

From Screen to Regulation: Adjustments of Chinese Criminal Law Regarding Male and Minor Girls' Sexual Rights

Keqian Chen, Yining Zheng

KoGuan Law School, Shanghai Jiao Tong University, Shanghai 200030, China

Abstract

In the digital age, a new perspective on sex and sexual rights has emerged in China, with the internet playing a crucial role. Responding to the public's call for legislation against sexual violence. The legislature added a new article on 'sexual assault by care personnel' as Article 236a of the Criminal Law and amended Article 237 'crime of forcible molestation'. These new articles have criminalized some behaviors. However, the definition of 'personnel with special duties' and whether males can be recognized as victims of rape under the current legal framework are still in dispute. It is recommended that the legislature clarify the concept of sexual autonomy in the digital age and bridge the gap between current criminal laws and public expectations.

Keywords

Sexual Crimes; Digital Age; Chinese Criminal Law.

1. Introduction

How traditional criminal law on sexual crimes can keep up with the digital age and meet the demands of citizens is a big challenge. In the pre-digital age, China's criminal law already had provisions against sexual crimes. However, in the digital age, many cases of sexual crimes have been widely spread in the Chinese society with high internet penetration and a large number of Internet users. The intense debate over sexual assault cases has changed the public's idea on sexual rights, together with their demand for the law. As a result, the legislature has made some responses during successive amendments of the criminal law. However, whether the legislative amendments have responded to society's demands timely and how the criminal law can be further improved in the future is still a question.

From this perspective, this article aims to review the adjustment of Chinese criminal law on sexual crimes in the digital age and tries to discuss the way to improve the relevant legislation. In the first part of the article, we analyze the changes of the citizens' idea of sexual rights under the influence of the Internet. The second part shows the creation and modification of the two articles of criminal law and analyzes the elements of the new articles. In the third part, we point out the controversies that still exist and hope that some improvement can be made in the future.

2. Public Revisiting of Sexual Autonomy

In the pre-digital age, the mainstream of society held a negative, pessimistic, and shameful attitude towards anything related to sex, leading to a narrow understanding of sexual crimes for a long time. From this narrow view, in China at that time, sexual crimes were seen as acts committed by men against women who were not their partners, involving violence or coercion for vaginal penetration or physical contact, and the female victims had to show resistance to prove that these behaviors were sexual violence. In the digital age, social media has broken the boundaries of information, making many sexual assaults events spread on the Internet, stimulating public reflection on criminal law. In the context, the Chinese public's understanding of sexual right has shifted from the traditional 'protection of a woman's right to chastity' to

‘protection of an individual’s right to sexual autonomy’. [1] In recent years, some people have also elevated it to the ‘protection of human dignity’.

The expansion of sexual right in China is directly related to the non-traditional sexual offence cases, which have been widely spread on the Internet in recent years, including the sexual abuse by Robert Y. Bao against his adopted daughter and numerous instances of sexual abuse against men. The awareness that a foster father having sex with his foster daughter over the age of 14 was not legally defined as sexual assault, and that forcing a man into anal sex did not constitute the crime of rape or indecent assault, sparked heated discussions and reflections on the sexual interests. Public opinion and debate eventually influenced changes in criminal law, and these which enriched the meaning of sexual rights.

2.1. Debate on the Sexual Rights of Adopted Daughter

In 2020, Robert Y. Bao’s sexual abuse against his adopted daughter has drawn unprecedented attention on the Chinese internet, directly triggering a public reexamination of the sexual rights of women in care. Robert Y. Bao, born in 1972, was an executive of a listed company and served as a legal adviser for a number of multinational corporations. Li Xingxing (a pseudonym) was registered born in 2001. On 10 October 2015, Robert Y. Bao ‘adopted’ Li Xingxing. [2] In April 2020, Li Xingxing revealed through a journalist that she had been living with her ‘adoptive father’ Robert Y. Bao since 2016, during which she had been sexually abused multiple times. The news immediately sparked a significant reaction on Chinese social media, with Robert Y. Bao instantly being targeted. An investigation on 17 September 2020 revealed that Li Xingxing’s actual date of birth was October 1997. The age of sexual consent in China is 14, even if Robert Y. Bao did not know Li Xingxing’s actual date of birth, Li Xingxing was already over 14 years old at the time and had the ability to give sexual consent, so the man did not constitute the crime of rape against a young girl. At the same time, the available evidence does not show that Robert Y. Bao has been against the will of Li Xingxing, using violence, coercion or other means to have sex with her, and therefore does not constitute the offence of ordinary rape. [3].

