

Determining the Disengagement of Accomplices in Telecom Network Fraud Crimes

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Abstract:

The incorporation the accomplice disengagement theory cases of cross-border telecom network fraud crimes is crucial for the objective and comprehensive assessment of the actions of accomplices who opt out of criminal activities midway. Nevertheless, the foundational theory of accomplice disengagement is still incomplete, leading to inconsistencies in the application of laws and disparities between the severity of sentencing and the leniency of conviction decisions in judicial practices. This study investigates this matter from a comparative legal standpoint, juxtaposing the key principles of civil law and common law jurisdictions with the theories on accomplice disengagement within China's legal framework. Through this examination, the study the current approaches to addressing concerns related to accomplice disengagement. Subsequently, the discourse delves into defining concepts, elucidating principles, outlining fundamental elements, and deliberating on conviction and sentencing, with the objective of refining the processes for determining accomplice disengagement. The ultimate goal is to ensure fairness in disengagement determinations and to devise innovative strategies to crimes related to telecom network fraud.

Keywords: Accomplice Disengagement; Telecom Network Fraud; Termination of Crime; Severance of Causation

Participants in cross-border telecom network fraud crimes are numerous and their relationships complex, exhibiting characteristics of organization, scale, and industrialization. Notably, the phenomenon of accomplices withdrawing midway through the criminal process is quite prominent. Particularly unique is the situation of some accomplices who are deceived into going abroad or even coerced into committing crimes. As coerced accomplices, their subjective malignancy is relatively low, and they possess a significant desire to withdraw from the crime. To comprehensively evaluate accomplice behavior, the serious efforts made by those who withdraw to cease their involvement should be assessed within the framework of accomplice disengagement, analyzing the withdrawal actions of accomplices in such crimes and clarifying the pathways for determining accomplice disengagement.

A systematic study of the theory of accomplice disengagement is essential to define the conditions and pathways for its establishment, aligning the theory with practice and effectively resolving issues of accomplice disengagement in cross-border telecom network fraud crimes. Applying the theory of accomplice disengagement in practice can enhance the accuracy and rationality of accomplice determinations. Recognizing accomplice disengagement can, to some extent, mitigate the penalties for those who actively

abandon their criminal endeavors and strive to prevent the criminal outcomes, reflecting China's criminal policy of balancing leniency with strictness. This approach can also serve as a starting point to guide accomplices to abandon their criminal activities, promote the dismantling of criminal collaborations, and pave new ways to combat cross-border telecom network fraud crimes.

1. Examination and Reflection on the Applicability of Accomplice Disengagement in China's Legal System

1.1 Current Status Review

China's criminal law has yet to explicitly define the concept and content of accomplice disengagement. In judicial practice, cases related to this issue are typically handled under the norms of attempted crimes and discontinuation of crimes, without adequately considering the complexity and interconnectedness present in cases of joint criminal endeavors. Regarding the efficacy of some accomplices ceasing their criminal activities, China often adopts the principle of "partial execution, full responsibility," which does not substantially differ from the handling of cases where crime is discontinued. Although there are overlaps between accomplice disengagement and discontinuation,

significant differences remain; hence, equating discontinuation with disengagement is theoretically illogical.

The intent to disengage expressed by the participant is a critical factor to consider in cases of accomplice disengagement. If the participant withdraws from the accomplice relationship without explicitly stating the intent to disengage, and there are no special circumstances, such a case is regarded as a mere withdrawal type. In these cases, the participant's "disengagement" is merely a temporary departure on an objective level, without any substantive disconnection from the criminal outcomes or other participants, and is generally not considered to constitute accomplice disengagement. However, if the participant clearly expresses an intent to disengage and ceases to participate in subsequent joint criminal activities, this is seen as a case of planned change type. In such cases, where the participant is disconnected from subsequent criminal acts and other participants, judicial practice generally recognizes this as accomplice disengagement.

1.2 Reflections on Issues

Due to limitations in the legislation on joint crimes, the underdevelopment of foundational theories on accomplice disengagement, and insufficient depth in research, numerous issues persist in China's judicial practice concerning such cases.

