

COMPARATIVE LEGAL DISCOURSE ANALYSIS: SPEECH ACTS CODIFYING GENDER EQUALITY IN MUSLIM FAMILY LAW ORDINANCE 1961 AND THE MARRIAGE LAW OF THE PEOPLE'S REPUBLIC OF CHINA

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Abstract

This study examines the legal language application in the Muslim Family Law Ordinance 1961 and the Marriage Law of the People's Republic of China to assess the use of speech acts particularly declarative and directive that represents gender equality within family laws. The study explores the ways legal language is utilized to present responsibilities and manage relationships between spouses in both laws. It further investigates that both the laws either emphasize on equal rights or traditional social roles within the family matters. The purpose of the study is to recognize and compare the speech acts used in both laws and to evaluate how they represent gender roles and legal responsibilities by using qualitative research methodology and applying Speech Act theory created by J.L. Austin and John Searle. The analysis assesses declarative and directive speech acts used frequently and dominated both the laws related to gender equality with reference to marriage, divorce, inheritance and property rights.

The Muslim Family Law Ordinance 1961 incorporates rules related to maintenance and divorce in traditional way whereas the Marriage Law of the People's Republic of China emphasizes on equal gender rights. The study concludes that legal discourse plays an important role in shaping gender equality and both legal systems uses same speech acts but having different interpretations.

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Introduction

Gender equality represents a state in which all individuals irrespective of their gender are given equal rights, opportunities and resources whereas gender inequality affects all genders including men, transgender individuals and gender-diverse persons, children and various age groups and social backgrounds. Gender equality is important for a healthy society. It enables people to follow their dreams without any limitations. In addition, it also helps to create a safe world where everyone is respected and valued and through each other's ideas the world progresses. Fostering gender equality creates a better future for everyone.¹ Family law manages important aspects of life such as marriage, divorce, child custody and inheritance and it can have a direct effect on women, their independence, financial security, life security and equal rights in all spheres of life. In many countries family law exhibits gender bias.² However, family law also plays a vital role due to a set of legal rules it regulates family relationships and it can strongly influence the lives and experiences of the women.³ In recent decades, law has played a significant role in reducing gender inequality. Laws help to shape the society with social behavior, explain what is acceptable and maintain accountability and it also protects individuals from discrimination and from unfair treatment in the society. To achieve gender equality passing laws are not adequate, they should be implemented. Moreover, progressive laws are unable to bring meaningful change due to weak enforcement, absence of institutional support and strong cultural opposition.⁴

Both social justice and gender equality are interdependent on each other in addition; it is not possible to achieve one unless the other is not achieved.⁵ Language works with the help of symbols and these symbols have meaning and they play a significant role in shaping human relations

¹ United Way NCA, "What Is Gender Equality? Learn the Definition with Examples," August 8, 2024, <https://unitedwaynca.org/blog/what-is-gender-equality/>.

² Equality Now, "Achieving Legal Equality: Family Law," accessed May 16, 2026, <https://www.equalitynow.org/>.

³ N. Palazzo, "Family Law and Gender in the Middle East and North Africa: Change and Stasis in the Arab Spring," *The American Journal of Comparative Law* 72, no. 3 (2024): 732–37, <https://doi.org/10.1093/ajcl/avac027>.

⁴ K. Kaur, "Law in Advancing Gender Equality: A Study of Legislative Influence on Social Change," *International Research Journal of Trends* 10, no. 3 (2024), <https://doi.org/10.36676/irt.v10.i3.1582>.

