

Research on the Criminal Law of Suicide by Meeting

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ABSTRACT

In recent years, suicide by appointment has emerged in an endless stream, which has become a serious social problem. It is necessary to regulate all kinds of behaviors in suicide by appointment in criminal law. By classifying and analyzing suicide by appointment, the author probes into its punishability, and points out the profound necessity of special legislation on abetting and helping suicide, and puts forward some suggestions on criminal conviction for the current online suicide social groups, so as to improve the legal system and better protect the right to life.

KEYWORDS

Suicide by Meeting; Aiding and Helping Suicide; Crime of Intentional Homicide; Punishability.

1. INTRODUCTION

With the development of social economy and the acceleration of the pace of life, people are now facing more and more social pressure, and they will always encounter all kinds of disappointments in their lives, and the minds of a new generation of teenagers are often very fragile; When people feel desperate and helpless after setbacks, the idea of giving up their lives through suicide gradually arises. In addition, with the development of Internet technology, it is more convenient for people to communicate with each other. The Internet provides a new space and channel for people who want to commit suicide. When people who want to commit suicide meet on the Internet, they will understand and support each other, strengthen their suicidal thoughts, form suicide groups, and agree to commit suicide together, which is what we call "suicide by meeting". In judicial practice, most cases of suicide by meeting come from suicide by meeting online or family.

In recent years, there have been frequent cases of suicide by appointment, and the judgments of the cases are quite controversial. There are great disputes about the legal definition and punishment of suicide by appointment in academic theory and judicial practice. The focus is on how to define suicide by appointment in criminal law and whether the perpetrator who fails to commit suicide should be investigated for criminal responsibility. At present, China has not independently charged suicide by appointment. By searching the online judgment documents in China, it is found that in China's judicial practice, there are mainly the following provisions: (1) one party dies, the other party fails to commit suicide, and the unsuccessful party does not constitute a crime; (2) Liu Xiaolong's intentional homicide case, an instigator of the crime of intentional homicide, was established in the name of committing suicide by meeting others; (3) After one party commits suicide, the other party repents and refuses to commit suicide, and the suicide party is not rescued and allowed to die. It is generally recognized that the crime of intentional homicide-Guo Panliang's intentional homicide; (4) Committing suicide by mutual agreement, where one party is entrusted to kill the other party first, and then the suicide fails, it should be punished as intentional homicide-Chen Weilin's intentional homicide case and Peng Fada's intentional homicide case. Among them, the instigation and assistance in suicide by agreement is the most controversial, and the academic circles have the following

opinions on this situation: (1) It is determined that it constitutes the crime of intentional homicide, and suicide is objectively illegal, but the suicide person is not required to bear criminal responsibility, and the accomplice's subordination refers to the subordination of behavior, so the accomplice is guilty; (2) It's not guilty to commit suicide by teaching and helping, the principal offender is not guilty, and the accomplice is not guilty according to the accomplice's subordination; (3) Instigating and assisting suicide by meeting does not meet the constitutive requirements of the crime of intentional homicide, so it is of profound necessity to legislate on it. In view of these different opinions, the author classifies and defines the nature and manifestations of suicide by meeting, and analyzes the punishability of different types of suicide by meeting.

2. THE DEFINITION OF THE LEGAL CONCEPT OF SUICIDE BY AGREEMENT

2.1. The Definition of Suicide

First of all, the perpetrator of suicide must be himself, so even if he is instructed by others to kill himself, it does not constitute suicide. In addition, the subject of suicide behavior needs to have certain cognitive ability. According to the provisions of the criminal law on the age of criminal responsibility, people over 12 years old can bear criminal responsibility for intentional homicide, so only those who are over 12 years old and have basic cognitive ability can commit suicide. When a person under the age of 12, or suffering from mental illness and without corresponding cognitive ability commits suicide, his guardian has the obligation to stop it, otherwise it will constitute intentional homicide by omission.

