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Exploring the Legal Subjectivity of Artificial Intelligence in the Incitement to Suicide

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Abstract

The development of conversational Artificial Intelligence (AI) has not only brought about technological innovations but has also given rise to legal issues. The phenomenon of AI-induced suicide highlights the multifaceted legislative demands within the criminal domain for AI. In-depth research into the issues of suitability concerning suicide victims, AI, and regulatory entities becomes particularly necessary. Through literature analysis and comparative legal analysis, this article aims to provide theoretical support for the legal delineation of liability in the context of AI incitement to suicide. Specifically, this article conducts a thorough investigation and comprehensive analysis of relevant legal literature both in China and internationally. The objective is to clarify the legal positions and real challenges surrounding the issue of AI incitement to suicide. Consequently, this article explores whether AI should be considered a legal subject and how, in different contexts, suicide victims and AI regulatory entities should share corresponding responsibilities. As for the findings, AI should not be regarded as an independent legal subject. Based on the theories of victim self-entrapment risk and omission in criminal law, in various situations, suicide victims or AI regulatory entities should bear corresponding responsibilities for the events of incitement to suicide. By delving into the legal liability issues of AI in incitement to suicide, this article provides a theoretical basis for comprehensive AI legislation in the future, demonstrating theoretical innovation. Furthermore, the exploration of criminal legal regulation contributes to the construction of a more comprehensive and rational legal framework for AI.

Keywords: Artificial Intelligence; Incitement; Suicide; Criminal Law; Subjectivity

1. INTRODUCTION

On November 8, 2023, at the Agricultural Distribution Center in Goseong-gun, Gyeongsangnam-do, South Korea, a packaging worker was mistakenly identified and fatally gripped by an AI robot.[1] As early as March 2023, the Belgian publication *La Libre* reported a case where a young man committed suicide after several days of chatting with an AI robot named "Eliza", prompting the deceased's wife to file a lawsuit against the AI development company in

1 Kim Sung-hoon, "A Robot Mistakenly Identifies a Person as a Box, Grabs with Tongs... 40-Year-Old Victim. Herald Economy.," n.d., https://www.newstong.co.kr/view3.aspx?seq=12182875&allSeq=8&txtSearch=&cate=0&cnt=-5&subCate=2&order=default&oid=0&newsNo=15.

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court.[2] The integration of AI has ushered in a new era, enhancing the reliability of digital products, optimizing supply chain processes, and providing real-time access to valuable data and analytics.[3] However, in legal practice, the issues that AI introduces seem to lack sufficient resolution. On the one hand, the prevailing view suggests that AI should not possess legal personality in practical terms.[4] On the other hand, due to the perceived incapacity of AI to assume criminal responsibility, the determination and allocation of liability in associated criminal cases face challenges in achieving uniformity and appropriateness. It is evident that AI not only triggers global technological innovation but also stimulates active discussions in the field of law.

Currently, some scholars have undertaken research on issues such as "Criminal Responsibility of AI" and "Incitement to Suicide." In the debate on whether "AI can assume criminal responsibility," the majority of scholars adopt a negating stance. The divergence of opinions primarily centers around whether "strong AI can independently assume criminal responsibility." Some perspectives assert that strong AI possesses independent will and can be recognized as a subject of criminal responsibility, subject to direct accountability for intentional or negligent actions, and corresponding penal sanctions.[5] Conversely, other viewpoints contend that strong AI operates based on algorithms and data, and therefore can only be regarded as a criminal means rather than a criminal subject.[6]

While the aforementioned perspectives provide comprehensive arguments regarding whether AI qualifies as a competent subject of criminal responsibility, they are mainly confined to cases involving direct criminal acts by AI (such as the aforementioned case of AI machine homicide in South Korea and similar incidents). In discussions related to AI incitement cases, there is still a lack of comprehensive analysis.

In the theoretical research on "incitement to suicide" in China, although there is divergence of opinions on the establishment of the crime (whether the death of the incited person is necessary as an element for the crime to be established), the majority of views consider incitement to suicide as an intentional act.[7] This is primarily derived from the provision in *Article 25* of the *China's Criminal Law*:

Joint crime refers to the intentional commission of a crime by two or more individuals. In the case of two or more individuals jointly committing a negligent crime, it is not

2 Pierre-François Lovens, "Le Fondateur Du Chatbot Eliza Réagit à Notre Enquête Sur Le Suicide d'un Jeune Belge. La Libre.," n.d., https://www.lalibre.be/belgique/societe/2023/03/28/le-fondateur-du-chatbot-eliza-reagit-a-notre-enquete-sur-le-suicide-dun-jeune-belge-VGN7HCUF6BFATBEPQ3CWZ7KKPM/.