⁵ J. Aeberhard-Hodges, "Gender Equality as Integral to Social Justice—and Vice Versa," *Revista Tecnológica-ESPOL* 37, no. 1 (2025): 56–67, <https://doi.org/10.37815/rte.v37n1.1221>.

which are complicated. Language is also studied in the domain of law and different legal systems use various legal languages influenced by their social and political structure.⁶

Legal language is per formative instead of description. For instance, laws, contracts and wills are legal actions.⁷ In pragmatics, Speech Act Theory plays a significant role because people are not only speaking, they are also performing actions. Statutory provisions serve as performative declarations in legal discourse that govern social interactions and specify people's rights and obligations. Although both nations have legal frameworks governing marriage and family relationships, the linguistic structures used to express these rights and responsibilities are very different.⁸

China and Pakistan are neighboring countries both belonging to the same region as well, have been sharing their side of idea's and aiding in various fields. But the differences in both these cultures, traditions, customs and especially the law is extraordinary. Pakistan introduced Muslim Family Law Ordinance 1961 and is enacted to give effect to various recommendations. It demonstrates the procedure for marriage registration, divorce rights, polygamy, maintenance; it has also described the shares in succession and obligation to both the parties.

For valid Nikah the consent of the girl is very much required sometimes this requirement is overseen by the family members of the girl, where the girl has to marry according to the choice of their parents. A woman can have consequences for her free choice, if she wishes to marry a man of her choice her family members may subject her to honor killing. The law also prohibits man from another marriage without the permission from arbitration council, yet the man has right to keep more wives without following the Sunnah of Prophet Muhammad (P.B.U.H) which was to marry between the widows, poor and helpless women. The ordinance also described the procedure of maintenance for women in section 9 of Muslim

⁶ Mutoni Uwase N., "The Relationship between Language, Power, and Law," *Newport International Journal of Current Issues in Arts and Management* 6, no. 1 (2025): 128, <https://doi.org/10.59298/NIJCIAM/2025/6.1.128133>.

⁷ L. Fiorito, "On Performatives in Legal Discourse," *Metalogicon* 19, no. 2 (2006): 101, https://www.academia.edu/65282283/On_Performatives_in_Legal_Discourse.

⁸ F. Qadus, S. Imran, and N. Gul, "Analysis of Speech Act and Their Power Dynamics in President Mnangagwa's United Nations General Assembly Speeches," *International Premier Journal of Languages & Literature* 3, no. 3 (2025): 100, <https://www.ipjll.com/>.

Family Law Ordinance 1964 where husband has failed to maintain his wife or wives.⁹

In contrast, the Marriage Law of the People's Republic of China highlights and focuses more gender equality, monogamy, free consent, and safeguards from domestic violence. In addition, it also gives equal property divorce rights and family responsibilities are equally distributed between husband and wife.¹⁰

From linguistics perspective both the laws functions on performative speech acts structuring different gender roles and equality significantly.

Problem Statement

Although, both legal documents explore family relations and safeguards individual rights, but limited research has been conducted through linguistics perspective such as speech acts which challenges gender equality. Therefore, this study will explore how speech acts in the Muslim Family Law Ordinance 1961 and in the Marriage Law of the People's Republic of China represents gender equality.

Research Objective

1. To identify and compare the use of speech acts in Muslim Family Law Ordinance 1961 and the Marriage Law of the People's Republic of China.
2. To examine legal language that promotes or restricts gender equality.

Research Question

How do speech acts in the legal discourse of the Muslim Family Law Ordinance 1961 and the Marriage Law of the People's Republic of China reflect principles of gender equality?

Significance of the Study

This study plays a significant role in the area of linguistics particularly in discourse analysis, pragmatics, also in the field of law and gender studies by investigating how speech acts function within the family laws. In addition, it also gives insights in the relationship between language and legal authority and showcases how legal discourse can influence gender relations. The results of the study may help the legal scholars, policymakers and legal drafters in developing equitable legal frameworks.

⁹ Ministry of Religious Affairs, Government of Pakistan, *Muslim Family Laws Ordinance, 1961* (1961), <https://www.mora.gov.pk/SiteImage/Misc/files/MFLO%2C%201961.pdf>.

¹⁰ Standing Committee of the National People's Congress, *Marriage Law of the People's Republic of China (Chinese and English Text)* (Congressional-Executive Commission on China, 2001).