Secondly, subjectively, it is necessary to commit suicide voluntarily, and the suicidal person must clearly understand the consequences of suicide and actively pursue this result. If others or some organizations induce natural persons to commit suicide by brainwashing, it can't be considered as suicide, because the bewitched people lose their basic judgment ability and seem to be voluntary, but the death result is not what they really pursue. Objectively, it must be the suicide's own behavior that directly leads to the death result [], and the suicide needs to master the process of suicide behavior and decide how to die, and directly control his own life. If someone else commits suicide, he loses full control of his right to life. This situation does not belong to the category of suicide, and can be regarded as intentional homicide. The victim's promise cannot be the illegal obstacle to intentional homicide.

Finally, the author thinks that suicide is a kind of freedom for natural persons to dispose of their right to life, which does not endanger public safety and the lives of others, and does not meet the constitutive requirements of intentional homicide, so it should be treated as innocent. Moreover, in judicial practice, it is impossible to investigate the responsibility of the person who committed suicide. In the case of attempted suicide, according to common sense, the perpetrator is also a victim, which is also not punishable and cannot be treated as a crime.

2.2. Defining the Concept of Suicide by Meeting

Suicide by meeting refers to the behavior of two or more people agreeing to voluntarily end their lives together. From the subjective point of view, the important feature of suicide by meeting lies in the complexity of its subjects, and there should be an agreement between the subjects to end their lives together out of true will. First of all, we should take the actor's effective commitment as the basis for judging his true will. Only when the actor has full understanding and judgment ability on the possible death results can he think that the actor chooses to die independently, that is, the intention of committing suicide by meeting is true, and an effective suicide agreement has been formed.

Secondly, judging from the content of suicide agreement, this agreement can not only agree to end life together, but also agree on the time, place and way to end life together.

On the objective level, suicide by meeting requires the victim to commit suicide independently before his life. It is required that until the last moment of life, the victim of suicide by meeting still has the ability to dominate and control his own life and death. In some suicide cases, although the participants agreed to "commit suicide together", they actually entrusted others to kill themselves before ending their lives. The essence of such cases is "homicide" rather than suicide. In addition, in judicial practice, there are cases where some suicide actors want to withdraw from the suicide agreement, but they are forced and deceived by other actors and finally commit suicide. This situation should not be regarded as a case of suicide by agreement, because the "suicide" actor has lost the ability to control his own life, which should constitute homicide and establish an indirect principal offender of intentional homicide.

3. THE MAIN MANIFESTATIONS OF SUICIDE BY AGREEMENT AND THE ANALYSIS OF ITS PUNISHMENT

3.1. Simple Meeting to Commit Suicide Together

This situation means that the formation of the suicide consciousness of the meeting people is based on their own independent ideas, completely voluntary, without being induced and instigated by others, and the implementation of suicide behavior is also done by themselves. Simply meeting together to commit suicide is only the time, place or way agreed between the parties, which does not have a substantial impact on the occurrence of suicide, but may only have a minimal psychological encouragement. Even if there is no one to accompany him to commit suicide, the perpetrator is likely to commit suicide.

The suicide resolutions in this simple meeting suicide behavior are all formed by themselves, and the suicide behaviors are also carried out independently. There is only a connection between the people who meet, but there is no connection between them. It is no different from suicide, and there is no substantive difference between them and the individual's suicide behavior. Objectively, there is no causal relationship between them and the death results of the people who meet. Therefore, if people commit suicide by meeting each other, there is naturally no criminal responsibility problem. If someone dies and someone tries to commit suicide, whether it is because of factors other than will, the survivors do not constitute a crime.

