

# Qualitative Study of PUA Behavior in Suicide Cases in Criminal Law

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**Abstract:** In recent years, the victims of PUA(Pick Up Artisit) mental control commit suicide frequently enter the public eye, but the criminal law of our country has not regulated this kind of PUA behavior. The prevailing theories in China generally agree that the act of participating in suicide needs to be convicted, but the principle of legality of crime and punishment cannot be directly applied to regulate. On the one hand, most scholars advocate the "complicity theory", which holds that the behavior of participating in suicide is subordinate to suicide and constitutes complicity. On the other hand, because suicide is not a criminal act, they put forward the theory of "least subordination". This view that the primary sex act is legal and the secondary act is illegal is not logically reasonable. It is suggested that on the grounds of causality between the participating act and the result of death, we should abandon the view that the crime of intentional homicide is an accomplice, and turn to the crime of intentional injury. At the same time, referring to the foreign "objective attribution theory", it is appropriate to expand the connotation of intentional injury crime, affirming that mental injury behavior belongs to the objective aspect of intentional injury crime, and identifying it as one of the actual harm results of intentional injury crime.

**Key words:** PUA, Participation in Suicide, Causality, Mental Injury

PUA (Pick-up Artist) comes from the "speed seduction" pioneered by American Ross Jeffries<sup>1</sup> based on neurolinguistics, which is used to fascinate women in the shortest possible time. Later developed by psychologists Richard Bandler and John Grinder, the theory was "stylized" to solve problems in areas such as communication,

personality image building, and applied psychology.<sup>2</sup>In modern times, with the combination of PUA and the Internet, the originally simple emotional pick-up technique has been transformed into a notorious method of mind control, and has given rise to a series of vicious cases such as the Baoli case of Peking University, which was tried by the Haidian District People's Court of Beijing in 2019. China's current legislation has no clear provisions on this kind of behavior, and the academic community has no unified view on this kind of behavior of abetting suicide. Most scholars advocate taking the theory of illegal suicide as an analysis model to judge this behavior as an indirect principal of intentional homicide or abetting murder.<sup>3</sup>However, the premise of this analysis is that the illegality of suicide contradicts the prevailing practice of the current judicial practice in our country, and there is no provision for the illegality of suicide in the Criminal Law. "The act of giving up the right to life should not be regarded as a crime without explicit regulation by law. Therefore, the view that the first sexual act is legal and the participation act is illegal seems to lack legislative support. But from another point of view, although the victim committed suicide, the suicide was not completely voluntary, but was carried out under the guidance of others' participation, which has certain social harm. If there is no regulation, this kind of behavior that tramples on the right to life will be allowed to appear. On this basis, the method of legal hermeneutics should be fully applied to characterize the participating behavior in order to solve the loophole in the law.

## 1. The Manifestation and Nature of PUA Behavior in Suicide Cases

This paper argues that PUA behavior in suicide cases should be identified as "participating in suicide behavior". Participating in suicide behavior, also known as suicide-related behavior, refers to the behavior of promoting

the victim's suicide process and accelerating the victim's renunciation of life from psychological aspects. <sup>4</sup>Participation in suicide behavior is based on the premise and basis of suicide, from the subjective point of view, suicide is "voluntarily" to give up life, but from another point of view, the result of their pursuit of death is not completely dominated by their own will, they have lost the ability to express meaning and the rational ability of self-judgment to a certain extent. From the objective point of view, it is the victim himself who carries out the act of "killing", giving up the right to life by his own behavior, deciding and controlling the direction of life. Theoretically, suicide participation can be divided into three categories: abetting suicide, assisting suicide and cheating suicide.

First of all, instigation of suicide refers to the perpetrator through inducing, provoking, encouraging and other ways, instigate the person who has no suicide intention to have suicide intention, and then commit suicide behavior to give up life. Only when the death result actually occurs can instigation of suicide be established. <sup>5</sup>The perpetrator of suicide cases often depreciates the social value of the other party through PUA, weakens the victim's self-identity, and further uses emotional control to form an emotional attachment relationship with the other party and aggravate the inferiority complex of the other party, and loses personal rationality. When the victim's freedom of expression is deprived, the perpetrator of suicide case instigated the victim to commit suicide can constitute the indirect principal of intentional homicide, but the victim still has the freedom of will to decide, it needs to be analyzed in the case of considering whether suicide is legal.

Secondly, assisted suicide refers to the participation in suicide under the premise that others have suicidal intentions and decide to commit suicide. The perpetrator of suicide cases does not directly participate in the implementation of "killing" behavior, but provides material convenience and help for the victim to carry out suicide behavior, such as providing tools and places. <sup>6</sup>After the victim has a suicide decision, the perpetrator of a suicide case may help the victim end his own life by helping to buy drugs or other physical tools, and may also stimulate and encourage the victim to give up life through social software to

provide spiritual support.

