



RESEARCH ARTICLE

Rape within Familiar Spaces: A Socio-Legal and Criminological Analysis of Sexual Violence in Sri Lanka through Routine Activity, Power-Control, and Feminist Criminology

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Abstract: Sexual violence remains a persistent concern within the criminal justice system of Sri Lanka. In the appellate decisions examined in this study, many rape cases occurred within familiar settings and involved perpetrators known to the victim. Despite the criminalisation of rape under the Penal Code of Sri Lanka, sexual violence occurring within domestic and socially trusted settings continues to expose enduring legal and structural inadequacies in the protection of victims and the effective administration of justice. This study explores the patterns and contexts of rape occurring within familiar settings in Sri Lanka, particularly where the offender is a relative, acquaintance, or other trusted individual. It seeks to identify the patterns that emerge in such cases, examine how criminological theories explain these dynamics, and assess whether the existing legal framework adequately responds to these offences. The study employs a multi-method qualitative research methodology comprising both doctrinal and socio-legal documentary approaches. The doctrinal component critically analyses the relevant statutory provisions and reported judicial decisions contained in the New Law Reports (NLR) and Sri Lanka Law Reports (Sri LR). The socio-legal documentary component relies on a qualitative content analysis of selected unreported Court of Appeal judgments to identify recurring patterns relating to victim–offender relationships and offence settings in cases of rape committed within familiar locations. The analysis identifies recurring patterns in victim–offender relationships and offence settings within the appellate cases examined. These cases frequently involved routine proximity, relationships of trust, and unequal power dynamics. These findings underscore the influence of entrenched patriarchal norms on victims’ vulnerability and reporting behaviour. The study concludes that effective responses require criminologically informed legal reforms, strengthened victim protection mechanisms, and greater recognition of structural gender inequalities within Sri Lanka’s criminal justice system.

Keywords: Rape in familiar spaces, Routine Activity Theory, Power-Control Theory, Feminist Criminology, Sri Lanka

1. Introduction

Sexual violence constitutes one of the most serious violations of bodily autonomy, dignity, and personal security within contemporary criminal justice systems. Across jurisdictions, rape as a form of sexual violence remains a persistent and underreported offence that causes profound physical, psychological, social, and economic consequences for victims. Although public discourse frequently associates rape with attacks by strangers in isolated public locations, empirical research consistently demonstrates that a substantial proportion of sexual assaults are committed by persons known to the victim, including immediate family members, relatives, neighbours, intimate partners, colleagues, teachers, and other

individuals occupying positions of social trust. Such offences often occur not in unknown or dangerous external spaces, but within ordinary and familiar environments, such as homes, neighbourhoods, schools, workplaces, or other settings where trust, routine interaction, and perceived safety ordinarily prevail (World Health Organization [WHO], 2021). This reality necessitates a reorientation of legal and criminological inquiry from the stereotype of stranger violence to the more complex phenomenon of rape occurring within familiar social spaces.

Generally, the term “familiar spaces” refers to physical and social environments in which individuals ordinarily experience familiarity, trust, and a sense of belonging. These spaces may include the family home, a relative’s residence, a neighbour’s house, educational institutions, places of employment, daily transportation routes, or other community settings characterised by repeated contact between the victim and the offender. Familiarity does not necessarily imply safety. On the contrary, such environments may facilitate concealment, coercion, emotional manipulation, and delayed disclosure. Where the offender is known to the victim, resistance may be constrained by fear of retaliation, economic dependency, family pressure, reputational concerns, or emotional confusion arising from the betrayal of trust by a trusted person. Accordingly, rape within familiar spaces presents a distinct criminological and socio-legal problem requiring specialised analysis.

Globally, scholarship has increasingly recognised that sexual violence, especially rape, is connected to gender inequality, power asymmetries, and opportunity structures embedded within everyday life. Feminist researchers have long argued that rape cannot be understood solely as an individual deviant act but must also be examined as conduct shaped by patriarchal norms, entitlement, and systems of victim silencing (MacKinnon, 1987; Sanday, 1981). Simultaneously, situational criminology demonstrates that such offences often arise where motivated offenders encounter suitable targets in contexts lacking effective guardianship. In domestic and community environments, these conditions may converge with authority relationships and structural inequalities, thereby intensifying the vulnerability of victims.

Within Sri Lanka, sexual violence, including the offence of rape, remains a serious legal and social concern. Rape, the only gender-specific offence in which the victim is legally defined as a woman, is criminalised principally under the Penal Code, No. 2 of 1883 of Sri Lanka, as amended, which defines the offence and prescribes penal sanctions. Over time, legislative reforms have strengthened protections relating to sexual offences, child abuse, and grave sexual abuse through, in particular, Acts No. 22 of 1995, No. 29 of 1998, and No. 16 of 2006, as well as evidentiary matters. Nevertheless, the practical enforcement of rape law continues to face substantial challenges, including delayed reporting, stigma, familial pressure to remain silent, inadequate victim support, evidentiary difficulties, and lengthy criminal proceedings. These obstacles may be especially acute where the alleged offender is a family member, neighbour, employer, teacher, or another person occupying a position of trust within the victim’s immediate social environment.

In the Sri Lankan context, cultural norms relating to honour, chastity, family reputation, obedience to elders, and gendered expectations may further complicate the disclosure of sexual violence occurring within familiar settings. Victims may fear disbelief, ostracism, marriage-related consequences, or retaliation by influential offenders. Where offences occur within homes or private premises, corroborative evidence may be limited, and witnesses may be absent. Consequently, formal legal criminalisation alone does not necessarily translate into effective justice. The spatial and relational context of rape therefore becomes essential to understanding both patterns of offending and institutional responses.

Despite increasing scholarship on rape, sexual violence, and gender justice, a significant research gap remains (Niriella, 2021; Niriella, 2012; World Health Organization, 2021). Many studies analyse rape broadly as a criminal offence, focus on stranger assault narratives, or address gender violence in general terms. Comparatively fewer studies examine rape specifically occurring within familiar spaces and through victim–offender relationships characterised by trust, kinship, routine proximity, or authority. Further, limited scholarship has integrated multiple criminological perspectives to explain how situational opportunity, familial control structures, and patriarchy intersect in the Sri Lankan setting. This article addresses that gap by offering a focused socio-legal and criminological analysis of rape within familiar spaces in Sri Lanka.

The objectives of this study are fourfold. First, it seeks to identify recurring patterns in rape cases occurring within familiar environments in Sri Lanka, particularly where the offender is known to the victim. Second, it examines how

spatial proximity, routine interaction, and absence of guardianship may facilitate such offences. Third, it evaluates the role of authority relations, dependency, and patriarchal norms in shaping both victimisation and underreporting. Fourth, it assesses whether the existing legal framework and criminal justice responses adequately address the distinctive realities of rape within familiar spaces.

The study is guided by the following research questions: What victim–offender and locational patterns emerge in rape cases occurring within familiar spaces in Sri Lanka? How do Routine Activity Theory, Power-Control Theory, and Feminist Criminology explain the dynamics of such offences? To what extent does the current legal framework of Sri Lanka adequately respond to rape committed within familiar and trusted environments?

