matthiessen's (2014) Systemic Functional Linguistics (SFL) as the theoretical lens, the study investigates how the legal discourse of the appellate decision represents both the parties involved in the event. The data, collected from the court's website through purposive sampling, is analyzed from a three-dimensional perspective—transitivity, ergativity, and textuality- to conduct an exhaustive study of how the language of law represents the victims and the perpetrator. Qualitative content analysis of the judgment shows that the legal drafting by Pakistani courts is critical in shaping the discourse around rape in the country. The study recommends that future researchers in linguistics and law work together to explore the role of legalese in how victims and/or perpetrators of other crimes are represented in judicial verdicts.

**Keywords:** *SFL, Meta Functions, Transitivity, Ergativity, Textuality, Court Verdict, Rape*

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## 1.Introduction

Rape is universally condemned as a violation of bodily autonomy and human rights and remains one of the most discursively contested and ideologically saturated crimes (White, Monteiro & Ferra, 2024; Hanel, 2018; Dowds, 2019). It exists not just as a physical act but as a discursive construct, shaped by legal definitions, media representations, cultural narratives, and everyday language practices. Across societies, the meaning of rape is continuously negotiated, i.e., who counts as a victim, who is believed, what constitutes consent, and which acts are considered violations are all determined through discourse. In patriarchal societies such as Pakistan, these discourses are particularly fraught with gendered ideologies, moral biases, and victim-blaming undertones (Ahmed, Asad Ullah, & Noreen, 2024; Cusmano, 2018; Shahid, Sarkar, & Khan, 2021). In Pakistan, rape is not only a criminal act but also a symbolic offence—tied deeply to notions of honour, shame, purity, and family reputation. This symbolic weight significantly alters how rape is talked about, perceived, and adjudicated. Survivors often find themselves trapped within contradictory narratives: simultaneously silenced by societal taboos and exposed by sensationalist media, blamed in court proceedings while being held responsible for family dishonor. Although laws regarding rape in the Pakistan Penal Code (1860) do speak about rape against minors and adults, Khan and Zaman (2012) argue that Pakistan does not recognize “rape with the use of objects [sic], digital rape (or molestation), marital rape, incest, or necrophilia” (p. 8). They also believe that despite the presence of several provisions in theory on child marriage, prostitution, abduction, forced abortion, human trafficking, and other types of sexual assault, these provisions are hardly ever implemented and enforced unless the offence clearly falls within these categories mentioned in the Code (Khan & Zaman, 2012). In the Pakistan Penal Code (1860), a rape occurs when:

A man is said to commit rape who has sexual intercourse with a woman ... against her will, ... with her consent, when the consent has been obtained by putting her in fear of death or of hurt, or with or without her consent when she is under sixteen years of age ... Penetration is sufficient to constitute the sexual intercourse necessary to the offence of rape (Section 375, pp. 133).

Initially, laws that indirectly diminished the role of the perpetrator of a sexual offence appeared in the Law of Evidence (1984), also known as Qanun-e-Shahadat Order. Section 151 (4) state: *when a man is prosecuted for rape or an attempt to ravish, it may be shown that the prosecutrix was of generally immoral character* (p. 66). Such provisions raised suspicions in the judiciary about the authenticity of the occurrence of the incident: did the incident occur, or was it merely concocted? These provisions also made courts skeptical about the victims and established their ‘morality’ as the possible cause of the offence. Nevertheless, the judiciary gradually realized the need to change existing

