

Уголовно-правовое регулирование информационного насилия в сети Интернет

Wang Lian-Jie Criminal Law Regulation of Internet Violence

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Аннотация. Инциденты, вызванные интернет-насилием, серьезно загрязняют экологию Интернета. Интернет-насилие — это аномальный акт, который используется как средство для нарушения нормального функционирования Интернета и ущемления личных прав и интересов других лиц посредством оскорблений, клеветы, поиска «человеческой плоти» и других форм поведения. На уголовно-правовом уровне оскорбление и диффамация являются основными преступлениями, которые уголовное законодательство применяет к интернет-насилию. При применении уголовного законодательства для регулирования интернет-насилия возникает явление, когда «закон не наказывает общественность», а существующие преступления плохо регулируются или даже отсутствуют. Чтобы бороться с интернет-насилием на уровне уголовного права, мы должны четко определить границы участия уголовного права в социальном управлении, определить ответственных лиц и скорректировать сферу применения соответствующих преступлений.

Ключевые слова: интернет-оскорбления, интернет-диффамация, поиск «человеческой плоти»

Abstract. Vicious incidents caused by internet violence that seriously pollute the Internet ecology. Internet violence is an anomalous act that uses the Internet as a medium to endanger the normal order of the Internet and infringe on the personal rights and interests of others through insults, slander, human flesh searches and other behaviors. At the criminal law level, insult and defamation are the main crimes that criminal law applies to internet violence. When applying criminal law to regulate internet violence, there is a phenomenon that "the law does not punish the public" and existing crimes are poorly regulated or even absent. To deal with internet violence at the criminal law level, we should clearly define the boundaries of criminal law's involvement in social governance, clarify the responsible parties, and adjust the scope of application of relevant crimes.

Keywords: Internet insults; Internet defamation; Human flesh search

General Secretary Xi Jin-Ping pointed out at the symposium on network security and informatization that internet space is the spiritual home shared by hundreds of millions of people and must closely rely on Internet security and informatization construction. A clear internet space and a good ecology are in line with the interests of ordinary people. The smoky internet space and the

deteriorating ecology are incompatible with the interests and demands of the people.¹

In today's society, the Internet is closely connected with the daily lives of ordinary people. When an incident spreads like wildfire and is fermented wildly through the medium of the Internet, the protagonist in the incident will be brought to the forefront of public opinion. While suffering huge psychological

¹ Xi Jin-Ping. Speech at the Symposium on Cybersecurity and Informatization [N] // People's Daily. 2016. 2.

pressure, interpersonal relationships will also "socially die".² In July 2020, Lang made up a large number of false facts and sent them to a WeChat group. The information was forwarded in large numbers, which greatly troubled the woman's life and caused her to suffer from depression. disease.

The court announced in court that the defendants, Lang and Wang, were guilty of defamation and were sentenced to 1 year in prison and 2 years of probation respectively. "Internet violence" is not a concept in the normative sense of criminal law, but a compound term with extremely inconsistent connotations and denotations.³ The aggressiveness and tendencies of internet violence are different from general internet anomie and are more obvious. It mainly causes severe psychological pressure on disaster victims, and due to the particularity of internet space, it will spread on various platforms and leave traces of other people's verbal attacks, that is, "the Internet has memory." Its large scale, offensive language content, and harmful consequences are the essence of "violence" in online violence. Internet violence uses the virtual network environment to spread information that is difficult to distinguish between true and false. Everyone may be a victim of a certain incident. Therefore, it is urgent to punish online violence.

1. Legislative and judicial status of criminal law regulation of internet violence

In recent years, online violence incidents have occurred frequently in China. In 2022, because of posting several photos on social platforms, the girl suffered continuous harm from photo theft, rumor misinterpretation, and online violence. However, tracing back to the source, a large part of the reason for these malicious intentions was just that she dyed her hair pink. In April 2023, two women were suspected of being stopped by a man for cutting in line. They lost control of their emotions and were furious: "Why did you pull me in?" "I'm going to jump in line!" "We are not to be trifled with!" Because of his fierce words and exaggerated facial expressions, he was vilified by netizens into various emoticons, which were widely disseminated on various social platforms, causing great mental pain to the parties concerned.