The article adopts an integrated theoretical framework. Routine Activity Theory assists in explaining how ordinary daily interactions create opportunities for offending where guardianship is absent. Power-Control Theory illuminates hierarchical authority structures within households and social institutions that may enable coercion or silence resistance. Feminist Criminology provides a structural lens through which rape is understood as linked to patriarchy, gender inequality, victim blaming, and institutional marginalisation. Used together, these theories permit a more comprehensive explanation than any single framework alone.

The study adopts a multi-method qualitative research methodology incorporating both doctrinal and socio-legal documentary approaches. The doctrinal aspect involves a critical examination of the relevant statutory provisions and case law in New Law Reports (NLR) and Sri Lanka Law Reports (Sri LR). The socio-legal documentary aspect employs qualitative content analysis of Court of Appeal judgments.

This article is structured in eight parts. Following this Introduction, Part Two reviews global and regional literature on sexual violence, with special reference to rape in familiar spaces. Part Three explains the theoretical framework. Part Four outlines the methodology. Part Five analyses the Sri Lankan legal framework and judicial responses. Part Six provides the core criminological analysis of rape within familiar spaces in Sri Lanka. Part Seven discusses implications for law reform and criminal justice policy. Part Eight concludes by summarising findings and proposing victim-centred reforms. Through this structure, the article seeks to demonstrate that rape within familiar spaces is not incidental but a significant and underexamined form of sexual violence requiring targeted legal and criminological attention.

2. Literature Review: Sexual Violence in Familiar Spaces

2.1 Global Patterns of Rape by Known Offenders

International scholarship consistently demonstrates that rape is frequently committed not by strangers, but by persons known to the victim, including intimate partners, relatives, neighbours, teachers, employers, and acquaintances. Early feminist criminological studies challenged the ‘stranger danger’ narrative by revealing that sexual violence commonly occurs within existing social relationships and trusted settings (Brownmiller, 1975; Kelly, 1988). Contemporary empirical evidence strongly supports this position. In the United States, analysis of National Crime Victimization Survey data found that 60 percent of rapes were committed by persons known to the victim, while only 31 percent involved strangers; among victims under 18, 93 percent knew the offender (RAINN, 2024). Likewise, the National Intimate Partner and Sexual Violence Survey reported that intimate partners assaulted 51.1 percent of female rape victims and 40.8 percent by acquaintances (NSVRC, 2025). In the United Kingdom, only 15 percent of rape cases involved strangers (Office for National Statistics, 2025). Also, the World Health Organization reported that a substantial proportion of women globally experience sexual violence perpetrated by intimate partners or known persons, with domestic settings presenting heightened risks (World Health Organization [WHO], 2021). Similarly, the United Nations Office on Drugs and Crime observed that women and girls are disproportionately victimised by persons within family or intimate circles, particularly in contexts where dependency, trust, and unequal authority relationships exist (UNODC, 2019). In many jurisdictions, police and court data indicate that acquaintance rape and intrafamilial abuse remain significantly underreported due to fear, stigma, emotional attachment, and concern for family reputation (Temkin & Krahé, 2008).

Scholars argue that rape by known offenders often differs from stranger rape in evidentiary and social dimensions. Victims may face disbelief because no visible forced entry, weapon, or unknown assailant is present. Instead, coercion may be psychological, relational, or authority-based (Estrich, 1987). This has profound implications for criminal justice systems, which historically developed around the stranger-attack model of rape.

2.2 Spatial Context of Sexual Violence

The spatial dimension (the study of where and in what environmental context) of sexual violence has received growing scholarly attention. Research indicates that rape frequently occurs in private or semi-private spaces such as homes, rented rooms, workplaces, vehicles, hostels, and neighbourhood locations where the offender can exploit familiarity and reduced guardianship (Felson & Boba, 2010). These locations are significant because they provide concealment, privacy, and opportunities for coercion without immediate external intervention.

Routine Activity Theory, advanced by Lawrence E. Cohen and Marcus Felson, explains crime through the convergence of a motivated offender, suitable target, and absence of capable guardianship (Cohen & Felson, 1979). Applied to sexual violence, familiar spaces often involve predictable routines, shared residence, caregiving arrangements, school travel, domestic labour, or workplace interaction that create repeated proximity between victim and offender.

Scholars further note that domestic and trusted spaces can paradoxically become criminogenic because social norms presume safety within them. This presumption reduces vigilance and delays intervention (Pain, 1991). For example, children abused by relatives may remain within the same household, while adult women subjected to partner rape may be economically unable to leave. Accordingly, spatial analysis reveals that risk is socially produced rather than geographically random.

2.3 Gender and Power Dynamics in Sexual Violence

A substantial body of literature identifies rape as deeply connected to gender inequality, control, and patriarchal power. Feminist criminologists contend that sexual violence is not merely an act of sexual desire but a mechanism of domination, humiliation, and enforcement of gender hierarchy (MacKinnon, 1989; Smart, 1976). Where women and girls possess reduced bargaining power, economic dependence, or limited mobility, vulnerability to abuse increases.

Power-Control Theory, associated with John Hagan, A. R. Gillis, and John Simpson, explains how patriarchal family structures regulate female autonomy more strictly than male autonomy, reinforcing unequal authority relations (Hagan, Gillis, & Simpson, 1985). Although originally developed to explain delinquency, its insights are relevant to sexual violence within households where fathers, husbands, elder brothers, or male guardians exercise coercive control.

Feminist legal scholars further demonstrate that institutions sometimes reproduce these inequalities through victim-blaming, scrutiny of sexual history, and reluctance to criminalise marital rape or intimate partner coercion (Burgess & Holmstrom, 1974; Temkin, 2002). Thus, rape within familiar spaces cannot be understood without examining structural power embedded in gender relations.

2.4 South Asian and Sri Lankan Scholarship

South Asian scholarship identifies honour culture, family hierarchy, economic dependency, and stigma as central barriers to reporting sexual violence. Studies from Pakistan, Bangladesh, India, and Sri Lanka indicate that offences by relatives or acquaintances are often concealed to preserve family reputation or marriage prospects (Government of the United Kingdom, 2022; Chowdhury & Fileborn, 2020; Baxi, 2014; Jayaweera & Sanmugarajah, 2010). Victims may be pressured into silence, informal settlement, or marriage to the perpetrator.

Within Sri Lanka, studies and reports reveal persistent underreporting of rape, especially where offenders are known to the victim. Women and Media Collective and other advocacy bodies have documented barriers such as police insensitivity, delays in forensic processes, social ostracism, and retraumatisation during trial (Women and Media Collective, 2016).

Research following the civil conflict also highlighted broader patterns of gendered violence and weak institutional accountability (de Mel, 2007).

Sri Lankan legal scholarship notes that although rape is criminalised under the Penal Code (sections 363, 364), gaps remain regarding marital rape exceptions, witness protection, child-sensitive procedures, and the practical treatment of consent in cases involving familiarity or dependency (Goonesekere, 1998). Judicial decisions have occasionally recognised abuse of trust and authority as aggravating factors, yet outcomes remain inconsistent.

Furthermore, local socio-cultural dynamics, extended family households, close-knit neighbourhoods, and deference to elders, may intensify opportunities for abuse within familiar spaces. However, empirical scholarship specifically mapping victim-offender relationships and offence locations in Sri Lankan rape cases remains comparatively limited.