This outcome continues generating debate, urging the public to revisit and expand the meaning of ‘sexual autonomy’. Sexual autonomy has traditionally been defined as “the freedom to make one’s own decisions about when, where, in what form, and with whom to engage in sexual behavior”. [4] However, in the pre-digital era, some sexual relationships, such as parent-child relationships, are often hidden from the public because one party is the ruler, and the other is the recipient in the intimate authoritative relationship. [5] The sexual autonomy of a woman in care is impaired when she voluntarily has sex with her carer. This is because under this kind of authoritative relationship, for female minors who are not yet of sound mind, carers can exert a significant long-term influence, so that the female minors under his care will develop wrong concepts of sexuality, even in “the process of formation of personalities, ethical concepts and values”, [6] and subconsciously deprive the female minors of the words and thinking to refuse sex with the elderly man, leaving her incapable of recognizing the consequences of sexual activity in front of a carer’s request for sex. This, coupled with a marked imbalance in social status, resources and power between carers and cared-for, all combine to create an implicit coercion to the female cared-for [7]that infringes on the sexual autonomy of the victim. The victim may not immediately recognize the abusive nature of the sexual act and it often takes a considerable time to realize. Therefore, the public has begun to recognize that engaging in sexual relations with a ‘foster daughter’ in the name of adoption is essentially a crime, and that the ‘right to sexual autonomy’ upheld by the criminal law should also include the right of the cared-for to be free from sexual grooming by carers. [8].

2.2. Debate on the Sexual Rights of Males

Meanwhile, a series of cases of men being sexually assaulted have also attracted widespread attention. Prior to the enactment of the Criminal Law Amendment (IX) Act in 2015, the criminal

law did not protect men's sexual rights, for victims of indecent assault and rape were limited to women. Sexual assaults on men could only be convicted on other charges or were not considered a crime. Late in one evening in May 2010, an 18-year-old male security guard in Beijing was sexually assaulted in his dormitory by his 48-year-old male colleague. The perpetrator was ultimately sentenced to only one year's imprisonment for intentional injury, and this was the first case in China in which sexually assaulting a male was punished by conviction. [9] In May 2011, a male junior high school student in Pingnan County, Guangxi, was on his way home from school when he encountered coercion from a male from the same village, Liang, who took him to a guesthouse, and forced him to have sex. After the victim called the police, the police had to arrest Liang on suspicion of unlawful detention, and the Pingnan County Procuratorate stated that despite the clear facts of the sexual assault, it would not be possible to arrest the suspect for rape. [10] In the early morning hours of 12 September 2014 in Hechuan District of Chongqing Municipality, a man who was taking a walk was suddenly forced by another man to take him into an abandoned hut by the side of the road, and was sexually assaulted. The police took control of the perpetrator as soon as they received the report, but due to the act not being criminalized at the time, the perpetrator was released after being educated by the police. [11].

Men who are sexually assaulted suffer the same mental and physical pain as women. Therefore, sexual assault of men is equally as harmful as sexual assault of women. However, such obvious male sexual rights have long been ignored by the criminal law, which seems very strange in China, where the criminal legislation is expanding comprehensively and rapidly. [12] This sense of strangeness has prompted the public to re-examine the provisions of the criminal law, and people realize that there is a myth of 'men can't be molested' in criminal law of China. This myth is rooted in the 'straitjacket of male power consciousness'. [13] The criminal justice system's failure to acknowledge coerced 'unnatural sexual intercourse' as rape is directly related to this issue too. [14] Since in China, the legal definition of rape is only limited to the forced penetration of a woman's vagina by a man's penis or contact with a female child's vagina, forced anal and oral sex by another person on a man, as well as forced vaginal sex by a woman on a man, are excluded from the crime of rape. Under this definition of rape, it is impossible for a male to be a victim of rape. As a result, there has been a growing call for changes in sexual offences legislation to address men's sexual rights, reflecting an expanding public perception of 'sexual autonomy' from 'female-only' to 'all genders'.

