



Exploring the Legitimacy of Criminal Regulation of Suicide Caused by Online Violence

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Abstract. In the information age, the Internet is increasingly connected with people's daily life and has become an indispensable part of people's social life. However, online violence is increasingly widespread and suicide incidents caused by Internet violence also occur frequently. Although the country has issued relevant judicial measures to regulate the phenomenon of online violence, there are some limitations. This paper mainly focuses on solving two major problems, which include whether to regulate the behaviour of suicide caused by online violence by criminal means and how to regulate the behaviour. The article is written by legal norm analysis method. The main body of the article is divided into three parts. Firstly, the historical background and academic research status of suicide behaviour caused by online violence are explained which clarifies the fresh type criminal attribute of the behaviour, then demonstrates its legitimacy as a crime should be regulated by criminal means. Secondly, it qualifies online violence behaviour by comparing it with traditional violent criminal behaviour. Moreover, it discusses the necessity of regulating the suicide behaviour caused by online violence from the perspective of the modesty of criminal law. Finally, according to the existing regulatory thoughts in the academic circle and individual thinking, this paper proposes a criminal regulation path suggestion combined with China's national conditions and relevant foreign regulatory means.

Keywords: Online violence · Suicide caused by online violence · regulation path of criminal law

1 Introduction

With the advent of the Internet big data era, a free and open information society has been formed. As an important element in the organizational structure of the information age, the Internet not only brings “dividends” of the era, but also becomes a “high-quality” carrier of non-traditional illegal and criminal behaviours. Online violence is the “evil result” inadvertently bred during the development of the Internet. With the unpredictable development of the Internet, people's cognition, acceptance and tolerance of online violence are also changing. According to a survey, nearly one-third of Chinese claimed that they have experienced online violence and nearly one in five of Chinese assert have committed online violence until 2019 [1]. In recent years, the suicide deaths

caused by online violence also occurred frequently such as “The case of Deyang female doctor”, “The case of Cai Xiaoqing” and “The event of Liu Xuezhou “. Online violence suicide incident appears a trend of flood, the “keyboard warrior” hiding behind the virtual ID who tap very aggressive language wantonly implement attacks of the victim. These attacks seem invisible but will cause huge mental damage of violence to the victims, and even cause a series of suicide tragedy. Although having issued a series of laws and regulations in China attempts to regulate this phenomenon, as a result, no systematic normative system and process has been formed. In addition, due to the selective neglect of invisible violence which left over history, online violence cases are more likely to be categorized into the crime of picking quarrels, the crime of insult or the crime of libel to manage in the current judicial practice. The front charge is usually applied when the social order is violated, but the latter two charges are mainly applied in cases which involves infringement of civil rights. This kind of cases are usually punished according to the relevant content of *Law of the People’s Republic of China on Penalties for Administration of Public Security*, but the punishment intensity is slightly. Moreover, under the crime of insult, most cases related to online violence are self-prosecution cases. If the victim does not take the initiative to file a lawsuit to the public prosecution organ, the public prosecution institutions will not take the initiative to intervene. Although with the development of recent years, there have been some breakthroughs. Some online violence cases with huge social impact have been prosecuted by public prosecution organs, although the number of the cases are still very few.

These academic researches on the criminal law of online violence mostly focus on defining and summarizing the concept of online violence, its characteristics and types. Besides, some researches also focus on analysing the necessity and status quo of regulation as well as the existing regulatory dilemmas, and putting forward relevant suggestions on regulation paths.

Now, the academic circle’s legislative regulation suggestions on online violence are mainly based on the existing regulation dilemma of online violence and further refined regulation schemes rooted in the current criminal law. Most of the regulatory suggestions focus on refining the incriminating criteria, expanding the interpretation of existing relevant charges, intensifying punishment or issuing special charges and separate laws which includes the following categories. Firstly, it generally puts forward suggestions on clarifying and refining the incrimination criteria. In addition, Liu Lu proposed that the maximum penalty of "insult and defamation crime" should be appropriately raised based on the current provisions of criminal law and the current regulation status of online violence [2]. Miao Lingling, Wang Fei and Lu Xu put forward that the combination of Article 246 and Article 98 of *Criminal Law of the People’s Republic of China* could be expanded to increase the possibility of opening the channel of public prosecution for private prosecution charges [3]. The opinion about appropriately expanding the coverage of the existing crimes in the criminal law such as the crime of violating citizens’ personal information and the crime of fabricating and deliberately spreading false information is mentioned by Yu [4] and Haibo [5]. Besides, Xu Caiqi and Li Caiwei proposed in their respective articles that special charges could be added to serve as a warning [6], and separate laws could be issued if necessary [7].