Finally, cheating and inducing suicide refers to making a pact to commit suicide in the name, so that the other party has a wrong understanding, mistakenly thinking that the perpetrator will commit suicide together with their own, and then give up life. In PUA cases, cases of deception and inducement are also common. In suicide cases, the perpetrator promises to commit suicide, offers rewards or makes the other party unable to realize that his or her behavior will lead to his or her death, so that the other party has a wrong perception and leads to the death of the victim.

Therefore, PUA behaviors in suicide cases meet the constituent elements of participating in suicide behaviors, but not all behaviors are controversial in their qualitative nature. If the victim completely loses the consciousness of autonomy in the suicide case, the perpetrator of the suicide case can be punished as the indirect principal, but when the victim does not completely lose the consciousness of autonomy, it is necessary to identify the responsibility in other ways. For the second situation, there is a gap in the criminal law regulation, which leads to the lack of punishment basis for this kind of behavior. The determination of punishment basis needs to be based on the characterization of suicide behavior. In this regard, under the premise that suicide is illegal, participation in suicide can be solved directly by the theory of joint crime; On the premise that suicide is legal, it is difficult to apply the theory of joint crime. The academic community has put forward the theory of least dependency to solve this kind of situation where "the first sex is legal and the second sex is illegal". However, this paper holds that this theory is not reasonable, and other solutions will be proposed in the following paragraphs.

## **2. The Logical Proof of PUA Behavior in Suicide Cases: Intentional Injury Crime Has the Possibility of Application**

More and more cases show that PUA mental control behavior contributes to the death of the victim, but due to the absence of criminal law and the difficulty in the interpretation of the application of intentional homicide, many perpetrators cannot be punished by law. The evaluation focus of the crime of intentional homicide is whether there is the result of the death of the victim, and the direct result of

PUA to the victim is mental injury, so the crime of intentional homicide can not make a reasonable evaluation. Before the victim chooses to give up his life, the perpetrator will destroy the victim's psychological defense through mental harm.<sup>7</sup> In order to punish this kind of behavior, it can be considered to criminalize psychological harm, as a form of punishment when the result of death cannot be attributed to the perpetrator, so that the crime is appropriate to the punishment.

### **2.1 Factual Basis: Mental Injury and Physical Injury are Equivalent**

In PUA mental control, some victims commit suicide, but more often the victims are not physically harmed, but are mentally disturbed by the threat of the perpetrator. However, this type of "harm degree" has not reached the level of criminal law regulation, so the behavior will go unpunished. In addition, in recent years, in the hot social cases, there are numerous cases of psychological coercion and mental abuse of victims by Internet violence, and many victims of campus bullying are bullied for a long time, which leads to emotional depression and eventually psychological distortion. Modern brain neuroscience research shows that the mental injury behavior and physical injury behavior, will cause the victim pain, long-term mental bullying will also lead to the victim's physical injury, in order to protect the legitimate rights and interests of the victim, mental injury should be interpreted as the objective aspect of intentional injury crime.<sup>8</sup>

Mental harm not only instructs others to suffer from organic mental disorders, but also includes reactive mental disorders, such as torts caused by the victim's psychological and emotional pain, insomnia, neurasthenia, depression and other non-physical injuries that make it unable to carry out normal daily life actions. The scope of the establishment of intentional injury crime in our country is small, only organic mental disorders are identified as injury, and reactive mental disorders are not identified as injury.<sup>9</sup> (The following mental injury refers to reactive mental disorders.) However, psychological injury will affect physical health to a certain extent, and will eventually be manifested as damage to physical functions. In recent years, there are more and more cases of spiritual infringement of victims in judicial practice in our country. It is urgent to

reform the protection of citizens' spiritual rights as the object of intentional injury crime.

The impact of mental injury on human health may not be less than the impact of physical injury on human health. Mental injury is very harmful to human brain, which is an important organ controlling human activities. From this point of view, mental injury is more serious than physical injury. In PUA mental control, the victim often suffers mental damage, which can not be directly reflected in physical health, so the judge can not convict the perpetrator according to the crime of intentional injury. The lack of objective provisions leads to the failure to protect the rights and interests of victims, which will lead to the dissatisfaction of the public. Only by deterring the behavior that harms society can we achieve the purpose of preventing crimes and maintaining social stability.