3 Hanane Allioui and Youssef Mourdi, "Unleashing the Potential of AI: Investigating Cutting-Edge Technologies That Are Transforming Businesses," *International Journal of Computer Engineering and Data Science (IJCEDS)* 3, no. 2 (2023): 1–12, https://ijceds.com/ijceds/article/view/59/25.

4 Mindaugas Naučius, "'Should Fully Autonomous Artificial Intelligence Systems Be Granted Legal Capacity?.' Teisės Apžvalga 1 No. 17 (2018): 113-132." (n.d.), https://www.ceeol.com/search/article-detail?id = 642042.

5 Yang Mengzhu., "'Research on the Criminal Responsibility of AI'. Dispute Settlement 8 (2022): 664.," n.d., https://doi.org/https://doi.org/10.12677/ds.2022.83089.

6 Duan Yiming, "Strong Artificial Intelligence Crime Negation Theory: A Second-Order Analysis from Algorithm Principles to Criminal Law Principles," *Journal of Law Application* 12 (2022): 71–78, https://d.wanfangdata.com.cn/periodical/ChlQZXJpb2RpY2FsQ0hJTmV3UzIwMjMwODMxEg1mbHN5MjAyMjEyMDA4GghzcmlndDhidQ%3D%3D.

7 Lu Siyuan, "A Brief Analysis of the Punishability of Incitement to Suicide Behavior," *Legal System and Society 4 (2018).*, n.d., https://doi.org/DOI:10.19387/j.cnki.1009-0592.2018.02.030.

considered a joint crime; those who should bear criminal responsibility shall be punished separately based on the crimes they have committed.

Some scholars, from a non-criminal perspective, have pointed out that negligent incitement is based on the emergence of a duty stemming from prior actions (the act of incitement). The negligent inciter is obligated to eliminate the adverse effects caused by their earlier incitement. Due to the failure to actively fulfill the duty to eliminate these effects, negligent incitement is deemed punishable.[8] Although this theory provides a comprehensive argument for the punishable ability of "incitement to suicide", it overlooks a crucial question: in an era of technological advancement, how would the determination be made if the inciter is not a human but an AI robot?

It is evident that there is extensive research on whether AI qualifies as a subject in criminal law and whether incitement to suicide constitutes a crime. AI has demonstrated utility in suicide risk prediction and clinical management, providing time and resource efficient alternatives for identifying high-risk individuals and populations.[9] Through machine learning, AI has shown great accuracy in determining suicidal tendencies in patients, with more than 90 % accuracy in this high-risk classification.[10] However, this one mean that AI is still unable to make a completely error-free judgement that would prevent a tragedy. In addition, AI shows great potential for identifying patients at risk of suicide, but issues of precise use and ethics need further clarification.[11] AI-Crime (AIC) is a potential threat[12], AI-driven future crime poses a wide range of threats, including AI-generated false content, AI automation, etc.[13], which are also closely linked to the phenomenon of abetment of suicide. The question of whether an AI entity can be considered an inciter of suicide remains an area of widespread discussion. Accordingly, this article aims to address the gap in existing research by using AI-incitement-to-suicide cases as a focal point. The objective is to explore issues related to the determination of eligible subjects and the allocation of responsibility in such cases.

The literature analysis method is employed in this article. The research aims to investigate whether AI can be considered a criminal agent in the context of incitement to suicide. Accordingly, this article draws upon research findings from two primary perspectives. Firstly, it reviews literature concerning whether AI qualifies as a subject in criminal law. Secondly, it examines literature discussing the criminality of incitement to suicide and relevant theories on incitement crimes. Building upon existing research, this

8 Dong Yinhui and Zhou Feiyan, "'Punitive Basis of Negligent Incitement Offenses in the Context of Non-feasance: Application of the Standard of Equal Placement Judgment,'" *Journal of Jiangsu Police Institute*, n.d., https://doi.org/DOI: 10.3969/j.issn.1672-1020.2022.05.004.