2.5 Identified Research Gap

Although international literature examines acquaintance rape, domestic sexual abuse, and patriarchal violence, there remains a limited integrated analysis of rape occurring within familiar spaces in Sri Lanka through combined criminological lenses. Existing studies often focus separately on legal doctrine, women's rights, child abuse, or reporting barriers, without systematically connecting situational opportunity, household authority structures, and structural gender inequality.

Routine Activity Theory explains how repeated proximity and absence of guardianship facilitate offences. Power-Control Theory illuminates hierarchical family dynamics and authority abuse. Feminist Criminology exposes the broader patriarchal norms that normalise silence and constrain justice. Yet these perspectives are rarely synthesised within Sri Lankan socio-legal scholarship.

Accordingly, the present study addresses an important gap by examining rape within familiar spaces in Sri Lanka through an interdisciplinary framework that links environment, power, and gender. Such an approach is necessary for developing evidence-based legal reform, victim protection strategies, and criminologically informed prevention mechanisms.

3. Theoretical Framework Relating Sexual Violence: Rape

The present study employs an integrated criminological framework to analyse rape occurring within familiar spaces in Sri Lanka. Sexual violence within homes, neighbourhoods, schools, workplaces, and other trusted environments cannot be adequately explained through a single theory. Rather, it emerges through the interaction of situational opportunity, unequal authority relations, and structural gender inequality. Accordingly, this section applies Routine Activity Theory, Power-Control Theory, and Feminist Criminology as complementary perspectives for understanding how rape is facilitated within familiar environments and why legal responses often remain inadequate.

3.1 Situational Opportunity and Victimisation

Routine Activity Theory, developed by Lawrence E. Cohen and Marcus Felson, posits that crime occurs when three elements converge in time and space: a motivated offender, a suitable target, and the absence of capable guardianship (Cohen & Felson, 1979). Unlike theories centred exclusively upon offender pathology, this approach emphasises everyday social routines and environmental conditions that create opportunities for offending.

Routine Activity Theory does not itself explain offender motivation; in this study, it is used to examine access, opportunity, and guardianship. In the context of rape within familiar spaces, the offender may be a relative, neighbour, teacher, employer, intimate partner, or other known person who exploits repeated access to the victim. The second element, the suitable target, refers not to victim blame, but to accessibility, vulnerability, dependency, age, isolation, or inability to resist effectively. Children, economically dependent women, domestic workers, or persons under emotional control may become particularly vulnerable within familiar settings.

The third element, absence of capable guardianship, is especially significant in domestic or trusted environments. Guardianship may include physical presence of others, community oversight, institutional monitoring, effective parental protection, secure reporting systems, or swift legal intervention. Within private households or socially respected institutions, such guardianship may be weak or absent. Secrecy, privacy, and presumed trust often reduce scrutiny and delay disclosure.

In Sri Lankan contexts, multigenerational households, close neighbourhood networks, and routine interaction between victims and known adults may unintentionally increase opportunities for abuse. Thus, Routine Activity Theory assists in explaining how ordinary proximity and diminished guardianship can transform familiar spaces into sites of sexual victimisation (Felson & Boba, 2010).

3.2 Authority Structures within Families

While Routine Activity Theory explains opportunity, it does not sufficiently address why some offenders possess coercive power over victims. For this reason, Power-Control Theory provides an additional analytical lens. Advanced by John Hagan, A. R. Gillis, and John Simpson, the theory originally examined how family authority structures shape behaviour and social control (Hagan, Gillis, & Simpson, 1985).

The theory distinguishes between patriarchal and egalitarian family arrangements. In patriarchal households, male authority is concentrated in fathers, husbands, or senior male relatives, while women and children are subject to greater control. Such structures may create unequal dependency and reduced capacity to challenge abuse. In familiar-space rape cases, the offender may not rely solely on physical force; authority itself can become a mechanism of coercion. Fear of punishment, emotional manipulation, economic dependency, or reverence for elders may silence resistance.

This perspective is particularly relevant where victims depend upon offenders for shelter, finances, education, transport, or social legitimacy. A child abused by a guardian, a wife assaulted by a husband, or an employee exploited by a trusted superior may experience practical inability to refuse or report. The crime therefore occurs not merely because of opportunity, but because authority asymmetries neutralise the victim's autonomy.

In many South Asian societies, including Sri Lanka, family honour and obedience norms may intensify these dynamics. Allegations against respected male relatives can provoke disbelief or pressure to preserve family unity. Power-Control Theory therefore explains how hierarchical authority relations within families and intimate settings can facilitate sexual violence while suppressing disclosure.

3.3 Gender Inequality and Structural Violence

Feminist Criminology broadens the analysis beyond individual households by locating sexual violence within wider systems of patriarchy, gender inequality, and structural subordination. Feminist scholars have long argued that rape is not solely a private deviance, but also a social expression of unequal gender power (Brownmiller, 1975; Smart, 1976).

Patriarchy may normalise male entitlement, female submissiveness, and tolerance of coercive behaviour. Where women's mobility, sexuality, or credibility are socially regulated, reporting rape becomes difficult. Victims may be questioned regarding dress, behaviour, prior relationships, or failure to resist physically. Such responses shift attention from offender conduct to victim behaviour, reproducing injustice.

Feminist Criminology also emphasises the concept of structural violence: harms sustained through institutions, customs, and unequal social arrangements rather than only direct physical force. In rape within familiar spaces, structural violence may appear through police insensitivity, evidentiary burdens shaped by myths, delays in trials, inadequate shelters, economic dependency, and social stigma attached to survivors. Silence is therefore socially produced rather than individually chosen.

In Sri Lanka, as in many jurisdictions, victims may fear reputational harm, family rejection, or diminished marriage prospects. These pressures are especially severe where the offender is a relative or known person, because disclosure may

fracture kinship networks. Feminist analysis is thus essential to understanding why many cases remain hidden, why underreporting persists, and why formal criminalisation alone cannot eradicate sexual violence (MacKinnon, 1989; Daly & Chesney-Lind, 1988).

3.4 Integrated Analytical Framework

Each theory illuminates a distinct dimension of rape within familiar spaces, yet none is independently sufficient. Routine Activity Theory explains how everyday proximity, accessibility, and lack of guardianship create opportunities for offending. Power-Control Theory explains how authority within households and intimate settings enables coercion and suppresses resistance. Feminist Criminology explains why broader gender hierarchies and institutional biases normalise silence and impede justice.

When integrated, these perspectives offer a more complete socio-legal explanation. For example, a girl abused by a relative in a shared household may be exposed through routine proximity (Routine Activity Theory), unable to challenge the offender because of age and authority dependency (Power-Control Theory), and discouraged from reporting due to stigma and patriarchal family honour norms (Feminist Criminology). Similarly, an adult woman assaulted by a partner may experience repeated private access, economic dependency, and victim-blaming responses from institutions.

This combined framework is particularly valuable for analysing Sri Lankan judicial decisions and statutory responses. It enables the study to move beyond narrow questions of consent or force and instead examine environment, hierarchy, and structural inequality simultaneously. Such a multidimensional approach supports reforms in prevention, victim protection, evidentiary practice, witness support, and recognition of gendered power relations within criminal justice processes.