Delimitation of the Study

This study is limited to analyzing speech acts particularly directives and declaratives in the Muslim Family Law Ordinance 1961 and the Marriage Law of the People's Republic of China by applying the theory used by J.L Austin in which he divided speech acts into three categories namely; Locutionary act, Illocutionary act, and Perlocutionary act, in addition, this theory was further developed by John Searle who divided Illocutionary act into five classes namely assertive, directives, commissives, expressive and declaration. Its focus will be on directives and declarative speech acts comparing gender equality in both the laws.

Previous Study

Previously some studies were conducted on Muslim Family Law Ordinance and The Marriage Law of the People's Republic of China but there was a limited study on the comparative analysis of both the laws with reference to the Speech Acts. Legal discourse in the documents related to crimes against women in Pakistan presents that legal language is stereotyped and reflects patriarchal influence, restricting women's access to justice despite reforms.¹¹ Speech acts in Chris Watts' trial identified 176 speech acts, with representative/assertive acts being the most dominant, showing how courtroom language performs actions beyond mere description.¹²

Gender equality in Pakistan despite of legislative progress; social, cultural, and legal barriers still hinder effective equality implementation.¹³ In addition, The Muslim Family Law Ordinance 1961 demonstrated an issue between modernists and traditionalists that despite women have rights in the matter of divorce and maintenance but still the issue persists.¹⁴ The Marriage Law of the People's Republic of China upholds equality between husband and wife. In addition, it also provides safety against domestic violence. Although, some social issues like changing demographic and patterns of family system creates difficulty in the implementation of the law. On the

¹¹ F. F. Khan and B. Khaleel, "Analyzing Legal Drafting: Legal Discourse Study on Crimes against Women in Pakistan," *Pakistan Languages and Humanities Review* 8, no. 1 (2024): 160–74, [https://doi.org/10.47205/plhr.2024\(8-1\)14](https://doi.org/10.47205/plhr.2024(8-1)14).

¹² J. Heidi and N. Setyaningsih, "Speech Act in a Courtroom: An Analysis of Chris Watts Trial," *Allure Journal* 4, no. 1 (2024): 55–71, <https://doi.org/10.26877/allure.v4i1.17484>.

¹³ Muhammad Usman, Sidra Kanwel, Muhammad Imran Khan, and Asif Khan, "Advancing Gender Equality within the Legal Framework of Pakistan: Navigating Progress and Overcoming Persistent Challenges," *International Review of Social Sciences* 9, no. 5 (May 2021).

¹⁴ S. H. Ansari, N. Maqsood, and R. Islam, "Muslim Family Law Ordinance 1961: Modernists and Traditionalists' Perspectives," *Journal of Positive School Psychology* 6, no. 12 (2022): 330–38, <https://journalppw.com/index.php/jpsp/article/view/14715>.

whole, the research presents that the law contributes to the gender equality, but its application is depended on language, culture and its proper implementation.¹⁵ This current study will investigate by comparing both the laws through the lens of speech acts particularly declarative and directive speech acts in linguistics.

Research Methodology

This work follows Comparative Qualitative Legal Discourse Analysis and applies J.L Austin and John Searle Speech Act Theory. Speech acts into three categories namely; Locutionary act, Illocutionary act, and Perlocutionary act. Locutionary act is the literal meaning of what is said, for example *“Close the door”*. Illocutionary act is the intended function of the utterance for example *“Close the door”* is a command. Thirdly, Perlocutionary act produces an effect of the utterance on the speaker for instance while listening to command the listener gets up and closes the door.¹⁶

According to John Searle, Illocutionary acts can be divided into five types based on the intention of the speaker. These are: Assertive/Representative in which the speaker communicates something they believe or to be true. This class asserts, denies, predicts, complains and criticizes. Commissives, in which the speaker promises or commits to perform an action in the future. This group includes promising, vowing, guaranteeing and pledging. Whereas in Directives, the speaker attempts to make the listener perform an action while requesting, ordering, suggesting, begging or advising. In addition, in Expressive the speaker expresses emotions or psychological states like apologizing, praising, complaining and thanking. Moreover, in Declaratives the speaker's words in the formal or institutional contexts bring about a change in a situation like appointing, naming, resigning and declaring.¹⁷

Sources of Data

For the primary source, Pakistan's Muslim Family Law ordinance 1961 and China's Marriage Law of the People's Republic of China will be used for analysis and to support the analysis relevant sources from the internet will be utilized as a secondary source.