The article firstly explains the historical background and academic research status of suicide behaviour caused by online violence. The article firstly explains the historical background and academic research status of suicide behaviour caused by online violence. Besides, it clarifies the fresh type criminal attribute of the behaviour and demonstrates the legitimacy that this behaviour is supposed to regulate by criminal means. Secondly, it qualifies online violence behaviour by comparing it with traditional violent criminal behaviour. Moreover, it discusses the necessity of regulating the suicide behaviour caused by online violence from the perspective of the modesty of criminal law. Finally, according to the existing regulatory thoughts in the academic circle and individual thinking, this paper proposes a criminal regulation path suggestion combined with China's national conditions and relevant foreign regulatory means.

2 Cause Analysis

2.1 Qualitative Analysis of Suicide Behaviour Caused by Online Violence

2.1.1 Qualitative of Online Violence Behaviour

According to compare this criminal behaviour with traditional violent crimes, this paper can figure out the reasons for the lack of a clear definition in the academic world, the lack of systematic regulation in judicial practice, and the qualitative questions of online violence.

The historical origin of criminal law affects the determination of online violence. The “burn” to “kill” or “rob” and other traditional violent crimes have already appeared in the human history and existed for a long time. The traditional “basic” charges already after research and discussion of many criminal law scholars for its regulatory mechanism also showed maturity, even in the face of a new era of the new situation, it also has strong adaptability. However, as the new suddenly risen type of crime in the era of big data, online violence is affected by the ever-changing developing Internet so that its development and change trend is also “hard to predict”. Meanwhile, the behaviour is still in an immature state of development.

To sum up, due to the uncertainty development and change of online violence, the research of its concept definition, behaviour content, subject composition and responsibility confirmations has not been exhausted. As a result, the exploration of its regulation path is bound to be limited.

The media and nature of online violence behaviour affect the determination of its nature. Academic scholars have the following definitions for violent crimes. The perpetrator intentionally infringes on the person, public and private property of others by means [8]. Between the lines, it shows the tangible and physical harm that traditional violent crimes eventually cause to people or things. As a “new type of crime”, the most obvious characteristic of online violence is that its infringement results are intangible. It has a characteristic that is the medium of virtual network because online violence behaviour carries out in the cyberspace. This means the person who carry out the online violence does not directly cause physical damage to the victim, but cause damage to victim's mind. The deterrence and oppression from this criminal behaviour harm the victim's spirit and mentality. When the situation is serious, it will cause the victim to self-harm and suicide.

From the front article content, we know that “soft violence” is different from “hard violence” in traditional violent crimes. Therefore, from the view of human body science, does online violence with invisible characteristic belong to violence? Verified by psychological practice, verbal and other offensive acts can cause the victim the same pain as physical violence [9]. A series of neurochemical changes will occur in the brain of the victim after receiving a series of verbal violence, which will cause physical harm to the body of the victim. To sum up, the pain of mental damage will indeed be transformed into physical harm.

The implementation of the online violence and transmission media is the Internet, the virtual properties make the nature of the online violence by violence belong to the intangible soft violence. However, this new type of violent crime which is different from traditional violent crime has the same result and essence with traditional violent crime. Therefore, they can both produce substantial violence to the victim’s physical damage. Moreover, the result of online violence is dissimilated into the direct mental pain or suicide, which endangers life and health. Therefore, online violence totally fit the constitutive element of intentional injury crime stipulated in Article 234 of *Criminal Law of the People’s Republic of China*. It has the risk characteristics of infringing interests and a perpetrating act which adopts the way of act or omission to show out [10].

2.1.2 The Causal Relationship Between Internet Violence and Death

What is suicide? Chinese scholars defined that “Suicide is an act of self-determination to end life based on freedom of will” [11]. Then the definition of suicide in most cases on the legal level is pretty hard to regulate this “suicide” behaviour. The reason is obvious. Suicide is actually the individual freedom reflection of the victims. Applying the theory to the problem discussed in this paper will produce a conclusion that the victim’s suicide is highly anomaly. This conclusion is totally enough to block the effects of online violence, as a result, it decomposes the causal relationship between the behaviour and the victim’s death. In addition, the “invisible” violent characteristics and “soft violence” nature of online violence discussed above can further help online violence escape from the result of the victim’s suicide and death, but is it really so? The question we should consider is whether the decision to commit suicide is really all under the influence of the individual’s free will. If the victim suicide aims to do not continue to exposed himself to something like online critical intangible “attack” or escape the individual spirit of oppression and destruction that it have caused. So, here comes the questions. For example, could this kind of suicide still be considered as totally decided by individua’s free will? Is it not influenced by the former behaviour which we called online violence?