3. Criminal Law Response: Addition and Amendment of Articles

Since the enactment of the Criminal Law Amendment (IX) Act of 2015, the criminal law has begun to address the diversified features of sexual offences in the digital age. In particular, the legislature has filled the gaps in the legislation on sexual offences by adding new provisions and creating or amending articles, thereby expanding the scope of the criminal law's legal framework and provides more protection for the sexual legal interests of citizens.

3.1. Addition of Crime of Sexual Assault by Care Responsible Personnel

In response to the public's concern about the sexual rights and interests of women in care, the Criminal Law Amendment Act (XI) of 2020 added crime of sexual assault by care responsible personnel to article 236 a. The law states that "A man who, being the guardian, adoptive parent or caretaker of a girl aged 14 or above and under the age of 16, being responsible for the education or medication thereof, or owing other special duties to such a girl, has sexual intercourse with her, shall be sentenced to fixed-term imprisonment of not more than 3 years. If the circumstances are grave, the offender shall be sentenced to fixed-term imprisonment of not less than 3 years but not more than 10 years; Whoever commits a crime as prescribed in the preceding paragraph, which also constitutes a crime under the provisions in Article 236 of

this Law, shall be convicted and punished in accordance with the provisions that specify a heavier punishment.” This article provides a higher level of protection for the sexual rights of female minors, and regulates sex between a caregiver and a care recipient, which is a significant progress in China’s criminal law to crack down on sexual crimes against minors.

In terms of the elements, the perpetrator is a man who has special duties of guardianship, adoption, care, education, medical care, etc., towards a young girl over 14 and under 16 years of age, usually a father, a male teacher or a male nanny. The ‘special duties’ here are not limited to those listed in the article, but also include those that have a spiritual influence and material domination over the girl, and enable her to form a stable dependence on them. [15] The act of this crime refers to the perpetrator’s sexual intercourse with the girl in the narrow sense, i.e., the perpetrator’s penis is inserted into the girl’s vagina, because under the definition of sexual relationship in the Chinese sex crime system, acts other than vaginal intercourse with girls, such as anal sex, oral sex, etc., are not considered to be within the semantic scope of ‘sexual intercourse’ of the crime. It should be noted that, according to the expression of the second paragraph of this crime, “the girl voluntarily has sexual intercourse with the perpetrator” is not an element of this crime, in other words, the crime is committed regardless of whether the sexual intercourse between the girl and the perpetrator was consensual. So, there is no antagonistic relationship between this crime and rape. When the perpetrator acts against the will of the girl, he can be evaluated for both rape and this crime and must be punished for rape because rape carries a heavier penalty; when it cannot be proved that the sexual intercourse was against the will of the girl, it is possible to convict and punish the man directly for crime of sexual assault by care responsible personnel.