discriminatory laws. The courts began taking significant steps to ensure that the rape victims had all the rights to justice without any discrimination. Consequently, in 2016, in the Law of Evidence (1984), the provision in section 151(4) was omitted in the Offences Relating to Rape Act. Complementing that, Lahore High Court gave a landmark judgement and abolished the Two Fingers Test (TFT) in 2020, also known as the virginity test. Since the moral character of victims was no longer a rationale in giving judgments on rape cases, the practice of vaginal examination or TFT of the victims was banned. Moreover, the same ruling outlawed the use of degrading language for rape victims e.g., expressions such as “*habituated to sex*”, “*woman of easy virtue*”, “*woman of loose moral character*”, and “*non-virgin*” (Criminal Appeal No.251/2020 & Criminal Petition No.667/2020, Atif Zareef, etc. versus The State, p. 8). In addition, in December 2020, Pakistan passed an anti-rape bill including a harsh penalty of chemical castration for rape perpetrators. The penalty, however, was later excluded in 2021 on account of the Islamic Ideology Council’s protest that the penalty was un-Islamic (Shahzad, 2021; Sajid, 2020; Gul, 2021). Also, the country took measures against habitual rape offenders by establishing a national sex offenders’ registry to identify the perpetrators before hiring them and, therefore, ensuring the safety of women and children (Khan, 2023; Yaseen, 2023). Despite these progressive measures, rape is still mostly reported and talked about in electronic and print media as harm that the victims bring upon themselves (Yousaf, Irfan, & Shafique, 2024), as an injury that only the victims are to be blamed for. Such discourse essentially contributes to the reluctance of victims to come forward and report the crime, let alone follow the cases through until they get justice. It further pushes them back into silent suffering, not to bring disgrace or dishonor to the family names. Against this backdrop, this paper examines how the reality of the victims’ and perpetrators’ experience of rape is linguistically represented in the selected judicial ruling through the framework of Systemic Functional Linguistics (SFL).

## 2. Literature Review

Research in forensic linguistics and Systemic Functional Linguistics (SFL) reveals that language plays a crucial role in shaping perceptions of crime, guilt, and justice within the courtroom context. Numerous studies have examined how judges, lawyers, and defendants utilize language to portray victims and perpetrators, assign or conceal responsibility, and craft narratives that influence judicial outcomes. This section reviews key research to demonstrate how language and ideology interact in legal settings; it also provides context for the present study on judicial discourse regarding rape.

Costa’s (2020) explores the representation of women in the appellate decisions in Brazil by the judiciary of Santa Catarina that charged these women with homicide. Her analysis shows the female defendant was characterized negatively in the form of an

irresponsible mother, a morally gray person, affiliated with an unpopular religious group in Brazil, and a threat to Brazilian society. Moreover, the research focuses on the formal, clear, and unambiguous use of language in the appellate decision, not to mention the defendant being represented as an active agent of her crime, thus directly holding her responsible for the homicide. It reveals the patriarchal values operating behind the language of the Santa Catarina judicial tribunal's depiction of women as criminals. This also provides an insight into the Brazilian society's views about women, colored by stigma and stereotypes. In other words, when deciding about their fate, the judiciary casts women (be they actual victims or alleged perpetrators) as the villains and consensual actors in the crime.

Chaemsaitong (2021) examines the opening statements of three American criminal trials on murder cases in Virginia and Texas. She finds that the prosecution, in its opening address, ascribes a more agentive role to the defendants than the defense counsel. The defense counsel foregrounds the victim and his experiences, not to give him more space and therefore, voice in the opening speech, but to blame the victim himself for his death. The defendants are also attributed unmitigated agency by the prosecution in affecting victims with the help of material clauses, repetition of modals, and emphatic verbal phrases. The points where the defendant is ascribed unmitigated agency and material processes by the defense counsel itself underline the positive image of the defendants. Not only the material but also the verbal processes hold ideological significance in constructing a certain reality about either party, defendant or victims. The prosecution aims at creating doubts and suspicions about the credibility of the defendants' testimonies. Besides, analyzing transitivity patterning in the representation of victims reveals that the prosecution tends to discuss the victims more than the defense counsel, which backgrounds the victims' account of the events and therefore undercuts victims' agency and experiences. The action of ascribing, mitigating, or removing agency when representing the victims varies from one trial case to another, depending on the respective prosecution counsel's objective, which the prosecution intends to achieve to benefit the victim. The opening statements by the defense and prosecution counsel are not merely information packages about the trial cases. They help build the jury's opinion about the case and, therefore, hold great significance in deciding the fate of the victim or the defendant. The opening address in the courtroom appears to be a key element in constructing, shaping, or changing the ideology, beliefs, and attitudes of the jurors about the issue in question.

Holopainen (2005) looks at the testimonies of a White police officer during his amnesty hearing of a murder trial of an African apartheid activist in Cape Town, South Africa. The study claims that the appellant employs different linguistic techniques, mainly including an amalgamation of different process types, passive structuring, non-agentive

verbs, and non-transactive processes, etc., which increase the vagueness and ambiguity in determining ‘who did what to whom’, or more precisely, the murderer. The most prominent process type is mental processes, which establish the police officer/speaker/witness of the case as more of an observer than an active participant on the scene. By doing so, they reduce the speaker's role from being an actual contributor to the murder to simply being an external character of the event. The speaker also refrains from referring explicitly to the agent's shooting and uses non-agentive verbs like *go off* and *die* instead. These verbs indicate that the shooting happened spontaneously without any external causative factor involved.