The answer is negative. Xu Ying discussed in her article that there are medical studies showing that even if the subject of suicide is a mental patient with particularity, he will not make the behaviour choice of suicide at all when he is conscious and not sick. Some foreign scholars present that suicide is usually not only caused by the unilateral reasons of the perpetrator, other reasons besides the perpetrator themselves also play a very important role in his decision to commit suicide [12].

In conclusion, there is strong theoretical support to prove that the implementation of suicide is not entirely due to individual will. That is to say, the view that suicide is

taken as an abnormal intervention factor to block the causal relationship between online violence and the death of the viewpoint is not valid.

2.2 The Necessity of Regulating the Suicide Behaviour Caused by Online Violence

For the application of criminal law, Professor Chen Xingliang has proposed the following four conditions [13]. First of all, the behaviour should have a characteristic that causing serious social harm. It means if a certain behaviour does not high degree harm others in a degree such as rear-end collision, it only needs to resort to civil ways to solve the problem without imposing penalties on the owner of the rear-end collision. Secondly, using the criminal law can better protect the interests and more effectively prevent crimes. Furthermore, the criminal law has the ultimate applicability. As we all know, criminal law is the bottom line when no other law can reasonably and appropriately regulate the behaviour. In the end, the positive benefits outweigh the negative ones [14]. In other words, the “cost” needed to regulate a certain behaviour is less than the bad influence caused by letting the behaviour go, which means the positive benefit of criminal law regulation is greater than the negative benefit. The above four points are also the important characteristics of criminal law modest boundary requirements.

The criminal law has a restraining character. The criminal law has a restraining character. But, not all illegal acts should be included in the scope of punishment of the criminal law. The criminal law has functions of punishing illegal acts, protecting civil rights and maintaining social order. However, it supposed to become the final means which is used by the country and society [15]. In this part, the author will combine this character to analyse the necessity of regulating the suicide behaviour caused by online violence.

2.2.1 Serious Social Harm

Serious social harm is the basic feature of crime in China’s criminal law theory and the essential standard to distinguish crime from general illegal behaviour. It is the basis of criminal illegality with punishment [16]. An act can be defined as a crime by criminal law only when the severity of its social harm exceeds the scope of pre-legal regulation [17].

First of all, the suicide behaviour caused by online violence has resulted in the harmful result of the victim’s suicide. Combing the high-frequency occurrence of online violence and the generalization trend of the bad result of the suicide caused by this behaviour is enough to know the current situation of online violence. This “new type of crime” behaviour is encroaching the most fundamental part of human rights to a large extent and has a possibility of continuing to expand. The possibility of any social main body might suffer the suicide which caused by online violence is on the rise because of the outbreak in the degree of probability density increase which means to expand coverage.

Moreover, the suicide behaviour caused by online violence is alienated as a kind of generalized new “bullying means”. With the development of the Internet economy, the public acceptance of violence against the network is gradually becoming more tolerant.

Although they may not actively pursue the result of “cause suicide death”, choosing to kill the victim suicide results has a close relation about network atrocity as the new means of “bullying”. After all, the lack of oversight and regulation means that the citizens who do know that they are not responsible for the insults that are typed across a “net”. Once this “concept” is formed, widely acquiesced and implemented, it will have a very bad negative impact on the construction of social order and social values. The suicide behavior caused by online violence has serious social harm.

2.2.2 Better Effect of Legal Interest Protection and Crime Prevention

Except by means of punishment in criminal law regulation to harm behavior of interests, civil and administrative measures are effective means for handling disputes and damage behavior, its mainly include “compensation”. “Compensation” means that the injured party in fault direction makes compensation to make up for the latter by the former behavior of legal interests’ violation, to achieve the purpose of resolving disputes. However, for the core of this article discussing the online violence to suicidal behavior, apparently does not apply to the compensation mechanism. Due to the infringement of the legal interests of the behavior is people’s right to life, if only through compensation can offset “debt”, it can’t stop to generate a “with money to buy the life” concept. Then the right to life will be hard to get effective guarantee, and it means that money can violate the right to life of others will also come.