### **2.2 Specific Idea: To Mental Injury as the Core to Identify the Pua Behavior in Suicide Cases**

All walks of life generally recognize the seriousness of the behavior of mental control causing casualties in the intimate relationship of PUA, but the criminal law has not issued special management provisions, and it is generally believed that the behavior causing death is punished as the indirect principal or abettor helping the criminal of intentional homicide. However, when the mental control does not reach the full control of the victim's will, that is, it cannot be punished as the indirect principal offender, because of the premise of the legality of suicide, it cannot be identified as the accessory punishment, there will be a situation of missing evaluation. In addition, suicide is generally recognized as an abnormal intervention factor in criminal law, which may be judged as the causal relationship between the former behavior and the result of death. In addition, in the "Peking Baoli Case", the perpetrator was finally prosecuted for the crime of abuse, but it was difficult to define the subject of the intimate relationship of PUA as a "family member". In this case, the perpetrator of PUA should be convicted independently, and the victim's mental injury should be evaluated as the actual harm result, so that the crime and punishment can be equal, and it is also conducive to the determination of judicial practice.

There are two main reasons why China has not recognized the mental injury as intentional injury. First, there are doubts about whether the mental injury can be accurately identified in medicine; Second, it is too difficult to identify the causal relationship between mental injury and harmful behavior. In response to the first problem, in the last century, some Chinese scholars put forward the methods of diagnosis and quantitative identification of mental injury results, as well as the identification criteria of severe and minor mental injury.<sup>10</sup>In foreign countries, "medical science can satisfactorily confirm the existence of mental injury, its severity and its consequences".<sup>11</sup>Therefore, forensic psychiatric evaluation has been able to identify mental injuries such as organic mental disorders and reactive mental disorders. In view of the second question, to judge the causality of mental injury, we can rely on the objective imputation theory, and start from the two aspects of risk manufacturing and risk realization. In terms of risk manufacturing, the use of common sense of life to judge whether the mental control behavior increases the risk of mental harm to the victim, and judge whether the behavior also needs to be prohibited from the perspective of legal norms. In terms of risk realization, first of all, it is to use common sense of life to judge whether the mental control behavior will cause mental harm to the victim, and then limit it from the standpoint of criminal law protection norms, and determine whether the risk is really realized from the perspective of norms. At the same time, referring to the expert opinions of professional judicial psychiatric experts, the causal relationship of mental injury behavior is identified, which provides a more reliable basis for convicting and sentencing the perpetrator.

PUA mental control has caused harm to the physical health of many victims. PUA perpetrators use psychological techniques to manipulate their victims' emotions, leading to mental health problems such as anxiety and depression, which over time can be harmful to the human brain. However, due to the lack of relevant provisions on mental injury in the criminal law, the rights and interests of the victims cannot be protected. If the citizens' mental rights are included in the protection law, this kind of behavior will be effectively regulated. However, it is necessary to adopt strict standards for the definition of the degree

of "mental injury", so as to avoid the situation of suppressing the freedom of others in the name of "righteous indignation", which leads to the excessive scope of the criminal law. For example, the psychological state of the victim is assessed through medical standards, and the causal relationship between the mental injury and the defendant's behavior is comprehensively considered, so as to obtain an objective and reasonable explanation and make a fair and just judgment.

The independent crime of PUA perpetrator is of great significance in theory and society. From the academic point of view, the right to life is the most fundamental personal right of citizens, without which other rights are impossible to talk about. Therefore, in order to protect citizens' right to life, it is necessary to recognize the "positive view of criminal law legislation", expand the objective aspect of intentional injury crime, and regulate the act of mental injury. The victim's suicidal behavior is not entirely caused by himself, but is closely related to the perpetrator's mental control behavior. From the perspective of the society, if this kind of behavior is not regulated in time, more tragedies will be allowed to occur, and PUA behavior will pose a threat to the personal rights and interests of citizens under various disguises. For example, the "Blue whale death game", which appeared a few years ago, is also a typical example of using mind control to control others' suicide. Blue Whale is a suicide death game originating in Russia, where players are encouraged to kill themselves brutally in a short period of time, and are "supervised" to complete the task by brainwashing and threatening loved ones.

<sup>12</sup>According to the provisions of China's criminal law, the game organizer who commits a crime through the Internet may be convicted of illegal use of computer information networks, and the behavior of coercing teenagers to commit suicide may be convicted of intentional homicide as an indirect principal, but these charges cannot accurately evaluate this crime of mind control. In addition, if there is no damage resulting in death, the legislation will have less force to crack down on it, and it will be punished at most as an administrative case. In order to effectively regulate the crimes of mind control, new legislation or judicial interpretation should be considered to expand the scope of mind control crimes. Therefore,

the independent conviction of PUA perpetrators is reasonable and can be in line with international regulations. At the same time, China's laws and regulations on the criminalization of mind control should be perfected to protect the legitimate rights and interests of victims and adapt to the changes of social reality.

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