Likewise, in the context of an American courtroom, the transitivity framework is studied to see the function and distribution of the six process types in Jodi Arias's murder trial (Liu, 2021). In the direct and cross-examination during the trial proceedings, the most prevalent is the material process type in the speech of the judge, the prosecutor, the defense attorney, and the defendant. The mental process is also used less frequently in cross-examination by the defendant to shift the focus from the crime and to avoid taking responsibility for it. The attorney and prosecutor, too, use mental processes; the attorney gives Arias a chance to defend herself, whereas the prosecutor attempts to trick her into answering questions that can incriminate her. The relational process is observed in Arias's speech, where she confesses to the murder. The judge uses a relational process to remind Arias of her status in the court. The verbal process is used by the attorney to support Arias in her answers, by the prosecutor to establish Arias as a non-credible person, by the judge to give instructions, and by Arias to express herself. The study establishes that transitivity offers a wide range of configurational choices to the speakers in the courtroom where they consciously make use of process types to suit their legal goals, i.e., to defend, trick, convict, shift attention, escape responsibility, confess, and maintain decorum of the court, etc. Thus, transitivity in legalese provides a critical outlook to examine the hidden motives of the lawyers, witnesses, judges, and everyone else directly involved in the matter.

Similarly, Wang (2015) explores the transitivity processes in the discourse of the defense, prosecution lawyer, and the defendant, centering on the murder trial in a Chinese courtroom, in both direct and cross-examination. The study claims that the lawyers' discourse reflects objectivity during the questioning stage through verbal processes, assigning responsibility of the crime to the victim, and minimizing the negative impact of the defendant through relational processes. To gain the sympathy of the judge and the victim's family, the defendant and his lawyer employ mental and existential processes during cross-examination and direct examination.

Equally important is Fuzer and Barros' (2009) analysis of the construction of truth and reality in the discourse of defense attorney and prosecution counsel in a criminal trial in Brazil, conducted through the ideational metafunctional framework and social actors'

theory by van Leeuwen. The study aims to determine how linguistic representational choices of legal personnel affect the institutional stance on issues of critical importance and, therefore, affect the lives of stakeholders involved. The study finds that the legal personnel, for the most part, are backgrounded, whereas the most frequently foregrounded participants in the text of judicial proceedings are the victims and defendants. The study examines how the prosecution receives active representation through Leeuwen's concept of 'inclusion by activation' and personalization through nomination (e.g., proper name) and functionalization (e.g., "prosecutor," "district attorney's office," "defense attorney," "defense," "court," etc.). The downplaying of the prosecution's role also occurs through Leeuwen's idea of 'exclusion by backgrounding' in mental process clauses, which renders the agency of the prosecution obscure and implicit. Such a hidden presence of the agent leaves it open for the readers to infer who derived the assumptions offered about the defendant in the clauses—judge, jury, prosecution, or defense. The findings reveal the text's emphasis on the role and responsibility of the defendant, rather than the prosecution and defense lawyers, who act merely as the mouthpieces of the law and institution.

The account above outlines the ways language operates as a major force affecting victims and perpetrators. Transitivity is shown as a helpful tool to uncover the ideology behind the linguistic choices of the speakers, enabling them to achieve their intended purpose, whether it is to prove the innocence of a party or incriminate them. Race, too, is observed as an important factor that cannot go unnoticed when discussing the roles of victims and perpetrators. The review highlights the judiciary's role in constructing a certain reality, through transitivity, about homicide-related crimes. This offers a multidimensional view of linguistic geolegality that navigates the way legalese operates and impacts the lives of common people worldwide and thus contextualizes the present research by establishing the preliminary groundwork for studying how law and linguistics interact with each other in Pakistan's judicial system. To sum up, the selected literature aligns with the purpose of the current research in underlining the applicability of SFL to the courtroom discourse, which involves the firsthand experience and knowledge of the stakeholders who are part of the cases under discussion.