Are administrative penalties punitive enough to deter perpetrators of online violence behavior? Apart from the fine, the punishment measures for temporary blocking tortfeasors’ online accounts, warning or notice of criticism are relatively soft. However, although the punishment means of administrative detention are slightly tough, its implementation of the possibility is not big. The punishment of fine is not suitable as a regulatory means and no further discussion details will be given here because the same reason as the civil compensation method mentioned above. The idea that “the law does not punish numerous offenders” leads to many perpetrators of online violence and it is difficult to determine the subject of responsibility. In addition, if breaking away from the network space, the perpetrators of online violence behavior in reality are scattered. It is unrealistic to carry out administrative detention to all members and the law enforcement costs are very high. Therefore, the implementation of administrative detention is not very reasonable in this case.

Moreover, through observation, we can know that the administrative punishment means generally have the characteristics of “temporary”, which can only temporarily restrict the network atrocities, but cannot fundamentally inhibit the breeding of network atrocities. Similarly, the author believes that administrative punishment cannot regulate the invisible damage and fear to the victims that caused by online violence. However, if the society lets it develop arbitrarily, a huge risk of suicide will surely generate. Therefore, such behavior can only be completely denied through the prohibition of criminal law [18].

In addition, because the punishment has a coercive force to deprive the criminals’ rights and interests, it can make people fear. It means that it generates a function of prevent crime deterrence [19]. This function can great deterrent to prepare the implementation of online violence. Specifically speaking, it can make any preparation or implementation

behavior stop, and it effectively reduces the occurrence frequency and probability of the former behavior about the suicide caused by online violence. As a result, the occurrence of the victim on the level of mental harm and self-injury suicide phenomenon are reduced.

To sum up, criminal law can simultaneously achieve the protection of legal interests and crime prevention.

2.2.3 The Ultimate Applicability of the Criminal Law

According to the central idea that criminal law regulation is the bottom line mentioned above, it is urgent to use criminal law as the bottom line to regulate this new type of criminal behavior because of the seriousness and particularity of the violation of others' right to life caused by online violence. However, of course, it also can't completely biased, and it also need rely on the different online violence to suicidal behavior implementation degree, stage. Meanwhile, it has caused or carried out specific analysis on the severity of the consequences. After all, using criminal law to regulate the subject who only simply imagine implementing online violence in mind is too advanced and harsh. It does not meet the requirements of modesty of criminal law, and it is not conducive to the establishment of prestige of criminal law. Therefore, the application of criminal law regulation needs to be rigorous and case analysis is very important in the application of criminal law.

2.2.4 Positive Benefits Outweigh Negative Ones

Although thinking from the perspective of the right to life and the right to health, we can possess a conclusion that online violence appears to harm the victim's mental health and disturbs their social life at a light level. However, in another severe level, the victims are overwhelmed, and they choose to commit suicide and even disrupt the normal social order [5]. However, due to its growth and development relying on the Internet, the target of its infringement is also expanding with the wide application of the Internet. At present, especially for the formation and establishment of the correct "three views" of the group of minors, it has a particularly bad hindering influence.

The specific phenomenon of the target of infringement appears in China and America. Despite in the United States, where the concept of online violence does not exist, they have three concepts including Cyberbullying, Cyberstalking and Cyber-harassment. These concepts are like the concept "online violence" in China and their high occurrence group is also youth groups. With the development of network, the vicious results about teenagers' death by suicide due to online violence are continuous and increasingly produced. The United States is gradually pushed to adopt the cooperative mode of joint federal and state governance [20] to regulate relevant Internet illegal activities. After the case of online bullying "Megan", the federal and state make responses as follow. The states release the related regulations of regulating network bullying, modifying the state education law involved in the safety education environment building. At the same time, they proposed the *Megan Mayer Cyberbullying Prevention Act* in the House of Representatives which eventually failed to legislate as a pity.

With the high-speed development of the information era, the connection between teenagers and Internet has also been increasingly closed. As we all know, teenagers play

a vital role in a country's development. To sum up, only to create a "clean" network environment for youths, destroy the online violence negative effects on the youth ideological concept to establish, we can only reach the "advanced" regulation effect. In this way, we can reduce the incidence of cyberbullying and suicide in the future world of teenagers.

To sum up, it is urgent to regulate the behavior of suicide caused by online violence and the positive benefits achieved by regulating this behavior far exceed the negative benefits.