With regard to the elements of liability, it requires that mens rea of the perpetrator be intentional, i.e., that he knows that the victim is a girl who has reached the age of 14 and is under the age of 16. If the perpetrator is unable to have a correct understanding of the victim’s age and mistakenly believes that the girl has reached the age of 16, then this mistake in factual understanding will prevent the criminal intent and the perpetrator will not be criminally liable. The introduction of this new crime broadens the scope of sexual interest and increases the involvement of criminal law in the privacy of the family. Among those care responsible personnel, fathers, adoptive fathers, and grandfathers living together with the cared-for girls are typical perpetrators. Until the criminal law criminalizes sexual acts between a caregiver and a cared-for girl, incestuous relationships are considered part of the family privacy and are not prosecuted if the girl herself does not explicitly object to the relationship. As the criminal legislation and justice are often too cautious to intervene in the ‘family privacy’, many offences committed between family members, such as marital rape and domestic violence, are difficult to be interfered with and prosecuted by the criminal law. Under these circumstances, ‘family privacy’ has become an obstacle to gender equality. [16] However, with the advent of the digital age, the frequent disclosure of family privacy on the Internet has far expanded the influence of this kind of privacy, so that what was originally a family ‘secret’ or local ‘gossip’ circulating in a small area has been transformed into a matter of public concern. The attitude of the judiciary towards such family privacy not only affects the parties of the case, but also draws public scrutiny, and will directly affect the feelings of the groups and public morality. Therefore, restraint for serious crimes within the family no longer meets public demands for justice in the digital age.

3.2. Amendment of Crime of Forcible Molestation

The 2015 Amendment (IX) to the Criminal Law revised the law on the crime of forcible molestation to address the issue of sexual abuse against men, which cannot be ignored in society. Article 237 of the Criminal Law prior to the 2015 Amendment (IX) states that, “Whoever forcibly molests or insults a woman by violence, coercion, or other means, shall be

sentenced to fixed-term imprisonment of not more than 5 years or short-term custody; Whoever attends a gathering and commits a crime as prescribed in the preceding paragraph or publicly commits such a crime in a public place, or where there are other grave circumstances, this person shall be sentenced to fixed-term imprisonment of not less than 5 years.” This provision excludes men from the protection of legal interests. The 2015 Amendment (IX) to the Criminal Law amended the provision to state: “Whoever forcibly molests another person or insults a woman by violence, coercion, or other means, shall be sentenced to fixed-term imprisonment of not more than 5 years or short-term custody; Whoever attends a gathering and commits a crime as prescribed in the preceding paragraph or publicly commits such a crime in a public place, or where there are other grave circumstances, this person shall be sentenced to fixed-term imprisonment of not less than 5 years”. The judicial authorities also changed the offence of this crime from crime of forcible molestation or insult against women to crime of forcible molestation or insult, officially acknowledging in Chinese criminal law that men can be victims of forcible molestation.

With regard to the elements of forcible molestation, the perpetrator of this offence can be a person of any gender, and the victim may be a person of any gender, too. In other words, the crime of forcible molestation may be committed by a man on a man, a woman on a woman, or a woman on a man. The crime involves using violence, coercion, or other methods to commit an obscene act with sexual significance that satisfies one’s sexual desire and excitement, other than sexual intercourse, against another person. [17] Since the Chinese Criminal Law strictly defines ‘sexual intercourse’ as the penetration of a male penis into a female’s vagina, vaginal intercourse forced by a female on a male, anal or oral sex forced by a perpetrator on another person, and the forced penetration of a body part or object other than a penis into a vagina or anus are all acts of forcible molestation under Article 237 of the Criminal Law.

The acts of forcible penetration are serious violations of sexual autonomy, and their unlawfulness is close to rape, so there is no controversy in evaluating them as forcible molestation. However, it still needs to be considered whether sexual acts without penetration can constitute the forcible molestation. Usually, it is necessary to consider both the unlawfulness and the compulsion of the act. In terms of the unlawfulness, the least obscene act is sexual harassment, followed by forcible molestation, and the most serious one is rape. In other word, if the act does not meet the criteria for the offence of forcible molestation, it constitutes only sexual harassment. The boundaries of sexual harassment and forcible indecent assault should be determined by factors such as the part of the body that has been assaulted, the duration, result and the occasion of the assault, keeping consistent with the general perception of citizen. For example, in China, if a man forcibly tells a woman obscene story or makes obscene gestures, it is not a crime of forcible molestation and is only sexual harassment under civil law. In the aspect of the compulsion, it is usually believed that the compulsion in forcible molestation is slightly weaker than that in rape. Without the need to effectively suppress the victim’s resistance, forcible molestation only needs a certain degree of psychological deterrence. Naturally, obscene behavior that lacks coercion does not constitute the forcible molestation, for example, a man who suddenly exposes his penis in front of a woman without forcing her to watch does not constitute the offence of forcible molestation.