### **3.Methodology**

The judicial ruling was selected to highlight the stance of the judiciary of Pakistan on a case as sensitive and critical as the rape of female minors. The selected criminal appeal challenges both the conviction and the sentence of the learned trial court of Rawalpindi. This appellate decision can be traced back to the website of Lahore High Court ([https://lhc.gov.pk/reported\\_judgments](https://lhc.gov.pk/reported_judgments)). Purposive sampling is used to ensure that the data contains relevant information about the issue the present study probes, i.e., the construction and representation of the rape victims' and perpetrators' reality. Qualitative



content analysis is an appropriate data analysis technique since it aligns with the major tenets in the lexicogrammatical domain of SFL—to bring to light the ways the speakers and writers, by means of language, make sense of their realities and experiences, both internal and external. In addition, qualitative content analysis assists in exposing what the writers and speakers of a text mean by thematizing or rhematizing a particular aspect of their experiences through ideational (experiential) and textual metafunction proposed by Halliday and Matthiessen (2014). The study proceeds with the analysis in three steps: it breaks down the clause complexes into clause simplexes, examines them in tabular form through the selected SFL lenses, i.e., standard SFL transitivity, ergativity, and textuality, and finally, it provides an interpretation based on the findings of the tabular analysis.

### 3.1. Theoretical Framework

In Halliday and Matthiessen (2014), transitivity focuses on the ability of the clause to construe human experiences, both internal and external, through participant-process-circumstance configurations. Halliday and Matthiessen (2014) discussed three core ideas in SFL, also known as metafunctions – ideational, interpersonal, and textual - which enable speakers to discuss their experiences through transitivity, modality, and theme-rheme patterns, respectively. Ideational metafunction primarily deals with different process types, including material, mental, relational, verbal, behavioural, and existential. These processes, with the help of verbs, show the speaker's/writer's attitude toward their experiences of the world. Interpersonal metafunction describes how the exchange of messages occurs between speakers within a clause. The textual metafunction explains how the clauses are logically held by the speakers/writers to make meaning. The present study focuses on only the experiential and theme-rheme aspects of the ideational and textual metafunctions. The experiential metafunction centers transitivity—standard and ergative. Ergative transitivity is primarily concerned with the effective/middle and active/passive construction of the clauses, which sees if the element of agency is present (or not) and thereby affects the overall meaning of the speaker's message. Hence, the voice system of the clause in ergative transitivity determines whether the clause is agentised or deprived of it, and how it impacts the meaning. The theme-rheme aspect of the textual metafunction is used to examine the textual positioning of the information units in the appellate decision. This positioning ultimately decides which parts of the speakers' experiences are foregrounded or backgrounded, providing an insight into the speakers' choice of meaning-making – what they could have foregrounded/backgrounded but did not. These textual choices reflect their attitude toward a certain phenomenon and suggest that textual metafunction in SFL can be significantly effective in manipulating language to further an agenda, fulfil a certain purpose, and thus, achieve one's vested interests. The initial position of the clause is called the theme, and the rest of the clause is defined as the rheme

in SFL. To conclude, the two metafunctions provide the right framework to understand how the judiciary in appellate decisions constructs the experiences of the victims and perpetrators through transitive, ergative, and other textual choices.

#### 4. Analysis and Discussion

This appellate judgment, given in 2022 by the Lahore High Court, Rawalpindi Bench, is in response to a criminal appeal by the appellant. The judgment centers on the rape of two minors, 12 and 8 years old, M.F. and S.F, residents of Rawalpindi, Pakistan, at the house where I.A., the perpetrator, too, was residing with the family. The perpetrator was the maternal uncle of the victims. The analysis in the following sections centers on how the judicial ruling linguistically represents the agency of the victims and the perpetrator by employing transitivity choices of process, participants, circumstances, activation, passivation, agentive, agentless clauses, or textual choices of theme and rheme as discussed by Halliday and Matthiessen (2014) in systemic functional linguistics.