3 Exploring the Solution of Criminal Regulation for Suicide Behavior Caused by Online Violence

The author's thinking on the path of criminal regulation of suicide caused by online violence can be divided into "three steps" or "syllogism":

First of all, two sides are taken into account at the same time. One side is the theoretical system construction and another side is the judicial practice regulation. In the construction of the theoretical system, we should determine the concept of online violence within the legal scope, carry out the detailed classification of online violence and emphatically analyse the criminal constitution. Otherwise, we can referenced some foreign basic principles of Internet legislation in this process to construct a domestic regulatory theoretical system based on China's national conditions and specific regulatory needs. This system will provide a solid theoretical foundation for effective regulation in the later period. The principles that mentioned above contain the principle of free access, delivering content classification principles, the principle of protecting citizens' personal data and the principle of protecting minors that come from German [21]. The UK's "3R principle" consists of Rate, Report and Responsibility [22]. Then in the judicial practice regulation, we can refer to the existing law regulations according to the individual cases' situation to regulate the related behaviours. For example, we can refer to the relevant provisions of suicide participation in the *British Suicide Act 1961* to regulate the perpetrators of online violence. According to the different situations of individual cases, relevant behaviours can be regulated by referring to the *Criminal Law of The People's Republic of China* regulations of intentional injury crime, negligent death crime and intentional injury causing death in China.

In this process, it is necessary to consider the subjective malice of the individual perpetrator, the implementation and results of the criminal behaviour, as well as the causal relationships between online violence and the result.

Secondly, relevant agencies can issue judicial explanations according to the development trend of suicide caused by online violence in judicial practice. These judicial explanations can supply the specific regulatory means of separate criminalization for the previous stage. This practice is aimed to enhance the flexibility of regulation on this behaviour, expand the coverage of regulation and crack down on relevant criminal behaviours with precision. When the time is appropriate, a corresponding separate single line criminal law can be introduced to specifically regulate network crimes including network violence [6] and build a more systematic regulatory system.

Finally, in the third step, after a period of time for observing and analysing this new crime, we can master its common characteristics. Then the relevant agencies can specially set up a charge for suicide caused by online violence in the criminal law, which will further provide a reliable basis for regulating this illegal act. According to reading the literature about setting a separately charge of suicide caused by online violence, we can find that setting a separately charge in the criminal law needs the following premise. A crime has been large-scale, large proportion, normalization and causes huge influence which blocks the normal operation of the society and even disrupts the positive development of the society. At the same time, relevant departments have already issued a series of prevention and control measures. However, it has not effectively curb this kind of crime [23]. Therefore, on the premise that the regulation of harmful behaviours has failed, in order to achieve the purpose of accurate “strike” on them and eliminate negative social impact, the relevant criminal behaviours will be regulated by setting up special charges separately in most cases. Then, considering the current situation of suicide caused by online violence in China, we can know that it has not met the three components of the “major premise” mentioned above to a certain extent. However, the author thinks that at this stage, we can judge that if the regulation path is not set in advance, it will be difficult to suppress the possibility of the overflowing harm of the suicide behaviour caused by network violence in the future. It means that the suicide behaviour caused by online violence does have the urgency and necessity to be regulated and restrained, but the process of single charge setting should not be too hasty which should be worked out slowly.

Besides, the author thinks that now we can also relate to take the following measures to auxiliary regulate suicide behaviour caused by online violence. Firstly, we can restrain and supervise the media, presenting clearly requests of the media’s releasing information content. The aim of clearing the scope of the media’s publishing information and content is preventing malicious people from using public influence to manipulate public opinion drive the development of the online violence. Secondly, relevant agencies can strengthen the management and supervision of “neutral” online platforms to protect citizens’ personal information and privacy from the data side. Setting this measure is aiming to prevent platforms from selling platform users’ personal information to the malicious people and becoming helpers of online violence. Thirdly, relevant agencies can strengthen the publicity and education of the law. This measure’s setting aim is to improve the quality of the public and the ability to distinguish right from wrong. In addition, it aims to prevent the generation of blindly following trend of online violence from the root.

4 Conclusion

The paper aiming to explore whether criminal law should be imposed on the suicide behaviour caused by online violence, which has an increasing frequency. Firstly, it qualifies the online violence behaviour from the perspective of historical origin, behaviour media and the nature of violence. Secondly, according to the qualification of the causal relationship between the Internet violence and the victim’s death result to analyse the suicide behaviour caused by online violence. Then the author demonstrates the necessity

of regulating the behaviour from the perspective of the modesty of criminal law. Finally, combined with China's national conditions, academic discussion on regulation of online violence and foreign regulation paths, the author puts forward a suggestion of the regulation method. It's "syllogism". Meanwhile, the author briefly puts forward corresponding regulation suggestions for the neutral subjects who may become accomplice in online violence suicide behaviour. However, this paper does not carry out a detailed analysis of the various subjects of suicide caused by online violence in China. It is hoped that the author's suggestions can provide ideas for China to effectively regulate the new criminal that online violence causes people to commit suicide behaviour.

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