1.2.1 Lack of Uniformity in Legal Application

In practice, the methods for addressing accomplice disengagement are chaotic, and the legal norms applied to these cases are not unified. China's criminal law typically categorizes participants in joint crimes using a primary method based on the role played and a secondary method based on division of labor, which can lead to discrepancies between the severity of the sentence and the determination of guilt. Furthermore, addressing accomplice disengagement may involve multiple legal fields such as criminal law, criminal procedure law, and international law, where inconsistencies between these legal provisions can lead to contradictions in the application of the law.

1.2.2 Unsystematized Criteria for Determination

The provisions in China's criminal law for halting intentional crimes only include preparation, attempt, and discontinuation. Generally, the focal point in determining these states is whether discontinuation is constituted. If not, further discussion is not pursued. Under these circumstances, the scope of applicability for accomplice disengagement is narrow, and the standards for application are stringent, which is not conducive to the legalization of accomplice disengagement or to the systematic judicial assessment of such cases. Judicial practice in handling

"disengagement-type" cases includes treating them as cases of accomplice discontinuation, completed accomplice actions, handling as accessories, or considering as mitigating circumstances in sentencing. In cases treated as accomplice discontinuation, the disengagement and extent of disengagement by the participant are not taken into account.

1.2.3 Unclear Distinction Between Accomplice Discontinuation and Disengagement

Currently, judicial agencies handling joint crime cases often blur the distinction between accomplice discontinuation and disengagement, and sometimes these concepts are even conflated. In cases treated as completed accomplice actions, the participant neither qualifies as having discontinued nor disengaged, and their criminal actions are fully prosecuted. In cases treated as involving an accessory, the participant is considered to have played a lesser role than the principal offender, effectively recognizing a degree of "disengagement" and granting leniency in their criminal actions. In cases treated under discretionary sentencing circumstances, the possibility of accomplice discontinuation is ruled out, which essentially acknowledges the participant's "disengagement." However, due to the absence of directly applicable legal provisions on accomplice disengagement, this recognition is treated as a factor in sentencing, leading to leniency in the treatment of the criminal actions.

2. Approaches to Accomplice Disengagement from a Global Perspective

2.1 Comparative Legal Observations on the Treatment of Accomplice Disengagement

Different countries adopt varying approaches to handling situations where individual accomplices autonomously leave the group, abandon the crime, and negate their influence on other accomplices. German criminal law discusses accomplice discontinuation within the context of attempted crimes, where discontinuation is established as long as the individual makes an effort to prevent the act from being carried out. In Anglo-American law, this is referred to as "accomplice withdrawal." Meanwhile, Japan has introduced the concept of "accomplice disengagement," first proposed by Professor Hitoshi Otsuka. This theory has been extensively discussed and developed relatively completely in Japan. Globally, academic discussions on this issue have resulted in four representative theories: the lack of intent to connect, the quasi-obstruction of attempt, the severance of accomplice relations, and the disruption of causal relations. Chinese scholars, through comparative and research processes, have developed nor-

mative theories such as the causal relation obfuscation and the conspiracy range theory, exploring localized standards for accomplice disengagement that align with China's legal system characteristics.

The causal relation severance theory primarily bases its assertions on the stance of causal complicity, emphasizing that an individual is punishable because of a causal connection between their actions and the actual event, i.e., there exists a physical or psychological causal relationship between the accomplice's actions and the principal offender's actions. Severing this causal relationship establishes the disengagement of an accomplice, which eliminates the incitement or facilitation effect of the action on the principal offender, as well as its psychological impact. Once the causal relationship is severed, the accomplice achieves disengagement, and the accomplice relationship is thus dissolved. The view of accomplice relationship dissolution also stems from the theory of causal complicity, establishing stricter requirements based on the severance theory's views, with the dissolution of an established accomplice relationship as the criterion for judgment. Accomplice disengagement must dissolve the existing accomplice relationship to be recognized. The individual must demonstrate and express the intention to disengage, making other accomplices aware of this disengagement. The subsequent criminal actions of the remaining individuals are then based on a new accomplice relationship and constitute new crimes. The individual is not responsible for the actions and outcomes of the remaining individuals after this point. The lack of intent to connect theory provides a theoretical basis for accomplice disengagement from a subjective perspective, suggesting that accomplices share a common criminal intent. If the principal offender changes their criminal intent during the crime, resulting in a lack of intent to connect, the subsequent individual actions should not be evaluated as collective actions, thereby achieving accomplice disengagement. At this point, accomplice disengagement merely requires evaluating the subjective aspect of the disengaged individual, examining the sincerity of their efforts to prevent the criminal outcome, without considering whether the criminal outcome was actually prevented. The conspiracy range theory, based on a reflection on the theory of causal complicity, establishes that only actions causing the outcome that fall within the range of the initial conspiracy can be attributed to the individual, who may then be held responsible for these actions and their consequences. The specific range of conspiracy includes: the intention to participate in the conspiracy, actual participation in the conspiracy, and actions carried out based on the conspiracy, thus integrating both subjective and objective factors to determine whether the remaining accomplices' actions fall within the range

of the conspiracy.