Accordingly, the present study adopts these three theories as mutually reinforcing analytical tools for understanding rape within familiar spaces in Sri Lanka. Through this synthesis, sexual violence is conceptualised not as isolated misconduct, but as conduct produced through the intersection of opportunity, authority, and patriarchy.

4. Methodology

A multi-method qualitative research methodology was adopted, integrating doctrinal and socio-legal documentary approaches to examine rape within familiar spaces in Sri Lanka. Rape occurring within familiar environments is frequently concealed by relationships of trust, kinship, authority, or social proximity.

A qualitative design is particularly suitable where the objective is to understand patterns and meanings. Rape within familiar spaces is often hidden and underreported and is shaped by complex victim–offender relationships and patriarchal social norms in Sri Lanka. Many incidents do not reach formal criminal justice institutions due to stigma, family pressure, and evidentiary difficulties. Therefore, a qualitative analysis is suitable for a closer examination of legal doctrine, judicial decisions, judicial narratives, and the lived social conditions influencing the operation of rape law.

The doctrinal component involves a critical analysis of the applicable statutory framework governing rape and related sexual offences in Sri Lanka, principally the Penal Code of Sri Lanka and its relevant amendments, together with reported judicial decisions published in the New Law Reports (NLR) and the Sri Lanka Law Reports (Sri LR). The analysis evaluates the statutory definition and constituent elements of rape, the concept of consent, age-based protections, aggravated circumstances, sentencing provisions, and procedural safeguards available to complainants. It further examines how judicial interpretation has shaped the practical application of these provisions, particularly regarding consent, credibility, delay in complaint, corroboration, abuse of trust, and offences committed within domestic or socially familiar settings.

The socio-legal documentary component consists of a qualitative content analysis of selected unreported Court of Appeal judgments relating to sexual violence decided between 2015 and 2021. Appellate judgments were selected because they provide detailed facts of the cases, legal interpretation, and the socio-criminological context of offending. During this period, the Court of Appeal pronounced 112 judgments in sexual violence cases. These included cases concerning sexual

harassment under section 345, rape under section 363, gang rape under section 364(2)(g), and grave sexual abuse under section 365B of the Penal Code. As this study focuses on rape, 96 decisions concerning rape and gang rape were selected for analysis.

To maintain methodological transparency, a structured qualitative coding framework was employed. Each selected judgment was coded according to two principal analytical categories: (i) the victim–offender relationship and (ii) the location where the offence was committed. Victim–offender relationships were classified into acquaintances, family members, persons in authority, intimate partners, and unknown perpetrators, while offence locations were categorised as the victim’s home, school, other known places, and other unfamiliar places. The coding process enabled the identification of patterns and thematic trends. Therefore, the numerical frequencies and percentages presented in the study function as descriptive summaries derived from qualitative documentary analysis.

The empirical findings generated through this documentary analysis are subsequently interpreted through established criminological perspectives, including Routine Activity Theory, Power-Control Theory, and Feminist Criminology. The theoretical framework is employed as an interpretative lens to explain the observed patterns concerning familiar spaces, relational proximity, authority structures, and gendered power dynamics. Accordingly, the empirical material and theoretical discussion are complementary components of a single analytical framework.

By combining doctrinal analysis with socio-legal documentary qualitative content analysis, the study provides a coherent methodological framework capable of evaluating both the normative adequacy of Sri Lankan rape law and the socio-criminological realities revealed through appellate jurisprudence. This integrated methodology therefore directly supports the broader objective of examining rape within familiar spaces from both legal and criminological perspectives.

5. Legal Framework and Judicial Responses in Sri Lanka

The legal regulation of sexual offences in Sri Lanka is primarily governed by the Penal Code (the Amendment Act, No. 22 of 1995 and Act, No. 29 of 1998) of Sri Lanka (Wing Cheong et al., 2021). As a matter of structure, the Penal Code may be understood as addressing four broad scenarios. First, it criminalises non-consensual sexual conduct where consent is the pivotal issue, including rape under section 363, gang rape under section 364(2)(g), grave sexual abuse under section 365B, and sexual harassment under section 345. Secondly, it seeks to protect children and vulnerable persons from sexual exploitation through provisions such as statutory rape under section 363(e) of the Penal Code of Sri Lanka, incest under section 364A, grave sexual abuse under section 365B, sexual exploitation of children under section 360B, and other related child-protection offences. Thirdly, it historically regulated certain inherently wrongful private sexual acts between adults through provisions such as section 365A concerning acts of gross indecency. Fourthly, it preserves public standards of decency through sections 285, 286, and 287, which criminalise obscene acts, words, songs, or displays in public.

The present study is confined to the offence of rape defined in sections 363 and 364 of the Penal Code.

5.1 Definition of Rape under Sri Lankan Law

Section 363 of the Penal Code creates the principal offence of rape. Broadly stated, rape consists of sexual intercourse between a man and a woman under circumstances recognised by law as vitiating consent, including intercourse without her consent, against her will, by reason of fear or deception, or where the complainant is below the statutory age of consent.

The prosecution must establish that the accused intentionally engaged in sexual intercourse under circumstances where the victim did not give legally valid consent. Accordingly, the absence of the victim's free and voluntary consent is central to many rape prosecutions. Section 87 of the Penal Code clarifies that consent obtained under fear of injury or a misconception of fact is not valid consent. Consequently, apparent consent induced by threats, coercion, deception, abuse of authority, vulnerability, or helplessness may not amount to lawful consent. Judicial interpretation has further recognised that mere submission resulting from fear, power imbalance, vulnerability, or similar coercive circumstances is distinct

from free and voluntary consent. *Inoka Gallage v Kamal Addararachchi and Another* (2002) 1 Sri LR 307 illustrates the Court's consideration of these issues in assessing the validity of consent.

The actus reus of the offence of rape consists of sexual intercourse. In *Savinda v Republic of Sri Lanka* (2010) 1 Sri LR 32, the Court considered the evidentiary requirements for proving sexual intercourse and affirmed that penetration is sufficient to establish the actus reus of rape, in accordance with Explanation 1 to section 363 of the Penal Code.

According to Explanation 2 to section 363 of the Penal Code, physical resistance is not an essential requirement for establishing the offence of rape, and the absence of physical injury to the victim does not preclude a conviction. Recent judicial reasoning recognises that victims may freeze, submit out of fear, or be unable to offer physical resistance because of their age, vulnerability, or the offender's domination or abuse of authority. Consequently, mere submission arising from fear, coercion, vulnerability, or a power imbalance should be distinguished from free and voluntary consent. In *Rohana Alias Loku v Attorney General* (2011) 2 Sri LR 174, the Court considered issues arising in the context of gang rape and the surrounding factual circumstances, illustrating the importance of assessing consent in light of the totality of the evidence rather than solely by reference to physical resistance.

5.2 Evolution of Sexual Offences Law

Sri Lankan sexual offences law has evolved through statutory reform (See the amendments of 1995 and 1998). Earlier colonial formulations were narrower and heavily force-centered. Subsequent amendments expanded the law to better recognise child protection, aggravated offending, and broader forms of sexual abuse.