3.2. Deception Or Forced Suicide by Meeting

Deceptive suicide by meeting means that the actor himself has no real intention to commit suicide, but pretends to commit suicide with others, which makes the other party decide to commit suicide and commit suicide; Forced suicide by meeting is to force others to join the suicide agreement, or to threaten others to commit suicide with themselves in some way. In these two cases, the deceived or forced person did not end his life out of his true will, which is not suicidal. Subjectively, the perpetrator has the intention to actively pursue the victim's death result, and objectively, the victim's death result has a causal relationship with his deception or coercion, which conforms to the constitutive requirements of the crime of intentional homicide, and belongs to intentional homicide (indirect principal offender) and simple intentional homicide respectively.

3.3. Teach Wordiness and Help to Commit Suicide by Meeting Each Other

Abetting suicide by meeting refers to that the actor instigates, seduces, stimulates or provokes people who have not made or wavered in their original suicide resolutions to breed suicide resolutions, and encourages them to commit suicide together with themselves, eventually causing the other party to

commit suicide. According to the theory of joint crime in criminal law, the actor should subjectively realize the nature and consequences of his instigation, and deliberately pursue or let this result happen, so as to objectively make the victim make a suicide decision and commit suicide. There is a causal relationship between the victim's death result and his instigation. The abetting suicide can be divided into two categories: first, abetting minors, mental patients and other incapacitated or restricted persons, who can't really understand the meaning of suicide and have no ability to distinguish, and the perpetrator essentially controls the other party's behavior, so the indirect principal offender of intentional homicide should be established; Second, instigating a person with full capacity to commit suicide with normal mental intelligence and true will. In this case, the instigated person has basic judgment and thinking ability, but the instigator's instigation has provided great psychological help to the victim's death, which has a causal relationship with suicide success, violates social morality, undermines the rule of law and order, and has serious social harm, so the author thinks it is punishable.

Helping to commit suicide by meeting means that one party provides material help to the other party in the process of suicide, such as providing tools and conditions, providing practical convenience for others to commit suicide, and the actor needs to know subjectively that it will promote the infringement of the legal interests of others' lives, and the knowledge here can be inferred. Here, the author thinks that it does not include providing spiritual help. First of all, any suicide meeting itself will have a certain spiritual support and encouragement function, which is not directly causal with the suicide result. Secondly, if the spiritual help function is large, it can be directly attributed to instigating others to commit suicide. Finally, the degree of spiritual help is extremely difficult to obtain evidence. On the whole, helping to commit suicide by meeting is equivalent to throwing the last straw at a camel with a heavy burden, which increases the possibility of successful suicide and indirectly leads to the death result. If this kind of helping behavior is regulated by criminal law, the success rate of many suicides will be reduced and the number of suicides will be reduced. Therefore, the author believes that helping others commit suicide is also punishable.

At present, the mainstream view in Chinese academic circles is that the crime of intentional homicide is established, but this is based on the fact that suicide is proper and illegal, but it is impossible to condemn the suicide. According to the theory of accomplice subordination, the abettor and helper are guilty. However, according to the above discussion, it is concluded that suicide is not illegal and punishable, and it does not constitute intentional homicide. The premise of abetting and helping to establish a crime is that the principal offender constitutes a crime, and the suicide person is not guilty. Therefore, abetting and helping others to commit suicide cannot be established as intentional homicide. If it is used as an abettor and helper of intentional homicide, it is beneficial to substantive justice, but it violates the principle of a legally prescribed punishment for a specified crime.

Instigating and helping others to commit suicide makes the suicide behavior not completely under the control of the real will of the suicide, and promotes the death of others. According to China's national conditions, suicide in most cases is actually an irrational act committed by suicide under impulsive circumstances. Persuading suicides not to commit suicide is more in line with public order and good customs and the protection of legal interests of life. The abetting and helping behavior will strengthen the suicidal intention, facilitate the successful realization of suicide, and have a great cause for the death result. This kind of behavior is evil and anti-human, with serious social harm and great adverse effects. Because it does not meet the constitutive requirements of the crime of intentional homicide, it is necessary to set up a separate crime of "instigating and helping others to commit suicide". Among them, one party who instigated and helped others to commit suicide in the meeting failed to commit suicide because of reasons other than his will. In view of his strong suicidal thoughts and lack of clear understanding at that time, he can be convicted of "instigating and helping others to commit suicide" and be given a lighter punishment. Controlling through the setting of this crime will help to reduce abetting or helping suicide and reduce the success rate of suicide.