In the aforementioned theories, except for the "lack of intent to connect" theory, which tends to examine the subjective intent connections among participants, other theories generally focus more on the objective manifestations of behavior. The "lack of intent to connect" theory itself risks conflating the issues of accomplice disengagement and cessation. Moreover, this theory initially bases the essence of joint offenders on intent connections, emphasizing only the psychological links among co-offenders while neglecting the physical causality between them. Furthermore, it fails to account for specific scenarios of accomplice disengagement, such as in cases of instigators and helpers, particularly failing to address situations involving unilateral assistance, thus not gaining support. The "accomplice relationship dissolution theory," which uses "dissolution" as the criterion for disengagement, finds the degree and standards for recognizing "dissolution" challenging to define. Some scholars argue that "dissolution" should not be the basis for judgment, but rather should be seen as the effect of accomplice disengagement. The limitation of crimes "based on a new accomplice relationship" restricts the scope of accomplice disengagement. For instance, in cases where two individuals commit a crime together, and one withdraws midway while the other completes the crime alone, it is clear that this theory fails to reasonably assess special circumstances as the crime is not based on a new accomplice relationship. Additionally, the "conspiracy range theory" also has issues. It only specifies actions for disengagement among joint offenders within the "initial scope of the conspiracy," seemingly overlooking the cases of narrowly defined accomplice disengagement. Upon a comprehensive discussion of the existing theories, although the causal relation severance theory also faces some controversy, it appears to have a more universal significance and aligns more closely with the principles of criminal law compared to other theories.

2.2 Comparative Legal Perspectives on the Criminal Responsibility of Those Who Disengage from Joint Crimes

Determining the criminal responsibility of those who disengage from joint crimes varies internationally, yet some approaches remain less than reasonable. Academic discourse mainly covers the following scenarios for handling disengagement:

2.2.1 Punishment based on termination of complicity:

Many countries' criminal laws do not specifically clarify penalties for disengaging from complicity; rather, such scenarios are treated as terminations of joint crimes either in theory or practice. Section 31(2) of the German Crim-

inal Code stipulates: “If the crime does not occur due to the actions of the terminating offender, or if the crime has occurred but is unrelated to the previous involvement of the terminating offender, and if they actively attempt to prevent the completion of the crime, they shall be exempt from punishment.” According to this provision, the actor must actively prevent the outcome of the crime. If the non-occurrence of the crime result is not causally linked to the actor’s termination action, or if the actor’s efforts fail to prevent the crime result, it is considered an unsuccessful termination and is not punished, with the final effect being the same as that of the terminating offender. Article 31(4) of the Russian Federation Criminal Code states: “An organizer or instigator who timely reports to the authorities or takes other measures to prevent the perpetrator from completing the crime shall not bear criminal responsibility.” Article 31(5) adds: “If the actions of the organizer or instigator specified in Article 31(4) do not prevent the perpetrator from committing the crime, the court may consider their actions as mitigating circumstances during sentencing.” Countries like Germany and Russia treat the actions of disengaging actors as termination offenses, significantly reducing their criminal responsibility, which contravenes the principle of proportionality between crime and punishment. When an actor voluntarily abandons the crime and makes sincere efforts to prevent the crime’s outcome, especially when posing minimal personal danger, punishing such disengaging actors as attempted offenders in joint crimes unduly increases their criminal responsibility, appearing unjust and discouraging efforts to abandon and prevent crimes, to rehabilitate, and to dismantle criminal organizations, potentially exacerbating societal harm in the long term.