The most significant reforms included enhanced sentencing provisions, clear definition of statutory rape (section 363(e)), the introduction of the offence of grave sexual abuse under section 365B, the definition of sexual harassment under section 345, and the strengthening of the protection of children through the creation of incest as a separate offence (section 364A), together with the introduction of mandatory minimum sentences and mandatory victim compensation. The amendments also introduced limited recognition of marital rape in specific circumstances, namely where the spouses have been judicially separated (section 363(a)). This reform represented a partial departure from the common law doctrine of marital immunity, although many scholars argue that the protection remains incomplete (Jayasekera, 2017).

Gang rape is treated as an aggravated form of rape under section 364 of the Penal Code, reflecting the heightened violence, coercion, and collective dominance inherent in group sexual offending. In *Sajeewa alias Ukkuwa and Others v The Attorney-General* (2004) 2 Sri LR 263, the Supreme Court held that the gang-rape provision does not require proof of a common intention to commit rape; it is sufficient to establish that the accused was a member of the group and had committed or abetted the commission of rape.

Attempted rape is not recognised as a separate statutory offence; instead, liability is generally established by applying section 490 (attempt) in conjunction with the substantive offence of rape under section 363. This approach has been judicially affirmed in *R.K.A. Indratilaka v The State* (1981) 2 Sri LR 357.

5.3 Judicial Interpretation

Sri Lankan courts have played an important role in shaping rape jurisprudence through interpretation of consent, corroboration, credibility, and sentencing. Earlier cases such as *The King v Balalkiriya alias Wadu Balaya* (1945) 46 NLR 83 and *The King v Ariyaratna* (1946) 47 NLR 236 reflected traditional common law approaches that often scrutinised resistance and prompt complaint.

In *Regina v W.G. Dharmasena* (1956) 58 NLR 15, the Court considered the evidentiary significance of the absence of physical injuries to the victim or the accused. A similar issue was considered in *Karunasena v Republic of Sri Lanka* (1975) 78 NLR 63.

Later decisions display a gradual shift toward a more contextual understanding of victim behaviour. Courts increasingly acknowledge that delay in complaint may arise from trauma, shame, threats, or familial pressure rather than fabrication. In

Inoka Gallage v Kamal Addararachchi and Another (2002) 1 Sri LR 307, the Court considered sexual allegations within a socially sensitive context, illustrating reputational and evidentiary tensions that often accompany sexual offence litigation. The case also considered the evidentiary significance of physical injuries and resistance when assessing whether sexual intercourse occurred without consent. Judicial reasoning reveals a movement, though uneven, from rigid stereotypes toward more nuanced treatment of consent and trauma.

6. Analysis: Rape within Familiar Spaces in Sri Lanka

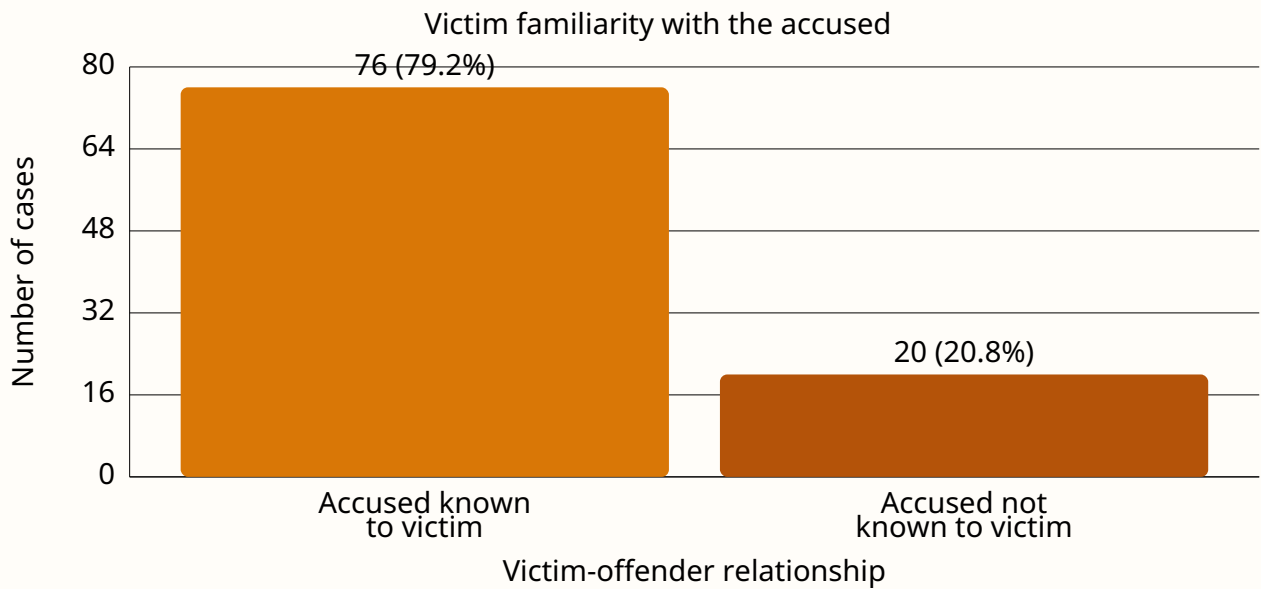
6.1. Victim–Offender Relationship

Appellate case law examined during the period from 2015 to 2021 revealed 112 reported appeals involving sexual offences. Of these, 96 appeals related specifically to the offence of rape. An analysis of these 96 appellate decisions demonstrated that rape was predominantly perpetrated by individuals previously known to the victim rather than by strangers.

Of the 96 rape cases examined under sections 363(a)–(e) and 364(2)(e) of the Penal Code, 76 cases (79.2%) involved offenders who had a pre-existing relationship with the victim, including social, familial, intimate, or authority-based relationships. In contrast, only 20 cases (20.8%) involved offenders who were unknown to the victim.

Within the 96 appellate cases examined, most cases involved offenders who had a pre-existing relationship with the victim. The data therefore challenge the conventional perception that rape is primarily a stranger-perpetrated offence and instead suggest that rape victimisation more frequently occurs in the context of pre-existing relationships between the victim and the offender.

Figure 6.1. Victim-Offender Relationship in Rape Cases: Distribution of Cases by Victim Familiarity with the Accused (n = 96)



The largest proportion of cases involved acquaintances (45 cases - 46.9%), including neighbours, friends, boyfriends, and other socially familiar individuals. This suggests that opportunities for rape victimisation frequently arise within everyday social relationships where a degree of familiarity and trust already exists.

Family members constituted the second-largest category (15 cases -15.6%), demonstrating that rape may also occur within the family environment, despite the expectation that the family should provide protection and security.

Cases involving persons in positions of authority (12 cases -12.5%), such as teachers, military personnel, and public officers, further reveal the potential abuse of power and trust for sexual exploitation.