With regard to mens rea, the perpetrator should know that his or her behavior constitutes an infringement of the sexual autonomy of another person and still wish that that person’s sexual autonomy be impaired, and he or she should also have the inclination to satisfy his or her inner sexual excitement and desire. If the act lacks that inclination, then it does not constitute the crime of forcible molestation but may constitute other crime.

4. Controversy Over the New Crimes

Although the provisions for sexual crimes have been created and amended, cracking down on the sexual assault against young girls in care by those with caring responsibilities, and recognize that men can be the perpetrator of forcible molestation, there is still some controversy in practice regarding the changes.

4.1. Determination of Personnel with Special Duties

Although the Criminal Law has added crime of sexual assault by care responsible personnel as article 236a, there is still a great deal of controversy as to what is meant by 'personnel with care responsibility'. At the same time, the perpetrator of the crime is limited to males, which has been questioned.

There is no consensus in theoretical circles on the nature of a 'personnel with care responsibility'. What criteria should be used to determine that the perpetrator is personnel with care responsibility? Since the offence only requires proof of sexual intercourse between the two parties without regard to sexual consent, judging that the perpetrator is not a 'personnel with care responsibility' becomes an important path to exoneration. From this respect, the interpretation of 'personnel with care responsibility' is of great significance.

The first view is that the five duties listed in the article, namely, "guardianship, adoption, care, education and medical treatment", should be interpreted literally according to laws. Rather than making substantive expansion, this way of interpretation will ensure the certainty and operability of the law. Only when an exhaustive interpretation of the five identities fails to determine the identity of the perpetrator, can the court consider interpreting 'other special duties' in the article. In short, caution should be taken when judging the perpetrator as a person with duties outside of these five possibilities. [18].

The second view is that substantive judgement should be made as to the identity of the perpetrator. The five duties of "guardianship, adoption, care, education and medical treatment" are just a list of examples in the law, and as long as there is substantial care and guidance for the physical and mental health of a young girl, the man can be the perpetrator of the crime. At the same time, the appearance of an obligation is not sufficient to constitute the offence, and factors such as the length of contact between the offender and the victim must be taken into account in determining whether such substantial care and guidance exists. [19] Scholars in support of this view also added that, in addition to the length of contact between the two parties, the extent of the perpetrator's dominance over the girl is also an important factor. If the dominance is greater, even if the contact time is short, the duty of care can still be considered existing, for example, the adoptive father who has established an adoptive relationship with the girl for one day only. [20] In short, in this view, the duties listed in the law are only reference for the judiciary to judge whether a substantial caring relationship can be established.

According to the third view, the five statuses can be divided on the basis of the degree of dominance over the girl, guardianship and adoption statuses in the first tier, caretaking in the second tier, educational and medical duties in the third tier. Other statuses can be considered first if they belong to the second tier, or else to the third tier. The criteria of the first class of duties are the strictest and should therefore be interpreted strictly in accordance with the laws. However, once a person has been found to have the duties of the first class, no other factors are required to determine that the perpetrator has constituted a crime. The second class of caretaking refers to duties with a relationship of personal care other than those in the first class and can be regarded as a catch-all responsibility of the first class. The third tier of duties have the loosest standard of establishment and are open to a substantive interpretation. However, in order to prove the offence in this class, it is still necessary to supplement it with other evidence, such as whether there is an abuse of dependency or working relationship, etc. [21] In

short, in this view, some duties require a strict formal interpretation, and some should be interpreted substantively.

