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Law, Ethics and the Illusion of Protection: A Sociological Critique of Domestic Violence Governance in India

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Abstract

Domestic violence against women in India has increasingly been recognised as a serious legal and social concern, particularly following the enactment of the Protection of Women from Domestic Violence Act, 2005. While the legislation is widely regarded as progressive in scope, its practical impact remains uneven and often limited. This paper argues that the gap between legal promise and lived protection cannot be explained solely through administrative inefficiency or resource constraints. Instead, it reflects deeper ethical and sociological failures embedded within institutional practices, cultural norms, and legal interpretation. Drawing on feminist legal theory, sociological analyses of power, and ethical frameworks of justice and responsibility, this study critically examines how domestic violence governance in India often produces an illusion of protection rather than substantive safety. The paper highlights how reconciliation bias, moral scrutiny of women, and fragmented institutional responsibility undermine the ethical foundations of domestic violence law. It concludes by arguing for a shift from formal legality to ethical governance, where women's dignity, autonomy, and lived realities are central to legal and institutional responses.

Keywords: Domestic violence, feminist legal theory, ethics, governance, India, PWDVA

1. Introduction

Domestic violence against women is neither a marginal social problem nor a private family matter. It is a systemic form of gendered harm rooted in unequal power relations, social norms, and institutional practices. In India, domestic violence has long been normalised within marriage through cultural ideals of family unity, female endurance, and male authority. Legal intervention in this domain has historically been cautious, shaped by concerns about preserving the family rather than protecting women. The Protection of Women from Domestic Violence Act, 2005 (PWDVA) marked a significant departure from this legacy by recognising domestic violence as a violation of women's rights and providing civil remedies aimed at protection, residence, and maintenance.

Despite this legislative advance, evidence from courts, police stations, and protection offices suggests that many women continue to face serious barriers in accessing

meaningful protection. Orders are delayed or weakly enforced, reconciliation is frequently prioritised over safety, and women's credibility is often assessed through moralised lenses. These patterns raise an important question: why does a law designed to protect women so often fail to deliver substantive justice?

This paper argues that the answer lies not only in implementation gaps but in the ethical and sociological foundations of domestic violence governance. Legal systems do not operate in isolation; they are embedded within social norms, institutional cultures, and moral assumptions about gender, family, and authority. When these underlying structures remain patriarchal, legal reform alone cannot guarantee justice. Instead, the law risks becoming symbolic, offering formal recognition without real transformation.

By adopting a sociological and ethical perspective, this paper seeks to move beyond doctrinal analysis and examine

how domestic violence law functions in practice. It explores how institutional actors interpret and apply the law, how cultural norms shape legal outcomes, and how ethical responsibility is diffused or displaced across governance structures. In doing so, the paper contributes to broader debates on gender justice, legal effectiveness, and the limits of rights-based frameworks in contexts of deep social inequality.

2. Domestic Violence as a Sociological Problem

Understanding domestic violence requires moving beyond individualised explanations that focus on anger, alcohol, or interpersonal conflict. Sociological scholarship has consistently shown that domestic violence is patterned behaviour, closely linked to gender norms, power hierarchies, and social structures. Feminist sociologists have argued that violence within intimate relationships is often a mechanism through which male authority is asserted and maintained, particularly in contexts where women challenge expected roles or seek autonomy.

In India, marriage remains a deeply hierarchical institution, shaped by norms of obedience, sacrifice, and family honour. Women's economic dependence, limited mobility, and social surveillance further constrain their ability to resist abuse or seek help. Domestic violence, in this context, functions not as a breakdown of family order but as a means of enforcing it. Sociological studies have shown that abuse often escalates when women attempt to assert decision-making power, access employment, or leave violent relationships.

Importantly, domestic violence also restructures women's social worlds. Isolation from natal families, restricted access to healthcare, and fear of stigma limit women's engagement with public institutions. This means that legal remedies are often accessed late, under conditions of crisis, rather than as early preventive measures. A purely legalistic approach that assumes rational choice and free access to justice fails to account for these structural constraints.

From a sociological standpoint, the effectiveness of domestic violence law depends on how it interacts with these realities. When institutions ignore power dynamics and treat domestic violence as a mutual dispute or family disagreement, they reinforce the very conditions that enable abuse. This makes sociological insight essential for evaluating not just whether a law exists, but how it is lived and experienced by those it claims to protect.