3.4. Entrusted and Committed Suicide

This kind of behavior refers to that after committing suicide together, the perpetrator kills the other party first based on the other party's entrustment or commitment, and then commits suicide. In this case, the person who fails to act is entrusted to kill based on the victim's commitment. Subjectively, the actor realized that his behavior would directly lead to the death of the other party, but still objectively carried out the act of depriving others of their lives. China's Constitution and laws clearly respect and guarantee human rights, and the right to life, as the most basic human right, shows its supremacy. No rights and freedoms can be unlimited. In the contemporary society that values the value of individual rights, it is still necessary to adhere to a negative and extremely exceptional "paternalism" restriction on the protection of life, that is, from the perspective of criminal law, the victim's commitment cannot be the illegal obstacle to homicide []. There are restrictions on the victim's promise in criminal law: only minor injury is allowed, and serious injury and death are not allowed. In judicial practice, there are also many cases of substantive intentional homicide under the guise of such suicide. Therefore, in my opinion, the disclaimer of suicide should be invalid in criminal law. Although the promisor is voluntary, the perpetrator directly deprived others of their lives and knew it, which fully meets the constitutive requirements of intentional homicide and should be considered as intentional homicide.

4. ONLINE SUICIDE SOCIAL GROUPS

In recent years, with the rapid development of Internet technology, the number of cases of meeting with others to commit suicide by establishing online social groups is increasing. As early as 2016, after the "death group" caused a large-scale sensation, relevant departments stepped up supervision and cleaned up on the platform. However, these groups have not disappeared, but have become more and more hidden. The Internet is a relatively open and diverse form. At present, some netizens reveal suicidal tendencies, teach methods and commit suicide by meeting each other in QQ groups from time to time. People in these groups are not heinous bad people. They just have trouble in life but have nowhere to pour out. They can only seek help in the online world and fall into irrational impulsive thoughts for a while. However, this kind of group chat seems to be empathy, but in fact it is co-death. The group is full of negative energy, providing various methods for suicide, encouraging induced suicide or agreeing to commit suicide together, destroying their only hope and pushing them into the abyss. There are a large number of minors, mentally unsound people and frustrated netizens who are persecuted by them. While network operators strengthen management, they also need to be investigated for relevant responsibilities from the criminal law.

The author thinks that the group owners of this kind of suicide group, as organizers, take an active pursuit or laissez-faire attitude towards other people's suicidal behavior subjectively, which objectively facilitates the emergence of other people's suicidal thoughts and suicide by meeting, and has a certain causal relationship with the death result, which is illegal and responsible, and has great social harm and constitutes an indirect principal offender of intentional homicide. At the same time, if members of the group have evidence such as chat records that they instigate others to commit suicide or provide methods for others to commit suicide, they should be convicted of "instigating and helping others to commit suicide".

5. SUMMARY

There is no unified view on the determination of criminal responsibility for suicide by meeting, especially on the determination of the nature of abetting and helping suicide by meeting. The author discusses all kinds of suicide by meeting, and puts forward some suggestions on the regulation of criminal law for abetting and helping suicide. It is beneficial to avoid the unreasonable application of

the law caused by the lack of criminal law norms in judicial practice, and also to prevent criminals from using suicide by agreement to cover up the purpose of intentional homicide and exploit the loopholes in the law. Reasonable investigation of the responsibility of active instigators and helpers will reduce the occurrence of such cases to some extent. At the same time, the scope of abettor and helper should be strictly defined to avoid unreasonable analogy. I hope that the law can play an active role as a means to reduce the number of suicide cases and contribute to creating a healthy and harmonious social environment.

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