2.2.2 Punishment as attempted complicity:

Article 43 of the Japanese Penal Code provides: “No matter what efforts the actor makes, if they ultimately do not prevent the crime’s outcome, it cannot be considered as an attempted termination.” To ensure fairness and justice, this provision recognizes situations where efforts fail to prevent the outcome as frustrated attempts, sentencing the disengaging parties based on crime termination or completion. The author believes that determining disengagement from complicity should not solely depend on whether the objective crime outcome occurs, but also consider distinguishing between the actor’s subjective malice and personal danger. Unconditionally treating such cases as attempts for punishment is clearly unreasonable.

2.2.3 Consideration based on discretionary circumstances:

In the criminal laws of China and Anglo-American sys-

tems, the disengagement from complicity is merely considered a discretionary factor in sentencing, assigning responsibility as if the crime was completed. Although this approach is beneficial for handling highly complex joint crimes and reducing judicial pressure, it contradicts the fundamental principles of consistency between subjective and objective elements of law and the proportionality between crime and punishment. Moreover, it severely lowers the incentives for accomplices to disengage and is counterproductive in combating crime.

3. Improving the Pathways for Disengagement in Complicity Relationships

3.1 Conceptual Definition: Distinguishing Between Accomplice Disengagement and Accomplice Discontinuation

Accomplice disengagement and accomplice discontinuation are pivotal theoretical constructs for addressing issues in joint criminal activities, interconnected yet parallel without contradiction. Both accomplice disengagement and accomplice discontinuation can occur at various stages—from before the initiation of a crime, through its execution, up to but not including its completion, potentially at any point before the crime is fully realized, thus exhibiting a high degree of temporal congruence. Accomplice disengagement involves the actor proactively withdrawing from the crime and severing the causal link with other accomplices’ criminal activities; similarly, accomplice discontinuation involves an accomplice actively ceasing their criminal actions and taking positive steps to effectively prevent further criminal acts by other accomplices. Both actions are characterized by their proactive and positive nature. Furthermore, the subjective malice in both scenarios is relatively low. Typically, both accomplice disengagement and accomplice discontinuation involve accomplices autonomously withdrawing from the crime, which significantly reduces their subjective malice and, consequently, lessens the social harm.

Accomplice discontinuation is predicated on the automatic withdrawal of accomplices from the joint crime and requires proactive actions to halt further criminal behavior by other accomplices, aiming to successfully prevent the crime’s outcome. In contrast, accomplice disengagement merely requires an accomplice involved in a joint crime to voluntarily cease their criminal activities and sever the causal relationships with other accomplices’ actions, making a sincere effort to prevent the crime’s result. Firstly, there are differences in the applicability of the two concepts. Accomplice disengagement applies only to individual accomplices, whereas accomplice discontinuation can apply to both individual accomplices and the entire crim-

inal group. Secondly, the requirements for “effectiveness” also differ between disengagement and discontinuation. Accomplice disengagement does not require “effectiveness”; it is sufficient for the disengager to voluntarily withdraw from the crime and sever the causal connections with other accomplices’ actions. Conversely, the establishment of accomplice discontinuation must meet a criterion of “effectiveness”. Moreover, the “voluntariness” of actions in accomplice disengagement and accomplice discontinuation also differs. Accomplice disengagement does not presuppose “voluntariness”; aside from sincerely repenting and withdrawing from the crime, it is possible that the disengager acts out of fear or cowardice. However, accomplice discontinuation explicitly requires “voluntariness,” meaning that the accomplice’s discontinuation action must stem from their own subjective will, and the reasons for ceasing the crime must not be influenced by external environmental factors.

3.2 Clarity of Principles: Determination of Punishment Principles for Accomplice Disengagement

When addressing the punishment of an accomplice’s actions prior to their disengagement, it is necessary to analyze each case specifically. If the accomplice opts to disengage during the preparatory stage, unless their preparatory acts have already violated a specific crime under the current criminal law, based on the principles of the unity of subjective and objective aspects and humanitarianism, the accomplice should be exempted from punishment if the social harm of their actions is minimal. However, if the accomplice chooses to disengage during the execution phase, since the actions taken before disengagement have already posed social harm and resulted in the infringement of legal rights, the accomplice must bear responsibility proportional to the harm caused by their actions. Furthermore, since the accomplice only disengaged from the original criminal relationship without actively taking steps to prevent the continuation of the crime by other accomplices, those who disengage in this manner should bear a heavier responsibility than those who merely discontinue their involvement. Compared to a completed crime, if an accomplice abandons the crime during the execution stage, the social harm caused is slightly less severe, hence the criminal responsibility of the disengager should be relatively lighter than that for a completed crime.

