

# From the Perspective of Rape-Induced Suicides in Victim Women: On the Designation of Rape as Being Causative of “Other Serious Consequences”

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**Abstract**— Traditional theory and judicial practices in China have commonly held that the causation of suicides in victim women in relation to rape classifies as “causing... any other serious consequence” as stipulated in rape-related provisions, and that as of such, the rapist should be held liable for the victim’s consequential suicide. This article, however, seeks to demonstrate through four aspects that only under the conditions that: in conformity with general perception, the victim’s act of suicide is generic and proportionate to circumstance, and also when the subsequent act of suicide is not non-normative, should the rapist be held accountable for its occurrence.

**Index Terms**—hermeneutics, victim self-responsibility, causality, systematic interpretation

## I. INTRODUCTION

Article 236 of the Criminal Law of the People’s Republic of China specifies that any act of rape that causes “serious injury or death to the victim or any other serious consequences” should inculcate the rapist with corresponding criminal liability. Despite the absence of a judicial interpretation on the precise definition of “causing... any other serious consequences”, theorists commonly construe it as “causing suicide, mental illness or otherwise serious consequences in victims”<sup>[1]</sup>. Furthermore, in the no. 228 Zhan-bao Cao rape case as published by the Supreme Court, the Court also resolved that “the victim’s suicide classifies as a serious consequence caused by rape”<sup>[2]</sup>, thus affirming rape and rape-induced suicide as respectively being “causing” of a “serious consequence”, and hence imputing responsibility upon the rapist. Also, as Article 236 provides that causing “serious injury or death” or “any other serious consequences” are liable to the same statutory sentences, thus the social harmfulness of the two are to be considered uniform, in turn evincing the social harmfulness of “causing serious injury or death to the victim” and “causing suicides in victim women” as uniform.

This article posits, however, that this approach may be unreasonable from a normative standpoint, and that dedicated analysis and value judgement should be undertaken in regard to the victim’s suicide to finalize attribution of responsibility for the outcome.

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## II. DETRACTION FROM HISTORICAL INTERPRETATION

This article sets out by reviewing laws throughout history in China relevant to the crime of rape, in order to reveal the intentions of legislators and explore their views on the relation between “causing suicide in victims” and “causing serious injury, death and other serious consequences”.

This article regards rape-related legal provisions as having undergone six stages of development. During Stage I in 1950, statutory penalties for “causing victim suicide” and for “causing death or serious injury” were differentiated, with legislators deeming consequences for the two scenarios as being discrepant. During Stage II, however, “causing victim suicide” and “causing death or serious injury” were provisioned as collectively invoking of the same statutory penalties. In Stage III, “causing suicide” and “causing death or serious injury” once again corresponded to separate penalties. By Stage IV, despite the provisional text itself not precisely alluding to statutory sentences as being equal for “causing suicide” and “causing death or serious injury”, the 1984 Answers to Several Questions about the Specific Application of Laws in Handling Rape Cases at Present proclaims that both scenarios constitute aggravation of rape and that the same statutory sentences should apply for both. In Stage V, legislators further identified “causing suicide”, “causing death or serious injury” and “causing other serious consequences” as warranting equivalent statutory penalties, while this stance was once again overturned during Stage VI.

Through an examination of the above, it can be determined that during three out of six stages of legislative development, legislators held that the events of “causing suicide” and “causing death or serious injury” in victims entailed different degrees of social harm, and should be prescribed different statutory sentences; during two stages, legislators held that same penalties should apply for both; during one, attitudes were unclear. Ultimately during the criminal law revisions in 1997, however, legislators redacted the “causing the victim to commit suicide” from legal texts, thus affirming their consideration regarding “causing suicide” and “causing death or serious injury” as being disparate in degree of social harm. Provisions that include the clause “causing other serious consequences”, on the other hand, have consistently matched with those on “causing death or serious injury” and been assigned equivalent statutory penalties, indicating position on part of legislators on the two as being equal in their degree of social harm.

Thus far, it may be inferred that during the six stages of legislation progression, legislators perceived over the course

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of four that “causing suicide” and “causing death or serious injury” in the victim as a result of rape connoted different degrees of social harm, while “causing death or serious injury” and “causing other serious consequences” represented a same potential for social harm. Therefore by extension, under general circumstances, “causing suicide” and “causing other serious consequences” in the victim as a result of rape also differ in terms of their respective social harm. Henceforth, indiscriminately categorizing all rape-induced victim suicides as “causing other serious consequences” would be tantamount to equating the social harm and of the two conditions, which stands as contradictory to original legislative intent.

