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Understanding Gender-Based Violence in a Structural Way

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Abstract. This paper regards gender-based violence as a form of structural violence that spans different cultural and social contexts. It argues that gender-based violence is reproduced and sustained through interwoven power systems within state institutions and social structures. Using a comparative research method, the paper examines two cases: gender-based violence against Native American women in North America and violence against women in the Hong Kong Special Administrative Region of the People's Republic of China (Hong Kong SAR). In the North American context, the Missing and Murdered Indigenous Women crisis exposes how legal restrictions and institutional failures under colonial governance have increased Indigenous women's exposure to violence. In this case, structural violence operates through the state system, making it difficult for Indigenous women to obtain effective protection from public authorities while they remain socially marginalised. By contrast, the case of Hong Kong SAR shows that gender-based violence may persist even within a relatively stable legal system, where violence is more deeply embedded in family structures, patriarchal values and cultural norms.

Keywords: gender-based violence, structural violence, Indigenous women, Hong Kong SAR

1. Introduction

Gender-based violence, or simply GBV, is generally understood by the public as individual behaviours such as domestic violence, sexual harassment or assault. However, this common understanding conceals the structural problem behind it, namely that gender-based violence is inseparable from historical oppression and power relations. This is not merely a matter of the behaviour of individual abusers, but rather a matter of the societies and institutions that enable gender-based violence to persist. The Missing and Murdered Indigenous Women crisis in North America is the most typical manifestation of the GBV problem in terms of social and institutional structure.

Race is a major reference point for distinguishing power relations among different individuals and groups. Compared with non-Native American women, Native American women in North America face a higher risk of violence, disappearance and death. In Canada, the murder rate and disappearance rate of Indigenous women are much higher than those of other female groups in society [1]. When the perspective shifts to the United States, Indigenous women also face higher levels of sexual and domestic violence than other groups, but they often find it difficult to obtain effective legal protection. Federal policy in the United States has long restricted the prosecution

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power of Indigenous tribal governments in relation to criminal acts, which has created serious loopholes in accountability [2]. The United States government is not merely lacking in protection for Native Americans, especially women, through individual legal and law enforcement systems. The restriction of their right to sue further reveals the deep-seated oppression of Indigenous groups by the state structure itself. However, if gender-based violence is understood only from the perspective of state failure or institutional flaws, different ways in which such violence is permitted in other social contexts may be overlooked. Gender-based violence is also prominent in societies where the state system and legal framework are more complete and stable, such as Hong Kong SAR. However, it exists more in private spaces embedded in the family structure and is therefore more concealed and routine.

2. Theoretical framework

To analyse the manifestations of gender-based violence in different social contexts, it is necessary to adopt a theoretical framework that can both explain structural inequality and reflect individual experience. The case of Native Americans in North America highlights the role of women with specific identity backgrounds in the production of gender-based violence under the colonial state structure, while the situation of women in Hong Kong SAR indicates that gender-based violence can be embedded in cultural and family structures. Therefore, intersectionality theory and structural violence theory can be applied here.

Intersectionality theory emphasises that labels such as race, gender and class do not operate independently within an individual's oppressive system. Rather, oppression emerges through the interwoven relationship between each person's identity and background [3]. This theory is particularly important when analysing social oppression. For instance, the racialised and gendered violence simultaneously endured by Black women in the United States is often overlooked by mainstream narratives. Research also shows that Black women face higher levels of police violence and maternal mortality while receiving less public attention, and these outcomes are based on multiple identity backgrounds [4]. This also reflects that intersectionality theory can reveal the superimposed effects of racism and sexism in the state system when dealing with specific groups of people.

Apart from intersectionality, structural violence also provides an important perspective for analysing the violence faced by Indigenous women. Its original meaning refers to how social systems and policies cause structural harm to designated groups in less visible ways [5]. In the context of Indigenous women, violence is manifested in their long-term marginalisation in the criminal justice system, namely that they are both overrepresented and deliberately marginalised in Canadian criminal justice statistics [6]. This dual marginalisation leaves Indigenous people not only unprotected but also subject to double punishment when facing the criminal justice system. They are over-regulated while lacking protection when facing danger. This state indicates that the colonial legal system targeting Indigenous people has been more concerned with controlling Indigenous groups than protecting them. The contemporary crisis of disappearance and victimisation of Indigenous women, as a continuation of the colonial structure, has been studied to show that the rate of disappearance and victimisation of Indigenous women is much higher than that of other non-Indigenous female groups [1]. However, the institutional response to this issue has been slow, which means that the system has not treated such crises with the urgency they deserve. Meanwhile, the case of Hong Kong SAR shows that structural violence does not necessarily rely on state dereliction of duty or institutional collapse similar to the cases in North America. In a region like Hong Kong, where authority and institutions are highly developed, gender-based violence can also operate

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through everyday social relations, especially within the patriarchal family structure and cultural norms of traditional Chinese culture.