In June 2023, an elementary school student was hit and killed in school. His guardian went to the school to take care of the funeral, but netizens commented on his dress and figure and ridiculed him, which ultimately caused the victim to suffer

great mental consequences. Tortured, he committed suicide by jumping off a building. Shocking incidents of online violence put everyone in danger, and they may become the next victim. What is worrying is that with the development of network technology, especially artificial intelligence technology, the above-mentioned online violence phenomena with serious consequences will become more and more serious. According to the latest data, as of June 2023, the number of Internet users in China reached 1.079 billion, an increase of 11.09 million from December 2022, and the Internet penetration rate reached 76.4 %. This means that if online violence is not curbed in the new era, it will become a serious hazard closely related to human life and an infringement that affects social order.

1.1. Current legislative status of internet violence

Relevant legislation regulating internet violence can be traced back to the "Decision on Maintaining Internet Security" issued by the Standing Committee of the National People's Congress in 2000, but it only stipulates that "in order to protect the personal, property and other legitimate rights of individuals, legal persons and other organizations, the following If any of the acts constitutes a crime, criminal liability shall be investigated in accordance with the relevant provisions of the Criminal Law." There is no mention of the compatibility of internet violence with specific crimes in criminal law. There is no mention of the compatibility of internet violence with specific crimes of criminal law. There is no mention of the compatibility of internet violence with criminal law.

The "Criminal Law Amendment (9)" adds a paragraph as the third paragraph to Article 246 of the Criminal Law: "The victim carries out the acts specified in the first paragraph through the information network, but when it is really difficult to prove it, Inform the People's Court that the People's Court may request the public security organs to assist in providing evidence." "In 2013, the two top governments issued the Interpretation on Several Issues Concerning the Application of Laws in the Handling of Criminal Cases Using Information Networks to Commit Defamation and Other Criminal Cases, stipulating that the use of the Internet to commit defamation, provocation, extortion, illegal business operations, etc. will be used to infringe upon citizens, legal persons or other organizations Acts involving legitimate rights and interests shall be convicted and punished separately based on the specific circumstances of the case.

On December 22, 2021, in response to irregularities such as malicious traffic diversion, traffic

² Thomas Lynch. The Undertaker's Diary: A Study of Life in a Grim Industry. Beijing : Foreign Language Teaching and Research Press, 2015. P. 139.

³ Liu Xian-Quan, Zhou Zi-Jian. The Dilemma of Criminal Regulation of Cyber Violence and Its Solutions // Legal Research. 2023 (5). P. 17.

fraud, and traffic hijacking, the Central Internet space Administration of China deployed a special operation to "clear and crack down on traffic fraud, black public relations, and internet trolls." However, these regulations have not effectively combated the phenomenon of online violence and curbed its rampant development. To this end, in September 2023, the "Two High Schools and One Ministry of Education" jointly launched the "Guiding Opinions on Punishing Internet Violence Crimes in accordance with the Law" (hereinafter referred to as the "Opin-

ions"). This normative document has 20 articles in total, covering the applicable rules of crimes, penalty limits, prosecution procedures, civil rights protection, litigation source management, etc., especially the public prosecution standards for online insults and defamation, private prosecution to public prosecution procedures, etc.⁴

Table 1 lists my country's current major laws, regulations, departmental regulations, judicial interpretations and other normative documents involving the criminal level of internet violence governance.

Table 1

Main legal norms regulating internet violence criminal law

Document Name	Publishing Department	Implementation Date	Main Relevant Terms
Criminal Law of the People's Republic of China	National People's Congress	Criminal Law Amendment 9, Criminal Law Amendment 11	Articles 246, 253-1, 299-1, 293
Decision on Maintaining Internet Security	Standing Committee of the National People's Congress	December 28, 2000	Articles 2, 4, 7
Regulations on the Management of Business Places for Internet Access Services	National assembly of the PRC	September 29, 2002	Article 14
Decision on Strengthening Network Information Protection	Standing Committee of the National People's Congress	December 28, 2012	Articles 9, 11
Interpretation on Several Issues Concerning the Application of Laws in the Handling of Criminal Cases Using Information Networks to Commit Defamation	Supreme People's Court, Supreme People's Procuratorate	September 10, 2013	Articles 1~6
Regulations on the Management of Online Audio and Video Information Services	National Internet Information Office, Ministry of Culture and Tourism, State Administration of Radio and Television	January 1, 2020	Articles 9, 18
Regulations on Ecological Governance of Network Information Content	State Internet Information Office	March 1, 2020	Articles 4, 6, 8-12, 21, 34-38
Personal Information Protection Act	Standing Committee of the National People's Congress	November 1, 2021	Article 71
Internet User Account Information Management Regulations	State Internet Information Office	August 1, 2022	Article 22
Guiding Opinions on Punishing Illegal Crimes of Internet Violence in accordance with the Law	Supreme People's Court, Supreme People's Procuratorate, Ministry of Public Security	September 20, 2023	Full text