### III. SELF-RESPONSIBILITY IN VICTIM WOMEN

Consensus exists on the concept of suicide as consisting of both subjective and objective content, as well as it being closely tied to the victim’s voluntary discretion<sup>[3]</sup>. From a subjective viewpoint, a prerequisite to the legal identification of an act of suicide is that the victim in question must have consciously and voluntarily sought death; while objectively, suicide implies the termination of the victim’s life as a cause of actions by the victim’s self, thus requiring the victim to objectively take control and disposition over the direct act of taking their own life. Therefore, two key constituent points of suicide are voluntary discretion, and demonstration of free will. Excluding instances to the contrary, any responsibility for consequences of actions undertaken based on voluntary decision should be borne by the acting individual.

Thus, under general circumstances, and with influence from traditional shame culture, a female rape victim may, due to a sense of shame or ideals of chastity, be unable to cope with social stigmatization and thus seek placation through suicide; or, due to need for adherence to perceived moral integrity, outweigh chastity and reputation over life; or, believing that the rape was caused by her own actions, such as wearing revealing clothing, venturing late at night or not having resisted to maximum effect, commit suicide out of guilt and self-blame. On all occasions, the victim’s suicide is obviously influenced by the act of rape, but the suicide itself is undertaken with full recognition of its nature and significance, and is a result of voluntary choice based on free will. The victim has disposition over, and freedom of choice throughout, the direct act of ending their life; hence the resulting suicide is a demonstration of the victim’s free will.

### IV. CAUSALITY

While expounding the argument that female rape victims should claim self-responsibility for acts of suicide under general circumstances in section II, the perspective was more focused on the victim’s capacity for voluntary decision; however, for self-responsibility to be duly attributed to the victim, the resulting death must additionally be verified as a normative outcome of suicide, while not being a normative outcome of the preceding act of rape. From a provisional standpoint, no special obligations hold true on part of others for a prioritized prevention against the actualization of danger<sup>[4]</sup>. Namely, the antecedent act of rape holds no legal causal relationship with the death of the victim, and as of such, the resulting death may be attributed solely to the

victim’s act of suicide itself. This section aims to support this argument through analysis on the aspect of causality.

With reference to the general stance of the Supreme Court, when tackling issues involving intervening factors, common judicial practices in China differ little from those of Germany or Japan in their applied logic, in that due processes begin with identification of facts and causality, progressing to value judgement and finalizing with the attribution of responsibility.

Of these procedures, and where intervening factors are present, the Japanese scholar Masahide Maeda contends that during the identification of causal relationships, preceding actions should be evaluated based on: their relation to the probability of occurrence of result, the normative/non-normative nature of intervening factors, and the degree of effect of intervening factors on the result. Thus, when determining attribution of responsibility regarding the victim’s death, considerations should be threefold in their focus: on the influence of the rapist’s actions upon the victim, on their degree of effect upon the victim’s resulting death, and on whether the intervening act of suicide is considered normative

Under general circumstances where a victim of rape commits suicide under the burden of perceived shame or inability to cope with social alienation and stigmatization, the act of rape is, as a matter of course, a precondition to the victim’s suicide - the two actions are causally linked on a factual level. Yet, further value judgement should be adopted to sufficiently conclude whether the result of the victim’s death should be imputed upon the rapist or the victim. As varying acts of rape are causative of different effects on victims, and suicides on part of victim women are acts of free will, value judgement is warranted as a final criterion for attributing responsibility. As it stands, current legal practice lacks in differentiation between cases of suicide, as well as fails to formally demonstrate objective ascription of result, and instead seeks only to reductively impute results upon the rapist based solely on factual causality, which is unreasonable. Such indiscretions were present even within the aforementioned directive cases, i.e. no. 514 Zhenquan Lu rape case, sanctioned by the Supreme Court; as presented in reasons for the judicial decision for the case, the Court held that while determining causality between the basic act of rape and “causing other serious consequences”, the former was deemed to have served as cause for the latter, and hence causality was deemed existent<sup>[5]</sup>.