¹⁵ Q. Guo, “Seventy Years of Marriage and Family Law in China: Achievements, Challenges and Prospects,” *Asian Journal of Law and Economics* 15, no. 3 (2024): 379–409, <https://doi.org/10.1515/ajle-2023-0166>

¹⁶ Qadus, Imran, and Gul, “Analysis of Speech Act and Their Power Dynamics.”

¹⁷ M. Masruroh, S. Sulistyaningsih, and L. Musyarofah, “An Analysis of Speech Acts in Ernest Hemingway's *The Killers*,” *International Journal of English and Applied Linguistics* 3, no. 2 (2023): 144–51, <https://doi.org/10.47709/ijcal.v3i2.2612>.

Results

The investigation of the speech acts in Muslim Family Law Ordinance 1961 and the Marriage Law of the People's Republic of China demonstrate that how legal language structure family life and gender equality. Declaratives and Directives are the most prominent speech acts in both laws. These speech acts are dominant because they do not describe only the reality, but it helps to create and control it. Despite this the level of gender equality is unlike in the two laws.

In Muslim Family Law Ordinance 1961 the most used speech acts were declarative speech acts to recognize legal rules about marriage, divorce, inheritance and maintenance. For instance, Section 3 (1) and Section 3(2) directly states that the ordinance overrules other customs and laws that will decrease unjustly traditional practices that may harm women. Secondly, Section 4 which inheritance rights to the grandchildren which somehow shows fairness but still it remains male-dominated.

In this Ordinance the directives speech is primarily about the procedures and obligations. Section 5 of the Ordinance makes marriage registration mandatory whereas for another marriage a man needs to take permission from an Arbitration Council. These rules provide protection to the existing wives by limiting polygamy.

In the law, divorce is controlled through the combination of declaratives and directives. Talaq is formally introduced in Section 7. In the Ordinance Section 7(3) holds up the divorce whereas Section 7 (4) focuses on reconciliation with the support of Arbitration Council. These rules safeguard women from injustice. Also, in Section 8 of the Ordinance women are granted rights for delegated divorce within certain limit.

Directive Speech Act in the Ordinance supports women's rights in the financial matters. For instance, in Section 9, wife can claim maintenance and the law ensures that they are paid timely whereas Section 10 assume that dower (mahr) is paid to the wife to make her financially secure. The Ordinance keeps some traditional patterns but also it gives legal protection to the women.

On the other hand, the Marriage Law of the People's Republic of China presents a strong holdup on gender equality. Declarative Speech acts in the law addresses equality as the foundation. Article 2 of the law shows that the marriage is based on equality both males and females are equal in their marriage and status.

The law removes unfair practices by using restrictive declaratives. Article 3 of the law prevents bigamy, forced marriage, and domestic

violence. It also forbids mistreatment, abandonment and inequality. These rules protect and promote women and fairness in family life.

Directive Speech acts give justice and equal rights to both husband and wife. For example, Article 15 of the law gives equal rights to both husband and wife. They can work, study and take part in other activities without any hinderance. Similarly, in Article 20 it gives duty of maintenance to both spouses. Moreover, in Article 24, it gives equal inheritance rights.

However, In the Marriage Law of the People’s Republic of China, marriage and divorce are managed neutrally. For example, in Article 5marriage is based on free and mutual consent and Article 8 entails joint registration. Whereas in the matter of divorce, Article 31 and Article 32 give equal rights to both husband and wife for negotiation and lawsuit. In addition, Article 34 limits husband’s right to divorce his wife during pregnancy and in this way protects women.