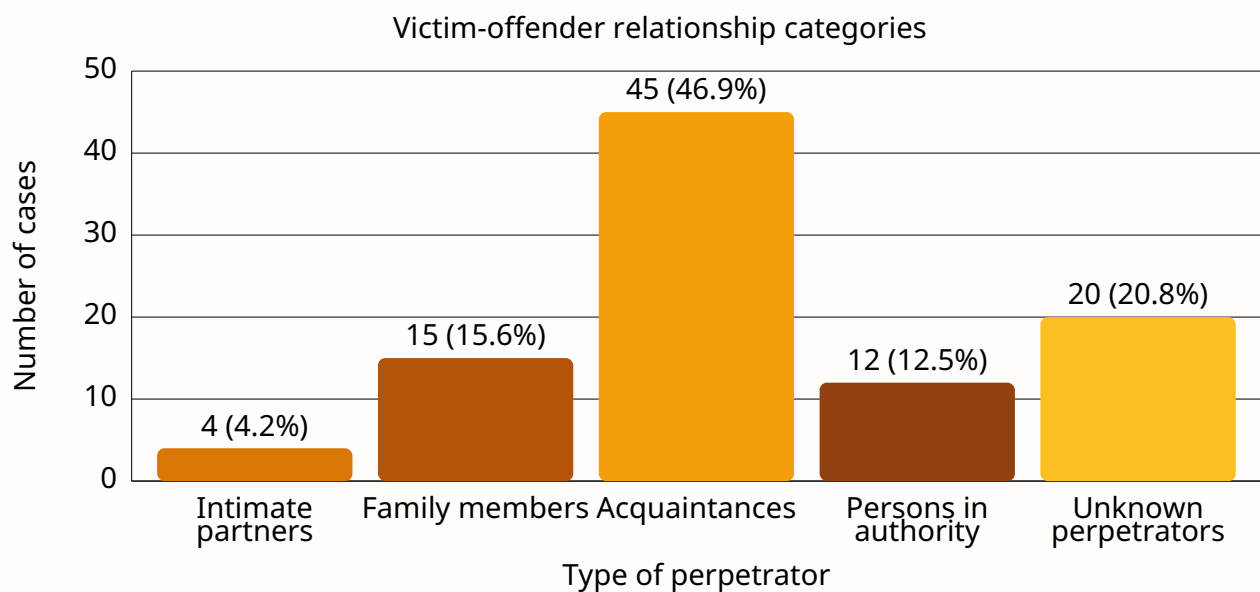
A smaller proportion of cases involved intimate partners, 4 cases (4.2%). These incidents nevertheless highlight the vulnerability of victims within close personal relationships. Overall, the findings demonstrate that rape is more commonly perpetrated by individuals who have a pre-existing relationship with the victim.

This challenges the traditional perception that rape is primarily committed by strangers and underscores the significance of trust, familiarity, and power dynamics in the commission of rape offences.

Table 6.1. Victim–Offender Relationship in Rape Cases: Distribution of Cases by Victim Familiarity with the Accused under different categories (n = 96)

Category	Number of Cases	Percentage
Acquaintances	45	46.9%
Family Members	15	15.6%
Persons in Authority	12	12.5%
Intimate Partners	4	4.2%
Unknown Perpetrators	20	20.8%
Total	96	100%

Figure 6.2. Victim-Offender Relationship in Rape Cases: Distribution of Cases by Victim Familiarity with the Accused under Different Categories (n = 96)



6.2 Place of Commission of Offence

An analysis of the 96 rape-related appellate decisions delivered between 2015 and 2021 revealed that rape offence was committed predominantly in locations familiar to the victim, the offender, or both. The findings suggest that sexual victimisation was more frequently facilitated by familiarity, trust, and routine social interaction than by incidents taking place in unknown public spaces.

The victim's home emerged as one of the principal locations of offending, accounting for 37 cases (38.5%). This finding indicates that the domestic environment, despite being conventionally regarded as a place of safety and protection,

frequently provided opportunities for rape. The privacy of the home may have reduced the likelihood of detection, intervention, or resistance.

A further 39 cases (40.6%) occurred in other familiar locations, including the residences of neighbours, relatives, friends, and other persons known to either the victim or the offender. These findings demonstrate that rape often occurred within ordinary social settings where pre-existing relationships and environmental familiarity facilitated access to victims and reduced suspicion.

Only one case (1%) was reported as having occurred within a school setting. Although comparatively rare within the sample, offences committed in educational institutions raise serious concerns due to the special duty of care owed to children and students.

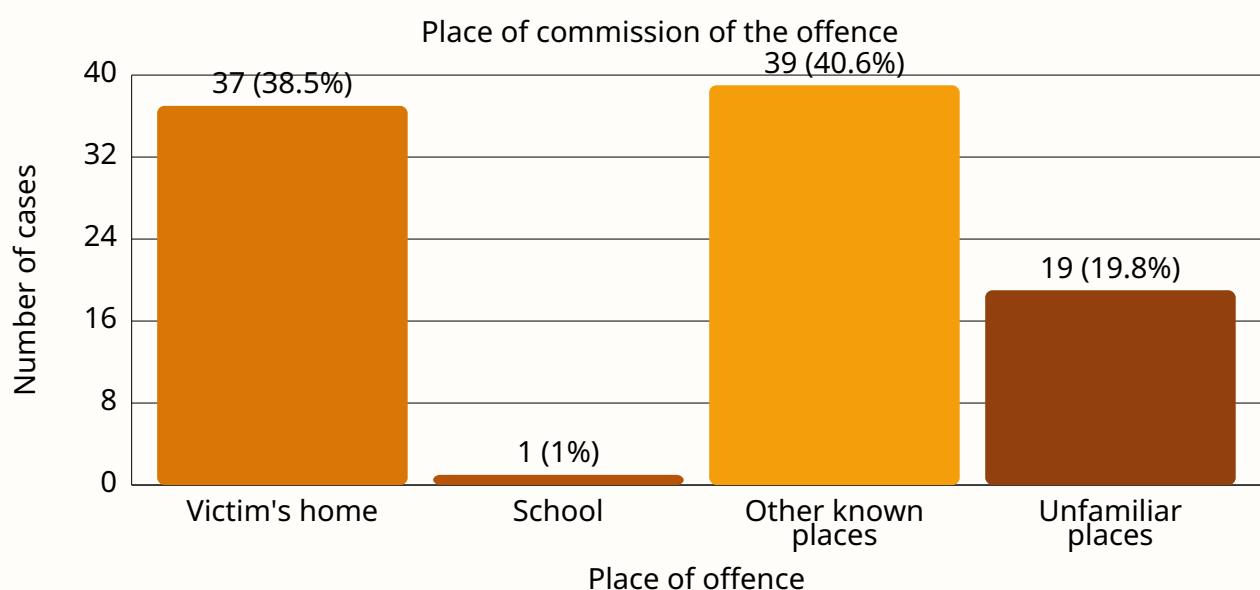
The remaining 19 cases (19.8%) occurred in locations unfamiliar to the victim. Consequently, only a minority of offences were committed in settings lacking a prior connection to the victim.

Overall, the findings reveal that 76 of the 96 cases (79.2%) occurred either in the victim's home or in other familiar locations. The data therefore challenge the traditional perception that rape is primarily perpetrated by strangers in isolated or unknown places. Instead, the findings indicate that sexual violence is more likely to occur within familiar environments characterised by trust, accessibility, and pre-existing social relationships.