We are more in favor of the third view. This kind of classification is in keeping with the essence of 'personnel with special duties', so that the judiciary is not bound by the five duties listed in the law, and avoids making the 'special duties' too abstract and uncertain. Duties of care has two essential characteristics. On the one hand, the perpetrator has mental power over the young girl. Care recipients will 'voluntarily' and 'willingly' accept the sex with a perpetrator when the girl has not yet developed proper idea about sexuality. This is the type of sexual abuse initiated by the girl. [22] On the other hand, the perpetrator has material power over the girl. The caregiver can also have sex with the cared-for person through the economic dominance, and the cared-for person, out of fear of the perpetrator's power, does not dare to explicitly express her disagreement. This is the type of passive and submissive sexual abuse. [23].

The hierarchical division fits these two essential characteristics. Since the person in the first class of duties generally has both mental and material power over the young girl, so it is easier for them to undermine girls' sexual autonomy. Therefore, a judge can convict the crime without additional evidence. While the person in the third class of duties is less dangerous for he generally has only one aspect of power, or the combined power is much weaker than the first class. In such cases, other evidence is still required to prove that the sex was under the dominant power of the perpetrator.

It can be judged combined with the length of time the two parties have spent together and the specific content of the duties. For example, a teacher who conducts short-term tutoring of half a month for a girl generally does not have a dominant power. While a teacher who conducts long-term tutoring for three years is more likely to have a dominant power over the girl. Although there are arguments against the use of time as a criterion for determining the degree of dominance, the use of time is more precise and reliable, which will also promote uniformity in adjudication.

This crime has been controversial because its perpetrator is limited to males. With the outbreak of a sex scandal, there have been calls for regulating women by this law. On 18th January 2024, a sex scandal involving a female teacher and a male student at a secondary school in Shanghai was exposed on the internet. It quickly became the trending topic. In the incident, the chat history between the female teacher and the male student showed that, knowing that the boy was only '16 years old', [24] the female teacher still triggered the boy's sexual desire with her words through WeChat. And she was suspected of having sex with him according to their chat history. The female teacher has been severely criticized by public, and it was noted that the female teacher had used her power to sexually abuse the minor. [25] However, as the current crime of 'sexual assault by care responsible personnel' only regulates the sexual abuse against a young girl by a male actor, it is difficult to criminalize this kind of abuse committed by female teacher. This incident has sparked public reflection on gender issues and traditional criminal legislation. It also highlights the need for society to move away from traditional gender norms and emphasizes the importance of male sexual rights.

4.2. Men as Victims of the Crime of Rape

Although the 2015 amendment to the Criminal Law recognizes that men can be victims of forcible molestation, the victims of rape are still restricted to women, and a controversy has arisen: should men be recognized as victims of rape or not? As a matter of fact, there were calls to include men within the scope of protection under rape laws when some news of sexual assault against men were posted on the Internet. However, successive amendments to the legislation have not addressed this public sentiment, and therefore calls for revising the rape laws remain unabated.

Those in favor of amending the legislation argue that the law of forcible indecent assault is insufficient to protect the sexual rights of men, for example, in the numerous ‘male-to-male rape’, ‘forced anal intercourse’ can no longer be covered by the term ‘forcible molestation’, and its danger has reached the level of rape. Those who oppose amending the provisions of rape argue that Article 237 of the Criminal Law has already protected men’s sexual rights through the crime of ‘forcible molestation and insult’, and that there is no need to amend the provisions of rape. Opponents argue that males cannot become pregnant through forced anal sex due to biological differences between males and females. In other words, rape against males is non-reproductive, so it is less dangerous for the society, and the penalty of forcible molestation has already been sufficient to punish it.

We agree with the view that the rape article should be changed. It is a grave misrepresentation of sexual autonomy to suggest that males cannot be victims of rape due to their lack of uterus. Indeed, in terms of purely physical harm, as Michel Foucault has argued, there is no principled difference between the physical harm caused by punching a person in the face and penetrating a person’s vagina with a penis [26], but the law punishes the latter far more heavily than the former, simply because the rape law has its own independent value. If it is considered that forced penetration which cannot lead to pregnancy does not deserve the severe punishment of the criminal law, then it would be absurd to conclude that men who are not capable of reproduction due to sterilization or physical illness, or who use contraceptives during the rape of a woman, deserve a lighter punishment. This obviously goes against common sense. It shows that the possibility of pregnancy doesn't play a role in the criminalization of rape. In other words, the true value of rape article lies not only in punishing the perpetrator for the purely physical harm inflicted, but also in punishing him for the abstract mental harm. The right to sexual autonomy has been described as ‘personal rights more of materiality’ [27], but according to this paper, it is more of a spiritual right. Since male and female victims are equal in personality, their sexual autonomy deserves equal protection. Forced anal sex therefore deserves the same severe punishment as rape, and men should be recognized as victims of the crime of rape.