1.2. Judicial status of internet violence

In recent years, online insult and defamation cases have increased significantly. Taking criminal defamation cases as an example, the People's Court accepted 618 cases in the first instance in 2022, an increase of 390.48 % from 2013 (126 cases); of which only 29 were public prosecutions, accounting

for only 4.69 %. In stark contrast to the year-on-year increase in the number of cases, there are fewer cases with guilty verdicts. Still taking criminal defamation cases in 2022 as an example, a total of 587 such cases were concluded that year. The general situation is as follows: 271 cases were not accepted, accounting for 46.17 %; 110 cases were dismissed,

⁴ Zhou Jia-Hai, Yu Hai-Song, Li Zhen-Hua. Understanding and Application of the Guiding Opinions on Punishing Cyber Violence Crimes According to Law // Chinese Journal of Applied Law. 2023 (5). P. 53.

accounting for 18.74 %; 97 cases were approved to be withdrawn, Accounting for 16.52 %; only 79 judgments were made, accounting for only 13.46 %, of which only 43 people were found guilty.⁵ By analyzing the data, it is easy to see that on the one hand, the number of cases involving internet violence at this stage has increased significantly compared with 10 years ago, but on the other hand, there are very few guilty verdicts. This reflects that my country currently lacks detailed guidance on the prosecution standards for criminal cases of online insult and slander, in addition to the practical difficulties faced by private prosecutors in identifying the perpetrators of online violence and collecting evidence.

Therefore, clarifying the application standards of criminal law for relevant crimes and providing legal support for exploring criminal law regulatory paths to deal with internet violence in the Internet era are the keys to punishing internet violence in accordance with the law.

The term "internet violence" was searched on the Chinese Judgment Documents Network, and 75 judicial decisions were searched. Among them, 15 are highly related to internet violence. The remaining 60 judgments only mention the term "internet violence" in general, and the specific manifestations of internet violence are unclear. Some of the judgments themselves mention "internet violence" and cases. The facts identified were not closely related to the focus of the dispute, and in some cases the litigation claims were ignored. The vast majority of these 75 judgment documents are civil disputes, including tort liability disputes, online tort liability disputes, reputation rights disputes, privacy rights disputes, partnership agreement disputes, legal liabilities, legal liabilities involved in the judgment content, Legal liability, etc., and further analysis of these 75 judgment documents, the following conclusions can be drawn:

First, in judicial practice, the concept itself of internet violence has different understandings, and no unified identification can be reached standard.

Second, in terms of criminal justice, there is a lack of typical cases for the identification of internet violence, and even the number of ordinary cases is relatively small. In practice, they are usually dealt with in civil cases or a very small number of administrative cases. It doesn't fit the reality of life where violence is common.

Third, in many judicial cases, online violence has become a means for the parties to satisfy their revengeful desires. Although it has not caused the harmful situation of "serious consequences" according to the current legislation, it has still caused a certain

degree of psychological damage to the victims. In most cases, victims will not be compensated for their psychological damage.

Fourth, in judicial practice, "internet violence" is not used as a specific term for rights infringement, and only focuses on whether internet violence has caused serious consequences, which leads to the dilemma of overly hasty characterization.

2. The Dilemma of Governing Internet Violence at the Criminal Law Level

The new type of soft violence in the information age that has been mentioned above is internet violence. Different from traditional hard and soft violence, internet violence is not simply "network" + "violence", but is manifested into behaviors based on Internet language such as internet violence and provocation internet violence. At this stage, in the governance of internet violence, there are dilemmas such as "the responsibility of the main actors is dispersed" and "traditional crimes cannot match internet violence".

2.1. The responsibilities of the main actors are dispersed

The prerequisite for further determining the specific liability borne by the actor based on his subjective criminal intent is that the causal relationship in criminal law serves as the objective basis for the actor's criminal liability for specific harmful results.⁶ Internet violence is not committed one on one, but is caused by one party, involves multiple parties, and ultimately causes harm to one party. The large number of subjects involved has also resulted in vague responsibilities, and it is impossible to quantify the responsibilities that each participant should bear.