Table 6.2. Distribution of Rape Cases by Place of Commission of the Offence (n = 96)

Place of Offence	Cases	Percentage (%)
At the victim's Home	37	38.5%
At school	1	1%
At other Known Places	39	40.6%
Unfamiliar Places	19	19.8%
Total	96	100%

Figure 6.3. Distribution of Rape Cases by Place of Commission of the Offence (n = 96)



6.3 Spatial Dynamics of Sexual Violence (Rape): Application of Routine Activity Theory

The empirical findings relating to both the victim–offender relationship and the location of offending demonstrate a strong correspondence with the explanatory framework of Routine Activity Theory (RAT). According to RAT, criminal victimisation occurs when a motivated offender encounters a suitable target in the absence of capable guardianship (Cohen & Felson, 1979). The appellate data reveal that rape was predominantly perpetrated by individuals known to the victim and was most frequently committed within familiar environments, thereby illustrating how routine social interactions and everyday spatial arrangements create opportunities for sexual offending.

The relational analysis revealed that 76 of the 96 rape cases (79.2%) involved offenders who were previously known to the victim, including acquaintances, family members, intimate partners, and persons occupying positions of authority. Such relationships provided offenders with legitimate social access to victims and reduced the likelihood of suspicion or resistance. From the perspective of Routine Activity Theory, these pre-existing relationships facilitated repeated contact between offenders and suitable targets within ordinary social settings, thereby increasing opportunities for victimisation (Cohen & Felson, 1979).

The spatial distribution of offences similarly reflects the operation of routine activity patterns. A substantial majority of cases occurred either in the victim's home (37 cases; 38.5%) or in other familiar locations (39 cases; 40.6%), including the residences of neighbours, relatives, friends, and other socially connected individuals. These environments are not inherently criminogenic; rather, they become conducive to offending because they are embedded within the routine activities of daily life. Familiar settings provide offenders with legitimate reasons for presence and access, thereby reducing social scrutiny and facilitating the commission of the offence.

A central explanatory factor is the absence or inadequacy of capable guardianship. In many domestic and semi-private environments, formal mechanisms of surveillance are limited or entirely absent. Equally, informal guardians, such as family members, neighbours, or community actors, may be unavailable, unwilling, or unable to intervene. Consequently, opportunities arise for motivated offenders to exploit situations in which victims are isolated or insufficiently protected. This observation is particularly relevant in cases involving family members and authority figures, where trust, dependency, and social hierarchy may further weaken protective mechanisms and inhibit intervention.

The findings therefore support the central proposition of Routine Activity Theory that crime is shaped not merely by offender characteristics but also by the convergence of opportunity structures created through routine social activities and environmental contexts (Cohen & Felson, 1979). The predominance of acquaintance-based offending and the concentration of offences within homes and other familiar locations indicate that rape is frequently facilitated by everyday patterns of interaction, accessibility, and diminished guardianship rather than by encounters between strangers in unfamiliar public spaces.

Accordingly, the appellate evidence challenges conventional perceptions that rape is primarily a stranger-perpetrated offence occurring in isolated locations. Instead, the findings suggest that sexual victimisation is more likely to occur within familiar relational and spatial contexts where trust, routine contact, and inadequate guardianship converge to create opportunities for offending, a pattern that is consistent with the use of Routine Activity Theory as an interpretative framework (Cohen & Felson, 1979).

6.4 Power Relations and Familial Authority: Application of Power-Control Theory

The prevalence of intrafamilial (15.6%) and authority-based (12.5%) offending patterns can be effectively interpreted through Power-Control Theory, which emphasises how family structures and power hierarchies shape both exposure to victimisation and the regulation of deviant behaviour (Hagan, Gillis, & Simpson, 1987).

Within patriarchal familial structures, authority is disproportionately concentrated in male figures, particularly fathers, stepfathers, and elder male relatives. This asymmetrical power distribution creates environments where control over

mobility, communication, and bodily autonomy is unevenly regulated. In such contexts, the likelihood of abuse is exacerbated by the reduced ability of victims—often women or minors—to resist or disclose victimisation.

Furthermore, authority-based offending (teachers, military personnel, public officers) reflects institutionalised power asymmetry. Power-Control Theory posits that those occupying dominant positions experience fewer behavioural constraints and greater opportunity to exploit subordinated individuals. The presence of 12.5% of cases involving authority figures indicates that institutional hierarchy can function as a structural enabler of sexual exploitation, particularly where oversight mechanisms are weak or culturally inhibited.

The theory also explains differential exposure: individuals within patriarchal or authoritarian settings are not equally protected by guardianship but are instead subject to power-laden relational dynamics that shape vulnerability. Thus, sexual violence in these contexts is not merely opportunistic but structurally conditioned by hierarchical power arrangements embedded in both family and institutions.

6.5 Gender Norms and Patriarchal Structures: Application of Feminist Criminology

Feminist criminology provides a valuable theoretical framework for understanding the patterns of rape identified in the appellate dataset. Feminist scholars contend that sexual violence should not be viewed merely as an individual act of deviance but as a manifestation of broader gendered power relations that operate within social, familial, and institutional structures (Chesney-Lind & Pasko, 2013; Daly & Chesney-Lind, 1988).

The empirical findings reveal that 76 of the 96 rape cases (79.2%) involved offenders who were previously known to the victim, while only 20 cases (20.8%) involved strangers. The largest category consisted of acquaintances (46.9%), followed by family members (15.6%), persons in positions of authority (12.5%), and intimate partners (4.2%). These findings challenge the traditional conception of rape as a stranger-perpetrated offence occurring in isolated public locations. Instead, they demonstrate that sexual violence frequently arises within existing social relationships characterised by familiarity, trust, dependency, and unequal power.

The spatial distribution of offences similarly supports this interpretation. A substantial majority of cases occurred either in the victim's home (38.5%) or in other familiar locations (40.6%), including the residences of relatives, neighbours, and friends. Feminist criminologists have long argued that spaces traditionally regarded as safe and private may simultaneously function as sites of vulnerability for women and children (Chesney-Lind & Pasko, 2013). The present findings reinforce this proposition by demonstrating that rape frequently occurred within environments where offenders possessed legitimate social access and where opportunities for external intervention were limited.

The prevalence of intrafamilial offending and offences committed by persons in positions of authority further highlights the role of gendered and hierarchical power relations. Family members, teachers, military personnel, and public officers often occupy positions of trust and authority that may be exploited to facilitate sexual victimisation. Such relationships are characterised by varying degrees of dependency, deference, and social control, factors that may inhibit resistance, delay disclosure, and increase victim vulnerability.

Feminist criminology also draws attention to the social and cultural barriers that may discourage reporting, particularly where the offender is a family member, intimate partner, or respected community figure. Victims in such circumstances may encounter fear of stigma, social pressure, economic dependency, or concerns regarding family reputation, all of which may contribute to the concealment or delayed disclosure of sexual violence (Daly & Chesney-Lind, 1988).

Accordingly, the findings indicate that rape cannot be understood solely as an offence committed by predatory strangers. Rather, the data suggest that sexual violence is frequently embedded within ordinary social relationships and familiar environments where trust, authority, and gendered power dynamics converge. Feminist criminology therefore situates the patterns observed in the appellate cases within broader structural inequalities and highlights the manner in which sexual violence both reflects and reinforces existing power imbalances within society (Daly & Chesney-Lind, 1988).