9 Trehani M Fonseka, Venkat Bhat, and Sidney H Kennedy, "The Utility of Artificial Intelligence in Suicide Risk Prediction and the Management of Suicidal Behaviors," Australian & New Zealand Journal of Psychiatry 53, no. 10 (2019): 954–64, https://doi.org/https://doi.org/10.1177/0004867419864428.

10 Rebecca A Bernert et al., "Artificial Intelligence and Suicide Prevention: A Systematic Review of Machine Learning Investigations," *International Journal of Environmental Research and Public Health* 17, no. 16 (2020): 5929, https://doi.org/https://doi.org/10.3390/ijerph17165929.

11 Alban Lejeune et al., "Artificial Intelligence and Suicide Prevention: A Systematic Review," *European Psychiatry* 65, no. 1 (2022): e19, https://doi.org/https://doi.org/10.1192/j.eurpsy.2022.8.

12 Thomas C King et al., "Artificial Intelligence Crime: An Interdisciplinary Analysis of Foreseeable Threats and Solutions," *Science and Engineering Ethics* 26 (2020): 89–120, https://doi.org/10.1007/s11948-018-00081-0.

13 Matthew Caldwell et al., "AI-Enabled Future Crime," *Crime Science* 9, no. 1 (2020): 1–13, https://doi.org/https://doi.org/10.1186/s40163-020-00123-8.

article further explores the pertinent issues surrounding AI's involvement in incitement to suicide.

The comparative method, as a traditional method in legal studies, encompasses both horizontal and vertical comparisons. In this article, the primary approach utilized is horizontal comparison, focusing on the clarification and evaluation of certain theories. On one hand, the legal system in China serves as the object of observation. On the other hand, during the literature review process, it was noted that foreign countries (regions) exhibit distinctive features in the legal status of AI, legislation regarding incitement to suicide, and related research. Consequently, this article adopts a comparative method to provide a brief exposition of the associated theories.

2. ANALYSIS AND DISCUSSION

2.1. Theoretical Review

2.1.1. The Theory of AI as a Criminal Subjectthe

While AI propels societal transformation through intelligent automation, attendant concerns regarding uncertainties and the infringement of legal interests also merit serious consideration. At present, the pressing need for legislation on AI-related matters is underscored by legislative lag. Moreover, the academic community has engaged in extensive dialectical research and rational discourse regarding the question of whether artificial intelligence can assume criminal responsibility. This viewpoint demands careful examination as legal scholars explore the implications of AI potentially becoming a subject of criminal liability.

This misleading nature primarily stems from the algorithmic black box problem. The term "algorithm" refers to predefined, finite steps or sequences that can be implemented by a computer. Due to the complexity and confidentiality of the technology itself, aspects of the computing instructions and processes are not publicly disclosed, resulting in an unpredictable technical logic known as the algorithmic black box. Ownership and control of fundamental data lie in the hands of internet companies, and currently, there is a lack of regulation on such information technologies. Consequently, the algorithmic black box problem remains unresolved, preventing accurate determination and allocation of responsibility in the context of AI crimes.

In the ongoing debate on whether strong AI can be considered a criminal subject, scholars who advocate the "negative" stance primarily put forth arguments in three key aspects: instrumentality, unity of rights and responsibilities, and morality.

The viewpoint emphasizing "instrumentality" contends that while AI may generate "logical thinking" similar to that of humans based on certain algorithms, its essence lies fundamentally in the organization and execution of data. Consequently, AI can only be considered a tool within the human production process.[14] The AI entity fundamentally

14 Hao Tiechuan, "'Unrealistic Expectations and Overestimation of the Impact of Artificial Intelligence on the Rule of Law,'" *Legal Daily*, n.d.

lacks intrinsic behavioral and legal capacities, not to mention dialectical thinking abilities. Therefore, AI can only exist and function in the form of a human tool.