Japanese theorists, on the other hand, generally hold consensus that, “in scenarios where a victim of rape commits suicide due to sense of shame or unsoundness of mind, and where no special circumstances prevail, a causal relationship should not be considered as established (in general)”<sup>[6]</sup>. Expressly, under general circumstances, resulting suicides are deemed to hold no causal relationship with the preceding act of rape, and the rapist cannot be held responsible for the death of the victim. Therefore, the indiscriminate equation of victim suicides to “causing other serious consequences”, subsequent imputation of responsibility upon the rapist, and application of enhanced sentencing - all of which are prolific in judicial practices in China - are unreasonable

## V. SYSTEMATIC INTERPRETATION

Per the Criminal Code, other potential crime-induced suicides include suicide from forcible interference with one's freedom of marriage, maltreatment, humiliation or slander, and abandonment. Despite all being obvious preconditions to suicide, the likelihood of these offenses to truly cause such in victims is commonly acknowledged as being minimal; where they do take place, suicides are considered reflective of the victim's free will and not sufficient grounds for attribution of result to preceding criminal acts; hence, statutory penalties for these offenses are comparatively lenient. Meanwhile, articles relating to the crime of robbery also merely stipulate "causing serious injury or death" as being applicable of enhanced penalties, with the notable omission of "causing other serious consequences"; this is due to the scarce occurrence of post-robbery suicides - even though some degrees of physical and psychological harm also tend to befall victims in cases of robbery - as chastity and similar cultural ideologies, as well as social pressure, are much more diminished in their encumbering effects, even to the point that society may display wholly reversed attitudes in comparison to rape toward the victim's misgivings. The preceding act of robbery, therefore, serves only a conditional role in a possible event of suicide and may not be invocative of enhanced penalty; conversely, in addition to rape, other crimes listed in the Code, including abduction and trafficking of women and children, organizational prostitution, and forced prostitution all identify "causing other serious consequences" as grounds for invoking enhanced penalties. Certain victim suicides may be construed as "other serious consequences" among these three categories of offenses, as they cause especially egregious harm both physical and psychological to the victim; this is particularly exemplified in belonging criminal acts that inflict severe torment and trauma upon the female victim's body and mind, wherefore the victim, additionally impounded by traditional doctrine and stigmatized by society, is unable to find solace and closure; it is in the aftermath of these flagrant crimes that the victim, unable to cope or conciliate, is eventually driven to suicide from its psychological effects. Under these circumstances, the suicide committed by female victims may be considered not non-normative, and the inculcation of the rapist is clear. Therefore it can be inferred that the existing provisional setup recognizes the risk of different criminal acts in their inductive effects on the victim's possible suicide and the possibility of victim suicide in relation to these crimes, and has hence established different statutory penalties accordingly.

## VI. CONCLUSION

In conclusion, the ultimate indiction premise for the result of victim suicide should be a non-homogenized value judgement process that comprehensively takes into account the effects of the rapist's actions on the victim, their degree of functional effect on the result of death, and whether the intervening act of suicide may be ratified as normative.

Suicides in female victims of rape generally are committed as an absolatory act, to seek withdrawal from intolerable circumstances; life to them at this point is perceived as a perpetual torment that may be described as "intolerable",

"ineluctable" or "interminable", and the victim loses all will to live, viewing escape from suffering as their greatest intention<sup>[7]</sup>. As attested to in present studies, combined effects from three factors drive suicide ideation: external pressure, internal conflict, and damage in neurobiological functions<sup>[8]</sup>. The drive for victim suicide is therefore complex and any act of such should not be reductively or arbitrarily pinned upon the rapist or victim. This article contends that under general circumstances in a case of rape where the female victim commits suicide, the victim should claim self-responsibility as it is an act based upon free will. Despite being a precipitating factor in the victim's suicide, the act of rape from a normative perspective does not designate a psychological pressure that may be viewed as "intolerable", "ineluctable" or "interminable". Henceforth, the result of death should in standard terms be considered as an act of the victim. From a normative standpoint, only when the victim's suicide in relation to an act of rape, in conformity with general perception, causes an intolerable degree of internal conflict in the victim to the point where suicide remains an only option as a means of release, does it classify as non-normative; wherein the judging criteria for whether the victim's internal conflict measures as "intolerable" is adherent to general standards.

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