C. No.	Clause	Primary Process	Secondary Process	Participants	Voice	Agency	Theme	Rheme
1	<i>That M. &amp; S. usually made complaints against their maternal uncle I.A. for committing "ziadti" with them but she did not believe in such complaints.</i>	Material (made)	Mental ( <i>did not believe</i> )	Victims (Actors), Complaints (Scope),  Perpetrator, Crime, (Circumstance),  Mother (Senser)	Active / Operative	Agentive	Victim-themed	Perpetrator-rhematised
2	<i>S. was undressed, whereas I.A. was without wearing trouser and was committing sex with her daughter.</i>	Relational (Attributive : was undressed)	Material (was committing sex)	Victim (Carrier & Goal), Perpetrator (Carrier & Actor)	Middle / partly Active	Agentless (in first half)	Victim and perpetrator-themed in the first half, Process-themed in the second half	Victim-rhematised in the second half, Process-rhematised in the first half
3	<i>The case has its roots in an incident wherein I.A. stooped down to the ebb of immorality and resorted to incest sex.</i>	Relational (Possessive )	Material (stooped, resorted)	Perpetrator (Actor & Theme), Crime (Scope) Victim (Implied Goal)	Middle	Agentless	Perpetrator-themed	Crime-rhematised
4	<i>N.I. rose up from bed for breakfast and saw I.A. ) in the thick of an</i>	Material (rose up)	Relational (was busy in sex)	Mother (Actor), Perpetrator (Carrier/Medium), Crime	Middle	Agentive	Perpetrator-themed	Victim-rhematised



	<i>incident wherein he was busy in sex with M.F.</i>			(Attribute), Victim (Circumstance)				
5	<i>During trial, the tale of vicious sexual assault of I.A., whereby he encroached upon the modesty of his niece, was brought on record by complainant N.I.</i>	Material (encroached upon)	Material (was brought on record)	Perpetrator (Actor/Agent), Victim (Goal), Complainant (Agent of reporting)	Active + Passive	Agentive	Circumstance-themed	Perpetrator-rhematised
6	<i>The intensity of sufferings of M and S. can well be gauged from the fact that they lost their virginity due to the satanic conduct of their uncle.</i>	Mental (can be gauged)	Material (lost)	Victims (Goal, Phenomenon), Perpetrator (Actor/Agent)	Active / Operative	Agentive	Victim-themed	Perpetrator-rhematised

**Table 1**

The analysis of the first clause reveals that the victims have been assigned the function of Actor to represent the reality of their experience. This work aims to show how the perpetrators' and the victims' reality is constructed. Here we can see that both the victims stand against an act of violence that had been directed against them by their maternal uncle. Both the victims are serving as Actors of a material process, but the clause does not seem to have a Goal as a participant. The clause tends to have the perpetrator functioning as Scope, i.e., the domain to which the action is ranged and extended. The standard transitivity analysis also shows that the clausal configuration follows the Actor-Process-Scope-Circumstance pattern. The fact that two kinds of circumstantial elements are part of this clause suggests that the ruling wants to give more details and information regarding the victims' reality of their experience. The 'how' and 'why' of their action is being given more room and importance by adding circumstantial information such as 'usually' and 'for committing ziadti with them', which explains their reason to voice out their suffering and how often they were raped. The victims, even though minors, are, therefore, represented as confident girls who are not afraid to complain against a pedophile. The clause empowers the victims by associating them with the role of Actor. The perpetrator, contrastively, becomes a Circumstance—something that adds or supplements the victim's reality.

On the ergative level, the victims function as the agents of their action, whereas the perpetrators are circumstanced. They are not held responsible for their crime on the level of ergative transitivity. The linguistic choice to represent rape as 'ziadti', a culturally

appropriate term for rape, suggests that the ruling implicitly minimizes the seriousness of the act. The locally used term ‘ziadti’ can be semantically realized on various levels, such as ‘abuse’, ‘torture’, ‘oppression’, and ‘injustice’, none of which comes closer to the actual meaning of the term ‘rape’. The clause employs effective-operative construction, which could have been passivised too. However, the ruling chooses an active/operative system to represent the action of the victim, i.e., complaining against the perpetrator. The choice of active construction strengthens the ruling’s viewpoint that the victims are empowered enough to stand against the wrong and the wrongdoer. Operative construction gives the victims the acknowledgement, honor, and prominence they deserve, and it also culminates in an alignment with the textual metafunction, which positions the victims as the theme. The victims are foregrounded in thematic position; the clause seems to be in a systemic synchronization as it represents the victims functioning as the Actors, Agents, and Theme. Hence, the logical, psychological, and grammatical subjects in this clause are the same party—the victims. The perpetrators are, however, rhematized.

The standard SFL transitivity analysis of the second clause exhibits that the relational process is employed with the intensive attributive mode. We know that the relational process suggests the state things; it is a process of being that brings us to the interpretation that the state of something, whether an event, a thing, or a person, will be described objectively as it appears. The first part of the clause follows a Carrier-Process-Attribute pattern where the victim is attributed the function of Carrier as the transitivity participant, and ‘undressed’ is the Attribute she has. It reflects the condition of the victim, in which her mother found her.