5. Conclusion

In the digital age, the importance of sexual autonomy has risen to unprecedented levels due to a number of factors. The digital network provides the technological conditions for the dissemination of sexual assaults, and the anonymous and democratic nature of the network allows citizens to discuss the legal issues of sexual assaults incidents freely. In this context, Chinese criminal law has also been greatly influenced. The content of sexual autonomy has been expanded, and traditional legislation has been modified in the course of intense discussion of high-profile cases. To this day, however, the adaptation of criminal law in this regard remains somewhat controversial. With the rise of the younger generation, new concepts of sexuality have become more widely accepted. Citizens’ recognition of gender diversity, tolerance of same-sex sexuality and the importance of sexual autonomy have increasingly highlighted the limitations of the current legal definitions of *sexual intercourse* and *rape* within the criminal law. We hope that the problems identified in this paper will shed light on the need for reform in China's sexual offense legislation, and thus provide reference for possible legislation.

Acknowledgments

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- [21] See Zhao Guannan, Normative Analysis of "Caring Responsibilities" in the Crime of Sexual Assault by Persons with the Duty of Care in China and Germany, *Global Law Review*, No.4, 2022, 66-81. (in Chinese).
- [22] This situation can be said to be the focus of the regulation of article 236, paragraph 1, of the Criminal Law. The well-known Chinese writer Lin Yihan wrote in her novel 'Fang Siqu's First Love Paradise', which was written from her own experience, that the teacher took advantage of the young girl's admiration for the teacher's knowledge to engage in sexual acts with the young girl and told the young girl that this was the teacher's 'love' for the student, and also used literature to provide the young girl with 'psychological guidance', and the young girl also kept convincing herself that she was 'in love' with the teacher's behavior, thus accepting the teacher's sexual abuse for many years. The girl convinced herself that she was 'in love' with the teacher and accepted the teacher's sexual abuse for many years, and the girl went mad when she finally realized the nature of the abuse. The book was published in 2017 and widely circulated in China, and the author also committed suicide that year, causing public opinion in China to pay attention to this special form of sexual abuse, and gradually increasing awareness of the protection of the sexual rights of underage girls, and the sexual exploitation by the male teacher in the book has been called 'Fang Siqu-type sexual abuse'.
- [23] See CHEN Jialin, LV Jing, The interpretation perspective and regulatory boundary of the crime of sexual assault by special duties, *Journal of Central South University (Social Sciences)*, No.5(2021), 61. (in Chinese).
- [24] The exposure showed that the female teacher knew that the boy was only "16 years old", which, according to Chinese custom, generally refers to nominal age, so the boy may not have reached the age of 16.
- [25] See Sun Qingyun: Is a Female Teacher Cheating on A 16-Year-Old Male Student in a Shanghai Middle School Suspected of Committing a Crime? Lawyer Interpretation, *Sina Finance*, <https://finance.sina.com.cn/jjxw/2024-02-19/doc-inaiqnmf2480366.shtml>.
- [26] See Foucault, M., & Kritzman, L. D. (Ed.). (1988). *Politics, Philosophy, Culture: Interviews and Other Writings, 1977-1984*. (A. Sheridan, Trans.). Routledge, Chapman & Hall, 200-202.
- [27] Jiang Tao: Illegal Behavior and Responsibility Hindrance: a Strafrechtsdogmatik Answer to Yu Huan's Case, *Science of Law (Journal of Northwest University of Political Science and Law)*, No.1(2019), 92-102. (in Chinese).