3. Structural failures of law and enforcement

One of the key reasons for this crisis lies in the fact that state policies and legal frameworks have failed to effectively protect Indigenous women. For instance, in the United States, due to jurisdictional limitations, tribal governments often fail to bring proceedings against non-Indigenous abusers, resulting in a large number of unresolved cases [2]. This legal loophole not only encourages the continuous occurrence of violent acts but also reinforces the underestimated status of Indigenous women before the law. This phenomenon reflects structural violence, because the failure of law and politics to protect marginalised groups at the institutional level causes Indigenous women to remain constantly exposed to harm. Law enforcement agencies also play a significant role in this issue. From the perspective of intersectionality, Indigenous women are simultaneously located at the intersection of gender, race and colonial identity, which makes them more vulnerable to institutional neglect and violence. In Canada, the police have engaged in neglect, dereliction of duty and other misconduct in some cases concerning Indigenous women [7]. This institutional racism and the police violence against Indigenous women have not only been ignored but even tolerated by the system. This attitude has directly intensified violence against Indigenous women.

4. From structural to state violence

The crisis triggered by the negative attitude of law enforcement agencies towards the issue of disappearance and victimisation of Indigenous women can be regarded as an enforcement problem, but a deeper analysis indicates that this issue may even escalate into state-recognised violence. Theoretically speaking, this phenomenon can be understood as an extension of structural violence, which not only stems from violent acts directly carried out by state institutions, such as law enforcement agencies, but also includes indirect harm caused by discriminatory policies, such as neglect and inaction. In the United States, justice is often merely an equal commitment under the law. However, the injustice of punitive state violence faced by marginalised groups has been concealed. For instance, in the context of mass incarceration, people of colour are much more likely to be imprisoned [8]. This contradiction indicates that seeking justice through the traditional legal system may not necessarily bring genuine protection to marginalised groups. From the perspective of intersectionality, disproportionate exposure to punitive state violence indicates the unequal consequences produced by race, gender and social status within the judicial system. Therefore, transformative justice has been introduced as an important alternative framework for addressing gender-based violence. Transformative justice criticises traditional judicial systems that rely on punitive state mechanisms, such as the police system. It argues that these traditional judicial systems often fail to truly address violence; instead, they punish behaviours produced by inequality. Unlike the traditional judicial system, which mainly emphasises punishment, transformative justice focuses more on deconstructing oppressive systems and fundamentally eliminating the conditions that produce violence. From the perspective of gender-based violence, the intervention of state institutions that rely on punitive means is not the best way to achieve justice. The interwoven experience of past anti-violence movements and mass incarceration systems in the United States indicates that although the traditional judicial system attempts to eliminate violence, it has strengthened punitive state power [8]. This reinforces the reproduction of inequality. For Indigenous

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groups, this situation is manifested as the state system not being a protective mechanism for them but a colonial one.

5. From state-centred violence to socially embedded violence

From the crisis of Missing and Murdered Indigenous Women, gender-based violence cannot be understood as a series of isolated incidents based on individuals. Intersectionality theory and structural violence show that Indigenous women face a higher risk of violence in contemporary society because of the combined effect of multiple identities, such as gender, race and colonial status, as well as the continuous failure of the state system that should have provided them with the same protection as other citizens. It is precisely such structural and systemic issues that should be used to explain gender-based violence.

Although the case of Native American women in North America shows how gender-based violence is produced and maintained through the structure of state authority, it is not sufficient to assume that such violence exists only in the context of legal or authority failure. As Galtung pointed out in his explanation of structural violence, violence not only operates forcibly within explicit institutions but also becomes implicitly normalised in the cultural practices of everyday society [5]. If, in the North American context, gender-based violence is mainly manifested through the legal system and the dereliction of duty of state institutions, the question becomes whether gender-based violence remains bound to state violence. As an urbanised area with a strong government and relatively more complete laws, gender-based violence in Hong Kong SAR operates within another structure. This structure, as a patriarchal value system rooted in family and culture, has transformed gender-based violence from the state level in North America to private domains such as family and society. This phenomenon of violence in intimate relationships indicates that gender-based violence is not merely an individual act, but rather an unequal pattern that is prevalent in everyday society. The structural violence it manifests is not based on the state, as in the case of Native American women in North America, but on social culture.