On the ergative level, the clause follows a Medium-Process pattern and has no agent. The middle construction of the clause does not allow an operative or receptive pattern. Although it could have had an agent too, the linguistic choices employed in this clause seem to have no room for that. The clause could also be formed like ‘she was undressed by the appellant, who himself was ...’; however, the clause is devoid of the presence of an agent in the first part. Looking at this first part of the clause from a textual metafunctional viewpoint, it is observed that the victim is foregrounded and occupies a thematic position, whereas her physical state is rhematised. The victim, thus, becomes the logical, psychological, as well as grammatical subject of the clause. About the second part of the clause, it can be noticed that the relational process is used again to encode the reality of the victim’s mother’s experience. The objectivity inherent in this clause is apparent from the relational process that impersonally talks about the state of both the victim and the perpetrator. The perpetrator is assigned two different processes, i.e., relational (was without wearing trousers) and material (was committing sex), which suggests that he is the main entity of the experience being narrated. Not only is he being discussed in terms of his physical state, but also in terms of the action he is involved in. The perpetrator,

therefore, is both the Carrier and the Actor of the two processes, though the latter is not explicitly stated. The clause begins with a textual element, i.e., ‘whereas’, which suggests the contrast found in the physical state of the victim and perpetrator; the victim is found completely undressed, while the perpetrator is just without trousers. He might have had his shirt on. ‘Without wearing trousers’ is the attribute he carries in the relational process, and ‘committing sex’ is the action he is undertaking as an implied Actor of material process with the victim as Goal. About the material process ‘committing sex’, it can be said that it could have been rephrased and expressed differently because it also gives the tone of consent. Lonsway and Archambault (2022) argue that *terms such as “sexual intercourse” and “had sex” need to be avoided because they convey a degree of mutual consent and/or minimize the seriousness of the acts*. This is in line with our analysis, which focuses on the coerced intercourse performed by the perpetrator. The ruling’s lexical choice does not, however, seem to suggest the implication of coercion of any sort. It rather suggests that the victim consents to the perpetrator’s action.

On the ergative level, we observe that since the middle construction of the first half of the clause does not allow for the element of agency to be present, the perpetrator seems to occupy the position of Medium that helps the process to be realized in ‘He was without wearing trouser’. In the second half of the clause, although the clause follows an effective structure, the perpetrator is not agentised directly, yet we do see the victim serving as the goal of the perpetrator’s action. So, the agency of the perpetrator is again concealed, with no sense of responsibility associated with him. The textual metafunctional analysis also validates the ergative and standard transitivity finding, which highlights the explicit absence of an Actor (yet presence of Goal), complete absence of Agent (but the presence of Medium), and no thematising of the perpetrator (while rhematising the victim).

The third clause employs a middle syntactic form, i.e., it does not possess an agent and follows the Actor-Process-Scope-Process-Scope pattern. There is not even a Goal in this clause that is being directly affected by the Actor’s action. The second half of the clause employs process and Scope as well as an implied Actor. The absence of a goal in relation to both the processes in the clause suggests that the actions undertaken by the Actor might be harmless, that if they do not directly affect someone, they might be innocuous. The lexical choice of the clause ‘stooped down to the ebb of immorality’ seems to evade directly stating the facts by its use of a proverbial expression. Again, ‘resorting to incest sex’ is an intransitive phrasal verb that does not allow for the clause to include an agent. The expression also brings to the clause a consensual tone, suggesting that the rape was the result of a mutual accord between the perpetrator and the victim. The expression, even more so, is devoid of any coercion or force that can incriminate the perpetrator. The ergative transitivity analysis also validates the standard SFL finding by highlighting the absence of an agentive entity, benefiting the perpetrator. Even though he is represented as

an Actor and Theme, not being an agent takes the prominence away from him in influencing someone else. The textual metafunctional analysis shows that while the perpetrator is foregrounded in thematic position, the crimes are rhematised. The ruling appears to prioritize the perpetrator's importance over the crime itself.