Regarding the criminal acts and completed outcomes carried out by other accomplices after one’s disengagement, the disengager does not bear criminal responsibility. This is because, at the moment of disengagement from the joint criminal activity, the disengager has severed both physical and psychological causal connections with the other

accomplices, losing all intentional communication with them, and has also taken active steps to mitigate the previous actions’ harm to society, thus there is no causal link with subsequent actions. In summary, the punishment of a disengager for their actions before disengagement should be carefully analyzed based on the principle of proportionality between the crime, culpability, and punishment; for actions post-disengagement, the disengager bears no criminal responsibility.

3.3 Constitutive Elements: Clarifying the Conditions for Accomplice Disengagement

3.3.1 Temporal and Spatial Scope

Broadly speaking, the act of disengaging from joint criminal activity can occur at any stage of the crime, meaning the temporal and spatial scope of accomplice disengagement spans from the initiation to the completion of the crime. However, there is currently a wide range of opinions within the academic community regarding the timing of such disengagement. Some scholars argue that accomplice disengagement can only occur before the initiation of the joint crime, and that discussions post-initiation should focus on accomplice discontinuation rather than disengagement. Others believe that disengagement can only happen after the crime has been initiated. Some scholars in China advocate that accomplice disengagement can occur during the preparatory phase, execution phase, post-execution phase, and even after the crime has been completed but continues in further stages. The author contends that the temporal and spatial scope of accomplice disengagement should cover the preparatory, execution, and post-execution phases, but not the phase following the completion of the crime. Once the crime is complete, indicating that the criminal result has occurred, there inevitably exists a causal relationship between the accomplice and the crime’s outcome. At this point, the accomplice cannot sever ties with the joint criminal act, nor is it possible to disengage from the existing accomplice relationship, rendering accomplice disengagement unestablishable.

3.3.2 Subjective Elements

For accomplice disengagement to be established, the actor must make a proactive and definitive decision to completely withdraw from the crime, based on their own subjective will, termed as “voluntariness.” If the withdrawal is influenced by external factors, forcing the actor to cease criminal activities, it is typically regarded as an attempted crime rather than accomplice disengagement. An actor’s voluntary withdrawal from a crime indicates a level of remorse and is distinct from being passively compelled to exit due to external impossibilities, affording them an op-

portunity for leniency consistent with societal values and bearing significant social implications. Moreover, for the establishment of accomplice disengagement, the actor's withdrawal must be "complete," meaning there should be no subjective intention to continue the crime and a total abandonment of criminal intent, severing any links with future criminal actions. Additionally, the actor needs to demonstrate a remedial awareness, making utmost efforts to minimize the impact of their actions on the outcome of the crime, rather than merely withdrawing. The actions undertaken by the actor before withdrawing have already formed a tangible link with the joint crime and influenced the outcome. Without taking remedial measures to sever the connection between the criminal action and its results, the actor's disengagement cannot be realized. Accomplice disengagement, subjectively, requires the accomplice to choose to withdraw from the existing accomplice relationship under the control of their own independent will. The subjective elements of accomplice disengagement involve both the "voluntariness" and "completeness" of withdrawing from the crime. There is ongoing debate in the academic community regarding whether the actor's disengagement from the crime possesses "voluntariness." A majority of scholars assert that an actor's disengagement from the crime must exhibit "voluntariness." However, a minority of scholars argue that "voluntariness" belongs to the study of accomplice discontinuation and should not be considered in accomplice disengagement. According to mainstream viewpoints in Chinese criminal law theory, as long as the actor perceives that the criminal activity can continue and be completed, yet ultimately chooses to abandon the continuation of the crime under subjective control, it demonstrates the "voluntariness" required for disengagement. The author advocates that in joint crimes, as long as the accomplice actively chooses to disengage from the crime under the control of their independent will, severing both psychological and physical causal relationships with other accomplices, "voluntariness" is satisfied. Whether the actor is genuinely remorseful or merely afraid of punishment is not considered within the scope of "voluntariness." The "completeness" of accomplice disengagement assesses the extent of the actor's disconnection from the criminal act, categorized into "absolute completeness" and "relative completeness." "Absolute completeness" refers to the actor not only completely abandoning the current crime but also not engaging in any other criminal acts in the future, whereas "relative completeness" only requires the actor to completely abandon the current crime, fully severing any physical and psychological causal connections with other criminal activities of the accomplices. The paper advocates the second perspective, "relative completeness," as the determination of

accomplice disengagement in judicial practice should be based on the actual circumstances of the case; the "absolute completeness" approach is hard to apply in practice and can be overly stringent. As long as the actor, under the control of their independent will, autonomously severs the causal relationship with other accomplices' criminal actions, the "completeness" required for accomplice disengagement is satisfied, and thus accomplice disengagement is established.