The concept of "unity of rights and responsibilities" aims to demonstrate that AI lacks legal rights and obligations. Therefore, it does not need to bear corresponding legal responsibilities based on unfulfilled or partially fulfilled obligations. This is mainly because the rights and obligations stipulated by the *Constitution* are directed towards natural persons. Aishwarya Limaye argues that AI entities cannot serve as subjects of responsibility. The enjoyment of rights is the foundation of fulfilling obligations, and responsibility arises from the non-fulfillment of these obligations. AI entities do not possess fundamental constitutional rights, such as various rights outlined in the *U.S. Constitution*, including freedom of speech and the right to bear arms. Therefore, AI entities cannot equally assume obligations and lack the basis for the emergence of responsibility.[15]

The moral perspective argues that criminal subjects should possess moral awareness. Criminal liability arises when an act is committed with the knowledge that it goes against morality, as "law represents the minimum standard of morality". The ethical framework of AI entities originates from the humans behind them, not from an intrinsic moral perspective of the AI itself. In cases where harmful consequences result from actions guided by this ethical framework, the responsibility should rightly fall upon the creators of the AI rather than the AI entities as mere executors.[16]

Supporters of the "affirmative" perspective focus on theories such as electronic agency, limited personhood, and personhood by analogy. These three theories seem to represent a compromise within legal values, suggesting that AI should possess partial personhood, akin to how legal entities like corporations are endowed with partial personhood through legal constructs.

It is evident that the extensive discussions sparked by the question of "whether AI belongs to criminal subjects" are primarily concentrated in the domain of strong AI. At its core, the illusion of "human-like traits" generated by strong AI is attributed to algorithms and machine learning. Consequently, under the operation of algorithms, the performance of strong AI appears more like a "simulation and replication of experiences", continuously collecting and observing data to eventually generate representations. While this experiential reproduction may yield some unforeseen effects, it cannot be equated to human thought processes and decision-making.

Furthermore, there are distinctions between the birth logic of AI and the legal personhood of corporations. Although corporations possess legally constructed personhood, the will of a corporation is mirrored through human thought and rational discussion. AI, lacking human judgment and decision-making, cannot entirely align with the operational logic of corporations. Thus, it is inappropriate to directly apply

15 Aishwarya Limaye, "Friend or Foe: Legal Rights of Artificial Intelligence," *BC INTELL. PROP. & TECH. F*, 2017, 1.

16 Patrick Chisan Hew, "Artificial Moral Agents Are Infeasible with Foreseeable Technologies," *Ethics and Information Technology* 16 (2014): 197–206, https://doi.org/https://doi.org/10.1007/s10676-014-9345-6.

the legal personhood framework of corporations to grant artificial intelligence partial personhood.

2.1.2. The Theory of Incitement to Suicide

The issue related to suicide has been a topic of discussion in academic circles. Currently, countries worldwide are gradually abolishing the provision of "suicide as a crime" (without excluding the perspective that suicide is an illegal act). The term "incitement to suicide" is generally understood as the act of inducing suicidal intent and behavior through methods such as deception, enticement, or instigation. In *China's Criminal Law*, there is no explicit provision for the act of inciting suicide, but relevant content has appeared in judicial interpretations. For instance, a joint judicial interpretation by the Supreme People's Court and the Supreme People's Procuratorate states that inciting members of cults or others to commit suicide within the context of cults is to be treated as intentional homicide.[17] In the study of the punish ability of incitement to suicide, although there is a unified trend in recognizing the criminality of incitement to suicide, there are still differences in the logic of penalties.

The perspective that denies the punishability of incitement to suicide focuses on the theories of objective attribution and the lack of substantial harm. The objective attribution theory posits that suicide is an act where individuals voluntarily relinquish their own lives. Since the legal interests violated by suicide (i.e., the individual's right to life) do not fall within the scope of legal protection defined by criminal law, suicide is considered non-punishable. Therefore, the act of incitement to suicide is similarly argued not to constitute a crime. The theory of lacking substantial harm contends that inciting suicide does not reach the degree, both objectively and subjectively, required by criminal law to be considered a crime, and therefore lacks punishability.

The affirmative stance on the punishability of incitement to suicide encompasses several mainstream viewpoints, primarily including the following perspectives. The *Unitary Offender Theory* evaluates "incitement to suicide" as a distinct offense rather than an accomplice to the offense of "suicide", thus characterizing the accomplice as a principal offender. In contrast, the *Independent Accomplice Theory*, while similarly asserting the punishability of incitement to suicide, differs fundamentally in its underlying logic from the *Unitary Offender Theory*. The *Independent Accomplice Theory* contends that suicide itself meets the elements of criminality, possessing both unlawfulness and punishability. Only due to humanitarian considerations is suicide not criminally convicted. Therefore, objectively speaking, suicide entails unlawfulness and punishability, and the act of incitement to suicide, as an aiding conduct, should also possess unlawfulness and punishability.