3. Feminist Legal Theory and the Limits of Formal Equality

Feminist legal theory provides a critical lens for examining why domestic violence law often underperforms despite progressive intent. One of its central insights is that law is not neutral; it reflects and reproduces dominant social values. Concepts such as privacy, neutrality, and family autonomy have historically functioned to shield male power within the household and to marginalise women's experiences of harm.

In the Indian context, this legacy persists in subtle but powerful ways. Although the PWDVA recognises domestic violence as a civil wrong and emphasises women's right to live with dignity, its application is frequently filtered through judicial and administrative attitudes that prioritise

reconciliation. Courts often frame domestic violence as a temporary marital discord rather than a pattern of coercive control. Protection officers, lacking training and institutional support, may encourage compromise or mediation even in cases involving serious harm.

Formal equality before the law is insufficient in such contexts because it ignores substantive inequality. Women approaching the legal system do so from positions of economic dependence, social vulnerability, and psychological trauma. When legal actors apply abstract standards without acknowledging these conditions, the result is often ethical failure. Women are asked why they did not leave earlier, why they returned to the marital home, or why they seek legal relief instead of family settlement. These questions reveal how moral judgement replaces legal protection.

Feminist scholars have long argued that justice requires more than equal rules; it requires attention to power, context, and outcome. Domestic violence law, when interpreted narrowly, risks reinforcing patriarchal norms by offering conditional protection. This highlights the need for an ethical framework that centres Women's lived realities rather than institutional convenience.

4. Ethics, Responsibility, and Institutional Failure

Ethical analysis of domestic violence governance reveals a pattern of responsibility displacement. While the law formally assigns duties to police, protection officers, courts, and service providers, in practice, responsibility for safety often shifts back onto women. Women are expected to manage risk, gather evidence, comply with procedural requirements, and make "reasonable" decisions under conditions of fear and constraint.

This dynamic reflects a broader ethical failure within governance structures. Instead of recognising domestic violence as a collective problem requiring coordinated intervention, institutions operate in silos. Police may treat abuse as a civil matter, courts may delay or dilute orders, and welfare systems may lack resources to support women's independence. Each institution justifies its limitations by pointing to another, creating a cycle of inaction.

Ethically, such fragmentation undermines the principle of care and protection that should underpin domestic violence law. Justice is reduced to procedural compliance rather than substantive safety. This is particularly evident in the emphasis on reconciliation, which is often presented as a morally superior outcome. While reconciliation may be appropriate in some contexts, its routine prioritisation ignores power imbalances and places women at continued risk.

An ethical approach to domestic violence governance would shift the focus from preserving relationships to preserving dignity and safety. It would recognise that neutrality in the face of harm is not morally defensible and that institutions have a duty to intervene proactively when patterns of abuse are evident. Without this ethical shift, legal frameworks risk becoming performative, signalling concern without delivering protection.

5. The Illusion of Protection

The concept of an "illusion of protection" captures the central paradox of domestic violence law in India. On paper,

the PWDVA offers a wide range of remedies, including protection orders, residence rights, and monetary relief. In practice, however, these remedies are often delayed, weakly enforced, or undermined through informal pressures to reconcile.

This gap between promise and reality has serious consequences. Women may lose faith in legal institutions, return to abusive environments, or face intensified violence after failed interventions. The presence of a law can even be used to deflect criticism, allowing institutions to claim that adequate protection exists while ignoring systemic shortcomings.

From a sociological perspective, this illusion is sustained through symbolic compliance. Institutions perform the language of rights without altering underlying practices. From an ethical perspective, it represents a failure of integrity, where the appearance of justice substitutes for its substance. Addressing domestic violence therefore requires not just better laws, but a transformation of institutional values and practices.

6. Conclusion

This paper has argued that domestic violence governance in India is limited not primarily by legal deficiency, but by ethical and sociological failures embedded within institutional practice. While the PWDVA represents an important legal advance, its effectiveness is undermined by reconciliation bias, moral scrutiny of women, fragmented responsibility, and the persistence of patriarchal norms.

A meaningful response to domestic violence must move beyond formal legality toward ethical governance. This involves recognising domestic violence as a structural injustice, centring women's lived experiences, and holding institutions accountable for substantive outcomes rather than symbolic compliance. Law, in this vision, is not merely a set of rules but a moral practice that must be evaluated by its capacity to reduce harm and expand women's real freedom. Only by integrating sociological insight and ethical responsibility into legal frameworks can domestic violence law move from illusion to protection.

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