At the same time, due to the large number of subjects involved, including the investigation of specific individuals and the collection and fixation of evidence, the cost of accountability is huge. In addition, at the criminal law level, the perpetrator needs to combine the specific case circumstances, use the facts as the basis, and the law as the criterion. Judicial staff will judge whether there is a causal relationship between the behavior and the harmful results, so as to hold the harmful results accountable.

However, the problem is that even if the actor confirms that there is a causal relationship, it is extremely difficult to judge the actor's subjective determination of criminal intent, whether he realizes that his behavior may have harmful consequences, and whether he pursues or allows the harmful consequences to occur. Therefore, even if the causal

⁵ Refer to Supreme People's Court, Supreme People's Procuratorate, Ministry of Public Security "Guiding Opinions on Punishing Cyber Violence Crimes According to Law" and Typical Case Press Conference // URL: <https://www.court.gov.cn/zixun/xiangqing/412952.html> [accessed: January 10 2024].

⁶ Gao Ming-Xuan, Ma Ke-Chang. Criminal Law. Beijing : Higher Education Press, Peking University Press, 2019. P. 73—77.

relationship can be determined on an objective level, it cannot be avoided that the responsibility results of each participant cannot be concreted due to vague responsibilities.

2.2. Traditional crimes cannot match internet violence

At the criminal law level, the regulation of online violence mainly focuses on three aspects: the crime of insult, the crime of defamation, and the crime of infringement of citizens' personal information. These three crimes are all regulations for online violence. Internet violence is still violent in nature, but unlike traditional violence, internet violence is not carried out in the form of "strike or coercion", but in a non-contact manner, such as contact, violence, and injury. attack. In the case where the traditional connotation of violent crime does not include internet violent crimes within the scope of coverage, the current related crimes not only lead to the dilemma that internet violence cannot be effectively regulated at the criminal law level, but also are difficult to match internet violent crimes.

2.1.1. The traditional crime of insult cannot effectively regulate "metaphorical" insults on the Internet

Article 246 of the "Criminal Law" stipulates: If someone openly insults others by means of violence or other means, and the circumstances are serious, it constitutes the crime of insult. According to the provisions of Article 246 of the "Criminal Law", he shall be punished by means of violence or other means. Those who use other means to insult others and the circumstances are serious shall be investigated for criminal responsibility in accordance with the law. Specifically, the behavior of the crime of insult includes "violence" or "other methods", among which "other methods" must reach a level comparable to "violence".

However, the "violence" referred to in the traditional crime of insult is the tangible force of direct threat to the victim in the form of violence or insult; "other methods" include verbal or verbal insults to others. The problem is that, first, the language used in online violence is different from the violent language used in reality and is usually "metaphorical". This is because on the Internet, new Internet terms are constantly emerging, using seemingly civilized vocabulary to express vulgar and obscene connotations, and they will continue to change as time goes by. A normal word used today may become an expression of vulgar content in the future as a certain event occurs. However, the insult to the victim exists objectively and is recognized by people within a certain range.

In addition, the crime of insult requires serious circumstances. In judicial practice, a large number of cases are not considered crimes because they do

not meet the seriousness of the circumstances. But in fact, attacking others, publishing and disseminating other people's privacy in internet space will not spread widely, but it will have a negative impact on the victim's social circle in real life, which is no less infringing on the victim's interests than violence. insult. Therefore, the traditional crime of insult is not suitable when faced with internet violence crimes.

2.1.2. Internet violence that "makes up some facts" cannot be effectively regulated

Article 246 of the Criminal Code provides: Defaming others with fabricated facts, if the circumstances are serious, constitutes the crime of defamation. Article 246 of the Criminal Law is now stipulated as: Libel. Fabricating and spreading online rumors is one of the ways to commit online violence. Requiring the perpetrator to fabricate false facts, spread them, and cause serious consequences is one of the elements of the crime of defamation in the current criminal law. The problem is that this criminalization standard is difficult to meet the current criminal reality of Internet internet violence. The reason is that in online violence, although there are completely fabricated and false facts to slander others, more often than not, the information obtained is wantonly exaggerated, added to the information, and taken out of context. Use a sensitive direction to make malicious guidance, triggering group criticism and attacks. Therefore, the crime of defamation stipulated in the current criminal law cannot effectively regulate the online violence that fabricates some facts.