Currently, many countries and regions worldwide have legislated to varying extents on the act of incitement to suicide. For instance, *Article 202* of the *Japanese Penal Code* explicitly states that a person who induces or assists another person in committing suicide or kills another person as per the victim's request or promise shall bear corresponding

17 Siyuan, "A Brief Analysis of the Punishability of Incitement to Suicide Behavior."

criminal responsibility. Additionally, in the Macao Special Administrative Region of China, the *Penal Code* clearly addresses incitement to suicide.

In the current *China's Criminal Law*, there is no explicit charge for "incitement to suicide" or related concepts. However, in specific cases, convictions and sentencing rationale for incitement to suicide have been established. A notable example is the classification of "incitement to suicide" as intentional homicide in certain cases. In a case prosecuted by the Licheng District Procuratorate involving Feng, who was accused of intentional homicide, Feng used the internet to recommend and provide suicide methods for the victim, Ma, under the pretext of a "suicide pact". Feng sent links to purchase suicide tools and presented false examples of successful suicides, thereby influencing Ma to believe the content and successfully carry out the act of suicide. The procuratorate deemed Feng's actions as providing substantial assistance to Ma's suicide, meeting the constitutive elements of intentional homicide. Consequently, they initiated public prosecution. This case is considered the first internet "incitement to suicide" judgment in Shandong Province.

2.2 Discussion

As a new technology and achievement, AI is bound to bring about legislative innovations. In the context of the aforementioned "Shandong Internet Incitement to Suicide First Case", where the perpetrator provided the victim with content related to "suicide methods", "links to purchase suicide tools", and "examples of successful suicides", individuals attempting suicide could potentially obtain similar information through "dialogues" with AI. Therefore, effectively regulating the behavior of AI is crucial for addressing these issues.

It is evident that there are two pressing issues that need to be addressed urgently: firstly, how to define incitement to suicide by AI; and secondly, in acknowledging, denying, or partially recognizing (or denying) the criminal subject status of AI, how criminal responsibility should be allocated.

2.2.1. Technical Aspect: Qualification of AI Incitement to Suicide

Firstly, it is essential to clarify the characteristics that differentiate AI from HI. Avcontent Team identifies seven distinctions between AI and human intelligence (HI): origin, learning ability, creativity, decision-making, nature, energy usage, and social skills.[18] The relevant aspects for this study primarily pertain to learning ability, creativity, decision-making, and social skills.

In terms of learning ability, HI can acquire new information through observation, experience, and self-directed learning, applying it to novel situations. On the other hand, AI can only learn from vast amounts of data using statistical models and algorithms. AI cannot establish a unique analytical style like HI and relies on data and regular training for learning. In other words, compared to HI, AI lacks "autonomous thinking", making

18 Avcontent Team, "'Artificial Intelligence vs. Human Intelligence: Top 7 Differences'.," 2023, https://www.analyticsvidhya.com/blog/2023/07/artificial-intelligence-vs-human-intelligence/.

it a key differentiator and a reason why AI is not suitable as a criminal subject for "incitement to suicide".

In terms of creativity, HI can utilize innovative thinking and creative abilities to generate new concepts, literature, music, and artwork. While AI can use existing data and trend predictions for creative outputs, it fundamentally lacks intrinsic innovativeness and originality. Consequently, it can be observed that the "methods" and "suggestions" provided by AI in the context of "incitement to suicide" are essentially results of extensive data recording and integration. The collection and integration of data not only require machine self-learning but also oversight and data choices from the AI development team. Therefore, in cases of "incitement to suicide" involving AI, issues of oversight by the owner (team) of the AI may exist concerning the provided "suggestions" and related information.