The transitivity analysis of the 4<sup>th</sup> clause shows that the clause follows the pattern of Carrier-Process-Attribute-Cir. Relational process is attributed to the perpetrator, which renders a matter-of-fact tone to the crime he is committing, which is how it should be in legalese. Throughout the ruling in the analyzed clauses, the clauses where the crime, victim, and perpetrator are being discussed, the phrases such as ‘committing ziadi’, ‘committing sex’, ‘busy in sex’, resorted to incest sex’ have been used except for one clause where the crime is reported using the actual literal word i.e. ‘she was also raped’. All these expressions suggest a deliberate or undeliberate attempt on the part of the ruling to avoid using ‘rape’ to talk about the crime, which ultimately diminishes the ruthlessness and cruelty inherent in its meaning. Whether it is a relational process or a material one, attributed to the perpetrator or the victim, the ruling manages to retain its neutrality in its lexical as well as grammatical choices, thus proving that the agency of both parties remains overshadowed by the peculiar linguistic choices in representing the victims and the perpetrator. The ergative analysis highlights that the clause does not possess an agent because a relational process and a middle construction are employed. Unsurprisingly, the absence of an agent seems to diminish the effects of violence and inhumanity that could have been shown had the clause had an agent. However, the choice of relational process removes this possibility, and the perpetrator remains a Medium to realize the Process, and even worse, the victim is circumstanced. The textual metafunctional analysis, although it keeps the perpetrator as Theme, does not seem to have a powerful impact on the representation of him as a criminal and thus, does not highlight him as such, unless this representation is also aligned with the ergative and standard SFL transitivity analysis of the clause too.

The fifth clause follows the Circumstance-Actor-Process-Goal-Circumstance-Process-Actor pattern. The pattern seems complex due to the intricately embedded structure of the clause. The clause begins with a circumstantial element followed by an Actor who is affecting the victim. The transitivity analysis shows that the crime is once again rephrased to ‘tale of sexual assault’, which, firstly, removes the element of seriousness, and secondly, the addition of ‘tale’ suggests that it might be fabricated and not entirely true. Lonsway and Archambault (2022) also claim that

Authors should avoid using the term “story” when referring to the victim’s statement or account of events, given the connotation of skepticism conveyed. Other terms are more appropriate, such as “account,” “statement,” or even “the victim’s description (p. 7).

The clause which talks about rape, i.e., ‘sexual assault’, is circumstanced, whereas the following embedded clause, where again the crime is referred to in direct relation to the perpetrator, is though Materialised but again rephrased to ‘encroaching upon the modesty’, which is a very cultural way of speaking about it. One thing appreciable about this clause is that it agentises the perpetrator and that too by following an operative/active construction which immediately holds him responsible for raping his niece. Although the word choice is not entirely, completely and explicitly mentioning rape, but the grammatical structuring of the clause does hold the perpetrator accountable by activising and thematising him at the same time, if we take the clause in isolation from the whole clause. ‘whereby he encroached upon the modesty of his niece on 21.04.2018 at about 8:00 a.m.’ highlights him as the Actor influencing the victim while the additional information is circumstanced.

The ergative transitivity reveals that the clause follows the Cir-Agent-Process-Medium-Cir pattern. The ruling, fronting the circumstance instead of the Agent, suggests that it clearly attributes more importance to how the crime happened and how it was narrated, rather than who committed it. The alternate structure could have been ‘The fact that he raped his own niece on (date) was reported by the complainant’ but the whole clause first on the word level reduces the seriousness of the crime by rephrasing it to ‘tale’, ‘sexual assault’, ‘encroached upon the modesty’, and secondly, by thematising the circumstance and not the perpetrator (if we analyze the clause as one complete statement). Taking the embedded clause ‘whereby he encroached upon the modesty of his own niece on ...’ in isolation brings up a different interpretation (already discussed above) on all three levels of transitivity—ideational, textual, and ergative. This clause too fails to truly represent the agency of the perpetrator because the clause embeds him in a way that, if not analyzed in isolation, average readers would not pay attention to what he did; they will focus more on the circumstances, which are being thematised. However, taking the clause in isolation (which most likely only scholars of linguistics would do) would highlight the perpetrator as the theme and thereby the agent of his crime. This is normally not possible for the average reader and hence tends to benefit the perpetrator since his agency remains embedded and hidden within the embedded structure of the whole clause. The victim occupies the role of Goal on the ideational level and Medium on the ergative level in the clause, which is not unusual, keeping in view the fact that the perpetrator is the Actor and Agent in ideational and ergative transitivity, respectively. The victim is there, present, affected by the perpetrator’s action, who himself does not seem to occupy the position and placement he deserves in a clause that could have represented him in the true light, as a rapist. The ruling not only hides the perpetrator and crime on both the lexical and grammatical levels, but also further detaches the victim from the argument.