Property rights also play a significant role. Article 17 gives equal rights in the use and management of the joint property. Article 40 of the law permits reparation for domestic work, acknowledgment of the monetary value of unpaid work.

Comparative Findings

The findings present that though both legal documents apply Declarative Speech Acts to create legal authority. The Pakistani law basically focuses on the traditional gender-specific responsibilities whereas the Chinese law focuses on the gender-neutral legislative language to specify gender responsibilities.

Table 1
Comparative Analysis of Speech Acts in the Muslim Family Law Ordinance 1961 and the Marriage Law of the People's Republic of China

Theme	Muslim Family Law Ordinance 1961 (Pakistan)	Marriage Law of the People’s Republic of China	Speech Acts Type	Gender Equality Implications
Legal Authority	Section 3(1) and 3 (2) establishes supreme authority of the ordinance over customs and laws	Article 2 determines equality between husband and wife as the basic principle of marriage	Declarative	Pakistan conforms legal authority while following traditional framework; while China follows equality.

Marriage Registration	Section 5 creates marriage registration mandatory	Article 8 Mandates combined marriage registration by both parties.	Directive	Pakistan highlights Procedural observance, whereas China focuses on equal involvement of both spouses.
Polygamy and Marriage Limitations	Section 6 mandates permission from the Arbitration Council for marriage approval, safeguarding the rights of existing wives	Article 3 restricts bigamy, oblige marriage and domestic violence.	Declarative and Directive	Pakistan permits polygamy; China prohibits it.
Divorce Procedures	Section 7 (3) and Section 47 (4) prolong the divorce process and involve Arbitration Council; Section 8 allows delegated divorce (Talaq-e-Tafweez)	Article 31 and 32 give same rights to both spouses to pursue divorce through mutual agreement or legal proceedings; egal proceedings; whereas Article 34 prohibits divorce during pregnancy of wife.	Declarative and Directive	Pakistan gives protection mainly to women, in contrast, China gives equal rights to both the spouses. In addition, China safeguards women during pregnancy.
Maintenance	Section 9 allows wives to claim maintenance and ensure that payment is on time	Article 20 appoints maintenance rights to both spouses evenly.	Directive	Pakistan gives financial responsibilities chiefly to husband whereas China emphasizes on shared responsibilities.

Dower (Mahr)	Section 10 assumes payment of dower to the wife for financial safety	Emphasis on equal economic rights	Directive	Pakistan secures women through religious financial privilege. In contrast, China centers on equal legal and economic status.
Inheritance Rights	Section 4 allows inheritance rights to grandchildren, although the framework is male dominated	Article 24 gives inheritance rights to both spouses equally.	Declarative	Pakistan establishes minimal reforms; China highlights gender-neutral inheritance structure.
Property Rights	No equal rights for husbands and wives to own or manage marital property.	Article 17 gives rights to own, utilize and handle collective assets.	Declarative	Pakistan presents confined legal provisions whereas China clearly acknowledges equal property rights.
Recognition of Domestic Work	Unrecognized unpaid domestic work	Article 40 gives substitute for domestic work upon divorce.	Declarative	Pakistan features no provisions on domestic work upon divorce. On the other hand, China recognizes compensation on domestic work.
Overall Orientation	Highlights traditional gendered roles and introduce legal safety for women	Highlights gender equality by gender-neutral legal discourse and equal rights.	Declarative and Directive	Pakistan adheres to gender-specific approach; China follows gender-neutral legislative approach.