In decision-making, HI decisions may be influenced by subjective factors, not solely based on data. In contrast, AI can interpret data collected comprehensively and make decisions with strong objectivity. This is also the reason for the frequent occurrence of various AI cases in "civil infringement" and "intellectual property disputes". Due to AI providing a rational and objective answer based on the organization of vast amounts of data, the public has developed a strong "trust" in AI. Scholars like Li Hui et al. have pointed out in their research that 70% of individuals in the suicide population are related to depression and depressive emotions.[19] Suicide victims are prone to feelings of helplessness, hopelessness, and even despair, leading to negative and pessimistic depressive emotions. It can be observed that the "trust" provided by AI may become the "courage" for the victim to commit suicide.

Furthermore, since AI cannot actively provide assistance, the dialogue begins only when the suicidal individual has suicidal thoughts. In other words, although it provides "trust", AI is fundamentally passive in "incitement to suicide", which is a fundamental difference from the "Shandong Internet Incitement to Suicide First Case". Therefore, AI plays a limited role in cases of "incitement to suicide", despite providing a sense of trust.

In terms of social skills, HI possesses the ability to understand abstract concepts, a degree of self-awareness, and sensitivity to the emotions of others, distinguishing humans from other social animals. However, AI is still in the process of developing the ability to read and recognize relevant interpersonal and emotional signals. As mentioned earlier, AI "urgently needs improvement" in emotional processing. This is a crucial basis for AI being unable to replace HI as a criminal subject. Because AI cannot provide independent thinking and emotional value, it cannot truly become a "legally independent entity", even if its external manifestation of "human-like traits" is perfect, its essence is still information integration and presentation driven by data.

In conclusion, the significant differences between AI and HI on the technological level make it impossible to recognize AI as a legal subject. The main argument is that AI is essentially a program-driven collection of data sets. Currently, the ownership, development process, and databases of AI are all controlled by its ownership entity. The

19 Li Chunsu and Wei Zhonghua Li Hui, Mu Xishu, "'Study on the Correlation between Suicide Attitude and Self-Acceptance of Depression Patients'.," *Journal of Hebei Medical University* 9 (2016), https://doi.org/DOI: 10.3969/j.issn.1007-3205.2016.09.004.

regulatory authority is marginalized in the supervision of AI, leading to the unresolved issue of the "algorithmic black box". Therefore, as seen in the comparative analysis above, although AI cannot match human capabilities technically, the inability to rule out the consequences of AI "incitement to suicide" is due to the oversight of its owner (company or team).

2.2.2. Legislative Level: Attribution of Responsibility for AI "Incitement to Suicide"

The term "attribution of responsibility" is widely used in both criminal and civil fields. The concept of criminal attribution of responsibility can be traced back to ethical discussions about the free will of the perpetrator.[20] Through the evolution of theories such as general attribution, behavioral attribution, responsibility attribution, and unlawful attribution, a framework centered around the evaluation of criminal responsibility has gradually been established. Criminal attribution of responsibility involves two aspects of evaluation: whether a certain harmful result can be attributed to the actions of the perpetrator objectively and whether the perpetrator subjectively has the capacity to assume corresponding responsibility. This is also known as the "two-tiered system" in criminal law. In the two-tiered system, objective elements include the subject, behavior, result, causation, etc., while justifiable defense, emergency avoidance, and the victim's commitment become defenses against objective attribution of responsibility; subjective elements include intent, negligence, age of responsibility, capacity for responsibility, likelihood of unlawful perception, and likelihood of expectation, which become defenses against subjective attribution of responsibility for the actor.

In cases involving "AI Incitement to Suicide", a crucial reason why AI cannot constitute the subject of criminal attribution of responsibility is its inability to be objectively identified as the "actor". Thus, it hinders the imposition of corresponding responsibility for the "incitement behavior". Although discussed earlier, AI in "incitement to suicide" cannot perfectly eliminate issues related to ownership subject oversight, attributing the entire responsibility for the "incitement to suicide" to the oversight of the ownership subject is not straightforward. This is mainly due to the modesty inherent in criminal law, and, as a result, the causal chain should not extend indefinitely. Referring to the theory of "designating AI as a legal entity", if AI were to be designated as a distinct criminal subject in legal terms, it might better delineate criminal responsibility. However, the vast gap between AI and legal persons lies in the fact that AI is a data entity, while legal persons are entities manifested by natural persons. Therefore, if AI aims to be designated as a subject of responsibility by referencing provisions related to companies or legal persons, more literature and data need to be presented for justification.