The final clause follows an effective (operative) structure where, on the level of Standard SFL transitivity, the victims have been ascribed the role of Goal as participants, whereas the perpetrator naturally becomes the Actor who influences the victims. The Process employed in this clause is Material, and the supplementary information is circumstanced, e.g., ‘due to the Satanic conduct’ and at the age of 12 and 8 years’. The clause retains the truthfulness required to represent both the perpetrator and the victims by including both as essential elements of the issue under discussion. But the mere inclusion does not matter much if the perpetrator is benefiting from his agency being hidden and him being backstaged. Although the clausal structure is activised, however, it still makes the victims the goal of the Actor’s action, who is placed toward the end of the clause, thus concealed from the instant attention of the readers. On one hand, we need to value the active/operative construction of the clause when it comes to the representation of the victim and perpetrator; on the other hand, we also need to critique the perpetrator’s placement as Actor to the end of the clause.

Since it is an active clause, the Actor should have been positioned in the beginning to truly portray him through language as the responsible agent of the crime. The clause could have been phrased like ‘The intensity of sufferings of M. and S. can well be gauged from the fact *that their own maternal uncle acted satanically due to which their virginity was lost at the age of 12 and 8 years, respectively*’. Such a phrasing of the clause would have been better in representing the perpetrator as accountable for his crime. It would have remained active in voice, the Actor in the initial position, therefore highlighted more as the criminal, and the victims being justly portrayed as the ones who were at the receiving end of a horrible crime. The current phrasing and positioning of the victims in the ruling suggests that it is they who lost their virginity until we read the next part of the clause, which states ‘due to the satanic conduct of their own maternal uncle’, which is a nominalisation of the crime too. ‘He acted satanically’ would have retained the verb, but ‘satanic conduct’ removes from the clause the element and tone of performing or committing the crime.

The ergative transitivity analysis shows that the perpetrator is agentised for his crime, while the victim is assigned the role of Medium. Despite being an effective clause, the agent remains backgrounded, which raises a question mark about the perceived objectivity of Pakistan's judicial system, which, on a linguistic level, fails to attribute responsibility to the perpetrator. Although he is mentioned as the agent, his agency still does not become the forefront element of the clause, leaving the reader to focus more on the victims as losers of virginity than on the perpetrator who caused the harm. Even agentising the perpetrator in the clause did not stop putting him in an advantageous position. The textual metafunctional analysis suggests that the victims are thematised and the perpetrator is rhematised. It needs to be reiterated that, despite being the Agent, the



perpetrators enjoy being backgrounded while the victims, despite being the affected party, remain foregrounded and more prominently highlighted than the perpetrators. The clause follows a linear theme pattern where the *Rheme of one clause is taken up as the theme of the subsequent clause* (Bloor & Bloor, 2004, p. 89). The Rhematic part of the clause, ‘the fact’, becomes the theme of the following embedded clause, as in ‘they lost their virginity’, which is the ‘fact’ the preceding clause is referring to.

### 5. Conclusion

This study indicates that the ruling empowered the victim through mental and verbal processes, which showcase their cognitive and vocal strength in taking a stand for themselves. However, despite such empowerment, the clause structure is inclined to favor the perpetrator to diminish his image as a criminal and offender: through nominalization, agentising, and through attributing culturally-loaded lexical concepts such as ‘virginity’ to the victims, and by phrasing the clauses in a way that conveys a sense of consent between the two parties—victims and the perpetrator. The ruling as a legal document indicates that the verdict views rape as a crime instigated by the victim in most cases. The verdict does not say it in plain terms, but the way they encode the real-life experiences of the victims and the perpetrators in the ruling point to their biased stance that favors the perpetrators more than the victims. The objective of this research was to question whether the judiciary undoes the established patriarchal ideas about rape by choosing to represent the victims’ and perpetrators’ reality accurately. It also aimed at examining the judiciary’s role in its conscious or unconscious reinforcement of the existing chauvinist norms that involve victim-blaming and associating the ideas of modesty, virginity, and protection from male gaze, all to females, as far as crimes such as rape and harassment are concerned. It can be concluded that on the transitivity level, rulings are no different from the already prevailing ideas about rape in Pakistan, which promptly point fingers at the victim, irrespective of her age.

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