

Abstract

Recently, "human flesh search" frequently appears in public view, accompanied by a series of large network events, which will be referred to as double-edged sword, on the one hand, it plays a strong part in information-gathering and communication, and provides an important channel for the freedom of expression as well as the social supervision; on the other hand, "human flesh search" is also widely criticized for the disclosure and spread of personal information, the violations of civil right of privacy, in addition to the destroy of the construction of the network order. As the "human flesh search" is a collection of complex behaviors, while the disclosure of personal information of citizens on the internet has played a decisive effect as safety valve in the entire process of "human flesh search" as well as the extent of interests damage of the parties. Therefore, all the academic controversy and critical ultimately shall comes down to how to regulate such behavior, to reduce the negative impact of this behavior without weakening of its positive function, and focus on the legitimacy of such criminalization.

This Article is written on the topic which is divided into four sections, to study the following issues and put forward my own views:

Chapter I Introduction: Study of basic issues regards the "human flesh search" and a brief assessment of the status. No matter the public considers "human flesh search engine" as the Angel or the Devil, we should research it as a social phenomenon in the field of criminal law, while eventually concentrate on to the right of people, behavior of human, assessment of the criminal law. Therefore, we shall analyze the concept of "human flesh search" to define the basic issues, such as subject, behavior as well as the type, to arrive the object of study – disclosure of personal information on the internet.

Chapter II: To discuss the legitimacy of criminalization on the disclosure of personal information on the Internet. Criminal law is the most stringent law, its

position determine the proposed criminalization of the behavior, which should found on a comprehensive, in-depth demonstration besides the adequate support of criminal law theory, with another premise is the exhaustion of other social regulation means without fruit . This chapter will approach from the theory and the effectiveness, includes the environment of occurrence, the harm of such behavior on citizens and society, the dangerousness of the actor and the insufficiency of existing legal and other social control means to regulate such act, etc. to discuss the legitimacy of criminalization on the disclosure of personal information of citizens on the internet.

Chapter III: The comparison of criminal legislation on the personal information protection. In many western countries, it is a common practice to legislate the criminal legislation to protect the personal information. Because the legal basis and legal traditions differ from each other, the model for the protection of personal information has their own characteristics. This chapter describes three kinds of typical model for the protection of personal information, to provide the templates for the criminalization on the disclosure of personal information of citizens on the internet in China, more important, to detach the common concept under the law, and on this basis, to reflect the legislative status for personal information protection in China.

Chapter IV: On the specific path of criminalization and constitutional elements of the disclosure of citizens' personal information on the internet. Based on the aforesaid discussion, to emphasize the necessity of criminal sanctions on the disclosure of personal information on the internet, to bring such act into criminal law in the form of a separate accusation on the basis of the status of protection on the personal information, by the restrictive provisions of the subject and the harm by the choice of constitutional elements and to avoid the enlargement of such crime.

Keywords: Human flesh search Personal information Privacy Criminalization