Moreover, from a behavioral perspective, there is a situation of self-trapping risk for the victim. According to the research on the correlation between suicidal attitudes and self-acceptance in patients with depression, about 70 % of suicide victims suffer from mental illnesses such as depression.[21] Thus, approximately 30 % of suicide victims

20 Li Xiaolong, "'The Concept and Structure of Criminal Responsibility'.," *Jianghan Tribune*, no. 4 (n.d.): 61–63, https://doi.org/DOI: 10.3969/j.issn.1003-854X.2014.04.011.

21 Li Hui, Mu Xishu, "'Study on the Correlation between Suicide Attitude and Self-Acceptance of Depression Patients'."

may engage in impulsive suicide or other situations. Additionally, according to the revised "*Guidelines for the Criminal Responsibility Assessment of Individuals with Mental Disorders"* by the Ministry of Justice in 2016, if patients with depression or other mental disorders are in the active phase of the illness, and their harmful behavior is directly related to psychotic symptoms, and they have lost the ability to recognize or control their behavior, they may be assessed as lacking criminal responsibility.

This indicates that individuals with depression do not necessarily lack the ability to discern their own behavior. The theory of victim self-trapping risk suggests that if the victim subjectively recognizes the existence of danger and objectively has the ability to control the danger, then it is considered a case of victim self-trapping risk, and the resulting harmful consequences should be borne by the victim. Therefore, in cases of AI incitement to suicide, not all suicide cases need to be attributed (or partially attributed) to AI or its owners. If there is a situation of victim self-trapping risk, it may exempt AI or its owners from criminal responsibility.

Finally, from the perspective of incitement crime theory, most scholars support the view that "incitement should have intent subjectively". As mentioned earlier, from the perspective of non-criminal behavior, a negligent inciter has an obligation to "eliminate adverse effects" due to their prior "negligent instigation" behavior. Due to they fail to promptly eliminate the related effects (obligation arising from prior behavior), they incur corresponding legal responsibility. This viewpoint can be applied to cases of AI incitement to suicide.

However, AI fundamentally lacks thought and emotion. Therefore, under this perspective, the responsibility should be attributed to the owners of AI. The owners of AI, due to regulatory errors leading to the inability of AI to timely avoid the problem of "incitement to suicide", bear the responsibility. Suicide victims, based on the "sense of trust" given by AI, choose suicide. The regulators of AI need to prevent tragedies in the background supervision process and take timely measures. If they fail to take any effective measures resulting in the occurrence of the outcome, regulators should assume a certain degree of responsibility.

Therefore, besides implementing effective measures such as setting keyword alerts during technical development, regulators also need to take proactive remedial measures, such as timely dissuasion and reporting to relevant authorities, when they detect frequent inquiries related to suicide content from potential suicide victims. Otherwise, they will be proportionally responsible.

In conclusion, AI is not suitable to be the subject of criminal responsibility, primarily because it functions solely as a carrier of data and a presentation tool. The ultimate management and control of AI should be attributed to regulatory authorities. Additionally, if the suicide victim possesses the ability to recognize and control themselves when being "incited", the responsibility of AI regulators should be mitigated through the concept of victim self-trapping risk. Finally, regulatory authorities have an obligation to eliminate adverse effects resulting from regulatory errors. If they fail to exhaust relevant remedial measures (including but not limited to active dissuasion, timely reporting, keyword alerts, etc.), they should bear corresponding responsibility based on their omission.

3. CONCLUSION

In terms of findings, this article puts forward several key points. Firstly, AI is not suitable to be considered a new legal entity through legal stipulations and regulations, such as the legal personhood model applied to corporations. Therefore, in AI cases, the corresponding responsibility should lie with its regulators. Secondly, the occurrence of AI suicide cases does not imply that all such cases should be attributed to the inadequate supervision of regulators. Due to the lack of initiative in AI, responsibility should be attributed to the suicide victim if they possess subjective awareness of the harmful consequences and objective control over their actions. This distinguishes it significantly from cases of natural persons inciting suicide. Thirdly, AI regulators have a duty of supervision, and failure to diligently fulfill this duty may result in legal liability for nonfeasance. Furthermore, AI suicide is not considered a product quality issue, so there is no need to discuss regulator responsibility through product liability infringement points. This distinction is evident when compared to situations where AI programs cause harm due to errors.

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