2.1.3. Unable to effectively regulate the improper diffusion of other people's information

The "Opinions" of the "Two High Schools and One Division" pointed out that according to the provisions of Article 253-1 of the Criminal Law, illegal collection and release of citizens' personal information to an unspecified majority of people, if the circumstances are serious, should be treated as infringement of citizens' personal information. Information crime conviction and punishment for organizing "human flesh search" behavior. But the problem is that, firstly, the current criminal law does not regulate the improper diffusion of other people's information, but there are actually malicious exposures of other people's information on the Internet. As for the behavior that constitutes the crime of infringing on citizens' personal information, the "Opinions" can be broken down into "illegal collection + publication to an unspecified majority + citizens' personal information".

Although it is consistent with some current internet violence behavior patterns, it does not Not legally binding. Second, the "Opinions" also stipulates that anyone who uses public accounts of Internet users to push and disseminate information about illegal crimes related to online violence, which

complies with the provisions of Article 287-1 of the Criminal Law, shall be convicted and punished for the crime of illegal use of information networks, based on the following: , promotion, traffic and other purposes. This reasoning is interpreted as Article 287-1, Item 3, of the Criminal Code.

The original text of the law is: "Publishing information for the purpose of committing illegal and criminal activities such as fraud." According to the interpretation of the text, this provision is aimed at pushing and disseminating information about internet violence crimes, rather than pushing and disseminating such behavior. Behavior or criminal behavior of the same nature as fraud, if forced to adapt, it will easily lead to ambiguity. Therefore, combined with the Criminal Law and the "Opinions", it is still impossible to carry out precise crackdowns on human flesh searches and the spread of other people's information.

3. Approaches to criminal law regulation of internet violence

As mentioned earlier, the causes of online violence are relatively complex, and there is a lack of criminal law to regulate online violence to a certain extent. Therefore, in order to effectively control internet violence and build a harmonious, healthy and green online ecological environment, we need to correctly grasp the opportunity for criminal law to regulate internet violence, follow the basic principles of criminal law, and give relevant crimes and regulations on internet violence on the premise of fully protecting freedom of speech. new connotation.

3.1. Correctly grasp the timing of intervention of criminal law regulations

The Criminal Law should maintain its modest nature and intervene in regulations when other departments of law cannot perform well. Not all online violence can be called criminal behavior. In fact, it also contains a large number of illegal behaviors. Therefore, a careful distinction should be made between illegal and criminal conduct. This requires us to strictly abide by the principle of legality of crimes in criminal law. Further: First, correctly understand the objects of internet violence crimes. Combined with the "Opinions" mentioned above, it is clear that the purpose and task of criminal law to govern violent

crimes on the Internet is to safeguard citizens' personal rights and interests and normal network order.

Therefore, criminal law should be involved in behaviors that seriously damage citizens' personality rights. Second, based on the principles of system theory and the inherent connection between the general provisions and sub-provisions of the criminal law, the provisions involved in a certain crime should be determined based on all legal provisions involved in the facts of the crime.⁷ In situations where legislation does not explicitly include internet violence under criminal law, internet violence can be reasonably and lawfully included in the corresponding separate crimes without violating the spirit of the principle of legality of crime.

3.2. Determine the legal responsibilities of different entities based on role positioning

In online violence incidents, many subjects are currently involved. If the same degree of criminal law sanctions is imposed, it will violate the principle of responsibility and the principle of impunity for minor crimes.⁸ Therefore, it is necessary to clearly distinguish the different subjects involved in internet violence, correctly grasp the degree of dominance of different subjects in internet violence, and carry out precise regulation at the criminal law level. The subjects involved in internet violence can be specifically divided into: network service providers, influential network users and ordinary network users.

3.2.1. Proof of possibility of network service provider's liability

In the Internet era, network service providers play the role of gatekeepers in internet space. It plays a key role in the formation of the cumulative effect of internet violence and is also in the position of supervisory guarantor. Web service providers seal Web users in a cocoon of information and rely on their own technology to create algorithms to help form algorithmic biases.⁹ As the main body of information dissemination, network service providers have the obligation to monitor the occurrence of danger sources. In addition, Internet users rely on Internet platforms to receive and disseminate information, which makes it difficult for Internet service providers to stay out of the process of internet violence.