Gender norms also contribute to underreporting and delayed disclosure, particularly in familial and intimate contexts where victims may experience social pressure, economic dependency, or fear of stigma. This further reinforces offender impunity and perpetuates cycles of violence.

Thus, feminist criminology situates the empirical findings within broader structural inequalities, arguing that sexual violence is both a product and reinforcement of gendered power relations in society (Daly & Chesney-Lind, 1988).

6.6 Integrated Theoretical Interpretation

The findings of this study suggest that rape within familiar spaces cannot be adequately explained through a single theoretical perspective. Rather, the empirical patterns identified in the appellate cases point towards the interaction of situational opportunities, relational power structures, and broader gendered social arrangements. Consequently, a more comprehensive understanding of rape victimisation emerges through the combined application of Routine Activity Theory, Power-Control Theory, and Feminist Criminology.

Routine Activity Theory provides an explanation for the situational and spatial dimensions of offending by demonstrating how ordinary social environments create opportunities for victimisation. The concentration of offences within homes and other familiar settings indicates that routine patterns of social interaction frequently place offenders and victims in close proximity while limiting effective guardianship. In this sense, familiar environments function as opportunity structures that facilitate offending.

Power-Control Theory complements this explanation by illuminating the relational dynamics through which vulnerability is produced. The prominence of intrafamilial offending and abuse by persons occupying positions of authority suggests that sexual victimisation often occurs within relationships characterised by unequal distributions of power, dependency, and control. Such hierarchical relationships may diminish the capacity of victims to resist, report, or escape victimisation while simultaneously enhancing offenders' ability to exploit their positions of dominance.

Feminist Criminology extends the analysis beyond immediate opportunities and interpersonal power relations by locating these dynamics within broader social and cultural structures. The predominance of acquaintance, familial, and authority-based offending challenges conventional assumptions that rape is primarily committed by strangers and instead highlights the role of gendered power relations operating within everyday social life. From this perspective, familiar spaces are not merely physical locations but social environments shaped by norms, expectations, and inequalities that influence both vulnerability and accountability.

When considered collectively, these theoretical perspectives demonstrate that sexual violence is neither random nor solely attributable to individual deviance. Rather, it emerges through the convergence of opportunity, power, and social inequality. Familiar environments provide the situational conditions for offending, hierarchical relationships create differential vulnerabilities, and broader gendered structures shape the social contexts within which such victimisation occurs.

Accordingly, the findings support a multidimensional criminological understanding of rape within familiar spaces. Such an approach moves beyond mono-causal explanations and recognises the complex interaction between environmental opportunities, relational power asymmetries, and structural inequalities. The analysis further suggests that effective prevention strategies must address not only situational risks but also power imbalances within families and institutions, while simultaneously challenging the social and cultural conditions that enable sexual violence to occur within relationships and environments ordinarily associated with trust, safety, and protection.

7. Discussion: Implications for Law and Criminal Justice Policy

The findings of this study reveal important implications for the legal and criminal justice response to rape in Sri Lanka. Although the Penal Code provides a comprehensive legal framework governing rape and related sexual offences, the

appellate evidence demonstrates that the social realities of rape victimisation differ substantially from conventional assumptions that continue to influence public discourse and, to some extent, criminal justice practice.

A central finding of the study is that rape was predominantly perpetrated by individuals previously known to the victim and was most frequently committed within familiar environments. Nearly four-fifths of the cases involved offenders who had a pre-existing social, familial, intimate, or authority-based relationship with the victim, while a similar proportion of offences occurred within the victim's home or other familiar locations. These findings challenge the traditional perception of rape as a predominantly stranger-perpetrated offence occurring in isolated public spaces. Accordingly, crime prevention and victim protection strategies should extend beyond public-space security and give greater attention to risks arising within homes, neighbourhoods, family networks, and other socially familiar settings.

The prominence of acquaintance, family-member, and authority-based offending further highlights the importance of recognising relational power dynamics in the criminal justice response to rape. The findings indicate that sexual victimisation frequently occurs within relationships characterised by trust, familiarity, dependency, or authority. Consequently, investigative and prosecutorial approaches should be sensitive to the complexities of offences committed within existing social relationships, particularly where victims may be vulnerable to influence, coercion, or pressure arising from those relationships.

The occurrence of offences involving family members and persons occupying positions of authority also raises concerns regarding institutional and social accountability. Teachers, military personnel, and public officers are entrusted with responsibilities that carry corresponding duties of care and public confidence. The presence of such offenders within the appellate dataset underscores the importance of effective institutional safeguards, clear reporting mechanisms, and accountability structures capable of addressing allegations of sexual misconduct within positions of trust and authority.

The findings further demonstrate that familiar environments may function as sites of vulnerability rather than protection. The concentration of offences within homes and other known locations suggests that preventive interventions should not be confined to public spaces but should also strengthen protective mechanisms within domestic, educational, and community settings. This requires closer coordination among criminal justice agencies, educational institutions, social service providers, and community-based protection mechanisms.

The theoretical analysis provides additional support for a multidimensional policy response. Routine Activity Theory highlights the significance of opportunity structures and the absence of effective guardianship within familiar environments. Power-Control Theory draws attention to the role of hierarchical relationships and unequal power distributions in facilitating victimisation. Feminist Criminology situates these patterns within broader gendered social relations that shape vulnerability, authority, and access to justice. Collectively, these perspectives demonstrate that rape cannot be understood solely as an individual criminal act but must also be examined in relation to the social environments, power structures, and relational contexts within which it occurs.

Accordingly, effective criminal justice policy should adopt a more holistic and victim-centred approach that recognises the relational and spatial realities of rape victimisation. Such an approach requires not only the enforcement of existing legal provisions but also the strengthening of institutional accountability, community-level guardianship, and protective mechanisms within the familiar environments where sexual violence is most likely to occur. The findings therefore support a shift towards evidence-based policies that are responsive to the social contexts in which rape is committed and experienced.

8. Conclusion

This study examined 96 rape-related appellate decisions decided in Sri Lanka between 2015 and 2021 to explore the victim-offender relationship and the spatial context of rape offending. The findings revealed that rape was predominantly perpetrated by individuals known to the victim, including acquaintances, family members, intimate partners, and persons occupying positions of authority. Similarly, most offences occurred within the victim's home or other familiar locations

rather than in unfamiliar public spaces. These patterns challenge the conventional perception of rape as a stranger-perpetrated offence and instead demonstrate that sexual victimisation frequently occurs within existing social relationships and familiar environments characterised by trust, accessibility, and unequal power relations.

The application of Routine Activity Theory, Power-Control Theory, and Feminist Criminology provides a comprehensive explanation of these patterns by highlighting the interplay between situational opportunity, relational power, and gendered social structures. Collectively, the findings underscore the need for criminal justice responses and prevention strategies that recognise the relational and spatial realities of rape victimisation. Effective interventions must therefore strengthen protection, accountability, and guardianship within the family, community, and institutional settings where sexual violence is most likely to occur.

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