

**Force Methods and Agreement under Deception:
Based on the Sexual Assault Crime**

Huang-Yu Wang^{*}

Abstract

In compliance with the provision of Article 211 of Criminal Code, a person who by threats, violence, intimidation, inducing hypnosis, or other means against the will of a male or female and who has sexual intercourse with such person shall be sentenced to imprisonment for not less than three years but not more than ten years. What is the so-called “other means against the will of a person”? Is the use of a “forcible means” similar to threats, violence and intimidation by an offender the prerequisite? Moreover, if a victim agrees to have sexual intercourse with an offender because he/she is deceived by the offender into it, shall such an offense be regarded as a crime of compulsory sexual intercourse? Offenders may use various fraudulent means to deceive victims into having sexual intercourse with them. Taking religious fraud for example, offenders may tell victims that they are possessed by a demon and the only way to exorcise the demon is to have sexual intercourse with them. Offenders may also deceive victims into having sexual intercourse with them by offering a payment (in a way similar to prostitution without a payment being made). Offenders may also deceive victims into having sexual intercourse with them by promising them with marriage. The victims become willing to have sexual intercourse with offenders because they think that they will get married. The research focus of this study is on investigating how wide the range of other means “against the will of a male or female” is. As for the research method, this study mainly compared and analyzed the laws in Taiwan with those in Germany. In the end,

^{*} Associate Professor of Law, College of Law, National Taiwan University.
E-mail: hwang47@ntu.edu.tw

this study pointed out the differences between the laws in Taiwan and those in Germany.

Keywords: force methods, agreement under deception, against the victims' will, sexual assault crime, sexual harassment, high forcible means, lowly forcible means