Although the network service provider has not participated in and implemented specific online violence activities and behaviors, if it fails to fulfill

⁷ Shi Jing-Hai. Criminal Law Questions on the Consensus of "Light Injury or Not" in Intentional Injury — From the Perspective of Complete Legal Application under the Relationship of General and Specific Provisions of Criminal Law // Modern Law Science. 2017 (3). P. 112.

⁸ Zhang Zhe-Rui. Criminal Law Responses to Cyber Violence-Type Cumulative Offenses. // DongYue Academic Journal. 2024 (4). P. 176.

⁹ Ding Han-Qing, Han Yue. Events and Communication: An Analysis of Influencing Factors on the Spread of Cyber Violence Events — Based on Qualitative Comparative Analysis (QCA) of 49 Cyber Violence Cases // Journal of Guangzhou University (Social science edition). 2023 (1). P. 185.

the corresponding regulatory responsibilities of the platform, it will objectively promote the occurrence of illegal activities, the dissemination of information, and even lead to the loss of criminal prosecution evidence. Therefore, it is necessary to identify network service providers as the responsible entities that have the power to control online violence.

3.2.2. Proof of possibility of liability for influential users on the Internet

Influential online users have both personal and public attributes, and they also have a dominant position in online violence incidents. Online influencers often have large followings on social media, and there is certainly a trusting relationship between influential bloggers and their fans. Therefore, when influential users act as opinion leaders in online violence incidents, they can produce a crowd effect that responds to all responses, which also makes influential users an important variable in online violence incidents. However, it needs to be pointed out that for the legal determination of "influence", the number of fans cannot be used as the evaluation criterion and fall into the trap of "quantity theory". The actual situation of the specific case should be comprehensively grasped flexibly and handled fairly and equitably.

3.2.3. Proof of the possibility of ordinary Internet users being held liable

We should maintain a cautious attitude and weaken the responsibility determination of ordinary network users. The fundamental reason is that ordinary Internet users do not have a substantial dominant position in online violence incidents. As mentioned above, on the one hand, due to the objective algorithm bias of network service providers and the information cocoon woven based on technical settings, ordinary network users are facing the dilemma of being surrounded by information barriers. Its so-called individual free decision-making is nothing more than based on information "bias".

Rather than saying that ordinary network users can dominate the dissemination of information, it is better to say that ordinary users are subject to the information cocoon in the process of information dissemination and formation and are always in a dominated position. On the other hand, there is a problem of strong "public opinion" caused by the "spiral of silence" in the dissemination process of

network information, which is manifested in: when the opinions expressed by ordinary Internet users are constantly recognized by others, when their opinions are correct and reasonable, Next, you will subconsciously think that your point of view is correct.¹⁰

This will undoubtedly provide psychological support for his next actions. However, this phenomenon is not intentional by the individual. There is no subjective malignancy on the part of the individual, so it is not condemnable. Therefore, the main responsibility of ordinary Internet users in internet violence incidents should be weakened.

3.3. Appropriately adjust the applicable connotations of relevant crimes in the criminal law

As mentioned above, the current traditional crimes of insult, defamation and infringement of citizens' personal information cannot be fully adapted to related behaviors corresponding to online violence. Therefore, it is possible to consider appropriately expanding the interpretation of the constituent elements of some crimes. Apply "metaphorical" language attacks to acts of online violence and bring them into the scope of insult crimes; bring fabricated facts into the scope of defamation crimes, and spread behaviors that cause bad consequences; improperly display personal information that citizens actively display Behaviors that cause serious mental pain to the victim, or even seriously affect the victim's normal social life, are included in the regulated crime of infringing on citizens' personal information. If the victim's personal information is seriously affected, criminal responsibility shall be pursued in accordance with the law.