6. Everyday violence and structural inequality

Gender-based violence in Hong Kong SAR is not a rare individual phenomenon. According to the Hong Kong Federation of Women's Centres, approximately 37.54% of women indicated that they had experienced sexual violence, and among these cases, 26.37% originated from intimate relationships [9]. In most cases of gender-based violence, the perpetrators are acquaintances of the victims, such as partners or family members. These data indicate that gender-based violence is deeply rooted in everyday society rather than in individual abnormal behaviours. It also indicates that the family, which is ideally supposed to be a safe private space, can become a place where gender power inequality operates. This normalised violence in everyday life reflects that structural violence does not necessarily rely on direct institutional oppression, but can persist through the normalisation of violence through social discipline.

Unlike the cases of Native American women in North America, in the context of Hong Kong SAR, gender-based violence often operates in a way that is more covert yet equally far-reaching than obvious physical harm. Research has found that many victims choose not to react or attribute the incident to the severity of violent acts when violence occurs [10]. This lack of reaction does not imply that the impact of violent acts on victims is minimal. Rather, it reveals the concealed and routine nature of gender-based violence in Hong Kong SAR, making it difficult for ordinary people as victims to determine whether the situation requires intervention. The existence of such covert

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forms of violence does not merely stem from individual behaviour within society. During the colonial period in Hong Kong, the British government allowed the region to continue applying Chinese customary law in judicial practice. The patriarchal family structure based on Confucianism has long been maintained and integrated into social ideology in Hong Kong SAR. Under this system, women are placed in a subordinate position to men within the family, which puts them at a disadvantage in marital and family decision-making [11]. Men's authority in the family environment is naturalised, and women's tolerance of unequal relationships is regarded as a responsibility necessary to maintain family stability.

7. The cultural production of silence

Hong Kong SAR has long established a legal framework to address domestic violence. For example, Chapter 189 of Hong Kong legislation, the Domestic and Cohabitation Relationships Violence Ordinance, provides a civil protection mechanism for victims of domestic violence. However, in practice, these legal tools have not been widely used due to the pressure of social culture.

In the social context of Chinese culture, the concept of face is associated with family reputation and holds significant social status. Individual behaviour often needs to be subordinate to maintaining the overall image of the family. Under this cultural logic, domestic violence within a family is often regarded as a private matter and should not be made public. There is an old Chinese saying that a family's shame should not be made public. This notion makes victims of domestic violence, especially women, not only worry about the stigma attached to their own loss of face when they suffer from gendered violence, but also consider the impact on other family members. Chinese moral norms centred on family harmony often intensify the mechanism of silence among victims of gender-based violence within the family, thus making it difficult for legal support to reach them. This cultural pressure makes it difficult for the law to play its due protective role in practice. The fact that women in Hong Kong SAR use legal means to protect themselves less often when facing gender-based violence cannot be simply attributed to a lack of legal awareness or personal choice. More often, it is due to the social and cultural norms that encourage them to handle violence in a passive way. From this perspective, gender-based violence does not merely arise from the state structure; it can also be continuously reproduced through social and cultural structures and through silence in the face of violence.

8. Conclusion

This paper indicates that gender-based violence should be regarded as structural violence embedded in the power system constructed by society rather than as isolated individual behaviour based on individual decision-making. Through the analysis of the crisis of Missing and Murdered Indigenous Women in North America, this paper explains the close relationship between violence and state power when Indigenous women face legal restrictions and institutional failures under the colonial state structure. Systems that were supposed to provide protection for women have instead intensified the exclusion and oppression of marginalised groups. Meanwhile, the case of Hong Kong SAR shows that structural violence does not necessarily rely on obvious authority failure, as in the case of North America. It can also operate through everyday social relations, especially within family structures and cultural norms based on patriarchy, which makes victims remain silent when facing violence. This silence is the reproduction of violence in a more covert yet persistent way. These studies indicate that gender-based violence is not confined to a single institutional domain but can operate jointly at multiple levels, such as the state and society. Whether through colonial governance

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and institutional failure, or through cultural norms and family power relations, the gendered harms produced by different forms of structural violence are similar. Therefore, when dealing with gender-based violence, a specific analysis needs to be conducted based on the region where the case is located. Only after analysing the multiple dimensions of structural violence can a more effective and fair response mechanism be constructed.

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