Table 2
Overall Distribution of Speech Acts and Their Functions

Speech Act Type	Muslim Family Law Ordinance 1961	Marriage Law of the People’s Republic of China	Primary Function
Declarative	Dominant	Dominant	1.It creates legal authority. 2. It describes rights, obligations and legal status.
Directive	Highly frequent	Highly frequent	It recommends legal process, duties, responsibilities and conformity requirements.
Representative	Limited	Limited	It describes legal conditions instead of creating legal implications.
Commissive	Absent	Absent	It gives Some clear commitments by the state or judiciary.
Expressive	Absent	Absent	It is not the feature of legal language because it is objective in nature.

Discussion

The observation from the two approaches legal system of the speech act theory provides understanding of how languages work as a tool in social and legal transformation especially in the field of gender relations. Austin and Searle’s notion of performativity aligns with both directive and

declarative speech acts where words don't merely describe the reality but constitutes it. The speech acts carry institutional authority and enforceability as the performative function is amplified. The discussion unravels a complex negotiation between customs, traditions and reform in Muslim Family Law Ordinance 1961 context. On the other hand, the Chinese Marriage Law shows a more transformative approach it's declarative speech promises equality as a foundational principle.

The declarative speech in Muslim Family Law Ordinance shows an attempt to classify and standardize practices that were previously governed through religious and traditional interpretations. This shows a positive move towards decreasing gender biasness. Whereas the men centric structure in the ordinance still allows polygamy on conditions that suggests the ordinance is operating within the patriarchal system. Furthermore, the ordinance imposes the procedural requirements such as registration of marriage and oversight by arbitration council with little checks and balance on male authority. The privileges are still there but constrained through institutions also this shows a little improvement towards the women protection without transforming the underlying patriarchal system.

The Chinese Marriage Law ensures the equal rights between both genders as the alignment between directive and declarative speech acts is critical it also shows connection between legal ideology and practice. The law's prominence on equal rights such as mutual consent, responsibilities will be shared, and equal property rights indicates a shift to equality-based framework rather than patriarchal family system. Further the important aspect of Chinese Marriage Law is that of comprehensive use of prohibitive declaratives to ban the practices which are not in the interest gender equality. For e.g. bigamy, violence and undue influence. The law's proactive approach towards gender equality shows indicates that law is acting as an agent of social change rather than regulating old existing practices.

The discussion also highlights the reciprocity in directive speech acts. For suppose the Muslim Family Law Ordinance directs the men to perform their duties while granting rights to women in specific situations makes the ordinance asymmetrical. In contrast the Chinese Marriage Law is symmetrical in nature, it's directives are framed in gender neutral terms by giving equal rights to both genders. It also makes sure that the rights are not divided in gender lines. Another important aspect of Chinese Marriage Law is that it gives economic rights. Also, recognize the joint-property and compensation unlike the Muslim Family Law Ordinance which does not treat the genders more equally it is restricted to providing rights for dower and maintenance reflecting a more limited concept of economic equality.

Moreover the institutional framework also differs from each other. For example, the Arbitration Council in line with Muslim Family Law Ordinance only serve as a mediating body but it's enforceability depends on

procedural compliance and discretionary judgments. On the other hand, the Chinese Marriage Law works with multiple institutional actors such as registration offices and courts with their roles and responsibilities defined clearly. Their work robustness enhances enforceability of gender equality laws.

Through a socio legal perspective their both cultures, traditions and ideologies differ a lot from each other in which the laws were made. For instance, the Muslim Family Ordinance emerged within a framework that sought to reconcile with Islamic principles with today's legal needs. On the other hand, the Chinese Marriage Law was developed under a socialist ideology adopts a more radical stance, emphasizing equality and collective welfare for both genders equally.

Conclusion

To conclude, the analysis showcases that both laws utilize Speech Acts particularly declarative and direct Speech Acts to support gender equality. Although, the extent of the gender equality is different in the laws. The Muslim Family Law Ordinance 1961 is following the traditional practices, but it is also supporting women protection against any discrimination whereas the Chinese Marriage Law is equally giving the gender rights to both genders. In a nutshell, the study demonstrates that Speech Acts in a legal discourse is not only the rules, but it also structures the social reality with reference to the gender equality.

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