3.3.1. "Metaphor" Internet violence and insulting language constitute an insulting crime

Due to the invisibility and diversity of expressions of online violent speech, and the current lack of corresponding prediction database on the Internet, the supervision effect of online violent speech is not ideal. Therefore, it is more appropriate to use internet violence vocabulary that is well known to the general public as the judgment standard. At the same time, network dynamics should be monitored and internet violence vocabulary should be carefully screened. The use of obviously offensive and insulting internet violence words should be deemed as openly insulting

¹⁰ The term "spiral of silence" was first used in a paper published by Elizabeth Noel-Neumann in the Journal of Communication in 1974. It describes such a phenomenon: people When expressing their own thoughts and opinions, if they see an opinion they agree with and it is widely welcomed, then people will subconsciously "determine" that their opinion is "popular" and "self-identify" that it is "Correct and reasonable"; on the contrary, if people do not see the opinions they agree with, or even if they see it, there are not many people who support it, or they even suffer criticism and debate from many people, then people will choose to remain silent and not publish it. own point of view. The spiral of silence effect is bidirectional, as opposed to the anti-silent spiral theory. It is a very important social psychology in contemporary media science.

others; the use of words with metaphorical attacks, abuse, and vicious ridicule should be deemed as such on the basis of careful identification. Publicly insulting others and subject to criminal law.

3.3.2. Fabricating some facts and maliciously disseminating them causing serious consequences constitutes defamation

There is a huge amount of Internet information and the rapid dissemination of information, which can be taken out of context and superfluous. It is difficult for network users to directly judge the authenticity of network information. Therefore, it is considered a defamation crime within the scope of the defamation crime, and it is inappropriate to adhere to the rules for information that is completely fabricated out of thin air. Because false information can have no less negative consequences than completely false information.

At the same time, "fabrication" should be understood in a broad sense, including "complete fabrication" and "partial fabrication". Therefore, in order to attract people's attention and attract traffic, maliciously fabricating some facts to slander others, causing serious consequences, should also be regarded as "fabricating facts to slander others" and constitute the crime of defamation.

3.3.3. Serious "human flesh search" behavior constitutes the crime of infringement of citizens' personal information

The crime of infringing on citizens' personal information is stipulated in Article 253-1 of the current Criminal Law. The constituent elements include three types: first, selling or providing citizens' personal information to others in violation of relevant national regulations; second, violating citizens' personal information while performing their duties or providing Selling or providing personal information obtained during the service process to others violates relevant national regulations; third, citizens' personal information is stolen or illegally obtained through other means. The first two categories require violation of national regulations as a prerequisite, and the latter category requires illegal acquisition as an essential element. In online violence, the infringement of citizens' personal information is mostly manifested in the behavior of "human flesh search", the core of which is to leak the victim's personal privacy, infringe on the citizen's personal information, and expose the victim's true identity and tainted words and deeds to the Internet.

Although the connotation of "human flesh search" behavior does not match the provisions of Article

253 of the current Criminal Law, the legal interest protected by the crime of infringement of citizens' personal information is the security of citizens' personal information, including the protection of personal information from improper collection and collection. Rights also include the right not to improperly disseminate personal information and the right not to be abused.¹¹ Therefore, it should be added to Article 253-1 of the Criminal Law that "if human flesh searches are carried out through information networks, and the circumstances are serious or particularly serious, corresponding penalties shall be imposed in accordance with the provisions of the first paragraph."

4. Conclusion

Letting online abusers pay a due price, maintaining online order and safeguarding citizens' rights and interests in accordance with the law has become a social consensus in addition to the fact that the Internet is not illegal. Internet violent crime refers to crimes that use internet violence as a means of crime. It is a new form of crime derived from the development of science and technology to a certain extent. On the basis of accurately grasping the connotation, characteristics, and causes of internet violence crimes, facing up to the current dilemma faced by internet violence crimes at the criminal law level will help to better clarify the ideas of criminal law in regulating internet violence crimes. On the premise of correctly grasping the timing of criminal law intervention, determining the legal responsibilities of different subjects based on role positioning, and adjusting the applicable connotations of relevant criminal law crimes will help form a benign criminal law regulation path.

But at the same time, we must also realize that the regulation of internet violent crimes still requires multi-dimensional joint governance, and it is difficult to achieve the governance effect by relying on criminal law alone. Measures such as the Internet real-name system within a certain scope, quality education for Internet users, and giving full play to the regulatory responsibilities of multiple entities on the Internet platform should also be carried out simultaneously.

Therefore, internet violence crime is not only a legal issue, but also a social governance issue that requires the participation of multiple parties to jointly make suggestions for creating a clear, green, and harmonious online environment.

¹¹ Zhang Ming-Kai. Criminal Law. 6th edition. Beijing : Law Press, 2021. P. 1199.

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