3.3.3 Objective Elements

Accomplice disengagement also requires meeting objective elements of severing the causal relationships. Given the complexity of joint crimes and the practical possibilities in real-world applications, the actor should endeavor to completely sever the influence of their prior actions on the subsequent actions of the remaining accomplices and the ultimate outcome of the crime. Disengagement can be categorized into absolute and relative terms; the standard for each depends on the specific facts of the joint crime case. The criteria should vary according to the actor's role, influence, and the stage of their involvement within the crime. Generally, disengagement during the execution phase is more challenging than during the preparatory phase, hence the criteria for recognition are stricter. For organizational leaders who play a pivotal role in the joint crime, whose actions decisively influence the overall execution and achievement of the criminal objectives, disengagement requires, on one hand, clearly communicating to all other accomplices their abandonment of the criminal intent. On the other hand, they must do everything possible to sever the causal link between their earlier criminal actions and subsequent criminal behaviors. Conversely, for those who play a supportive or coerced role in the joint crime, characterized by less subjective malice and only a phase-specific role in the entire crime process, their declaration of disengagement does not need to reach all accomplices. It suffices to cover those directly connected to the criminal acts, aiming to minimize the impact of their actions on the crime's outcome and reduce the causal connection with subsequent criminal activities, which can also be recognized as successful disengagement. Naturally, all disengagers must make a "genuine effort" in the process of disengagement.

3.3.4 Awareness Level of Other Accomplices

The cognitive conditions for accomplice disengagement refer to the requirement that the actor's disengagement from joint criminal activity must not only be manifested through actual disengagement actions but also be recognized by the remaining accomplices. That is, prior to disengagement, the actor should communicate their intent

to disengage either explicitly or implicitly to other accomplices. Since the execution of joint crimes involves every participating accomplice, disengaging from the accomplice relationship requires not only the actor's actual disengagement but also the recognition or awareness of this disengagement by other related accomplices. Joint crime is holistic; whether hierarchical or parallel, the criminal actions among all or some accomplices influence each other. Therefore, it is necessary for the actor to ensure that other related accomplices are aware or perceive their disengagement, which also serves to eliminate any "comfort" remaining participants might feel, and is a critical aspect of severing psychological causal relationships. In examining this process, three points should be noted: First, the actor must communicate their intent to disengage to other accomplices. Despite differences in spatial presence, roles within the joint crime, or the stages of crime involvement, the actor must make a clear declaration of intent to the remaining accomplices; Second, the range of accomplices to whom the disengagement intent is communicated should be determined based on the actor's role and influence in the joint crime. In hierarchical joint crimes, where accomplices are linked in a tiered chain, the actor must communicate their intent to disengage to their closely related superiors or subordinates. Therefore, these superiors and subordinates become the targets for such declarations. In parallel joint crimes, where accomplices are grouped and each group's members are interrelated, other accomplices within the same group should be the targets for the disengagement intent declarations. Similarly, an accomplice playing a significant role should declare their intent to both those engaged in actions and those who decisively influence the progression of the joint crime; whereas a coerced participant with a limited role needs only to communicate their intent to disengage to other accomplices directly associated with their criminal actions.

3.4 Conviction and Sentencing: Clarity in the Application of Law

Regarding accomplice disengagement, punitive regulations differ across countries and each has its shortcomings. In cases where the disengager actively attempts to prevent the crime but the criminal actions nonetheless continue, the social harm objectively appears greater than if the crime had been discontinued. Since the disengager fails to halt subsequent criminal activities, allowing the crime process to advance possibly to completion, the application of accomplice discontinuation penalties as seen in German and Russian criminal law seems unjust. Conversely, Japanese criminal law treats accomplice disengagement as attempted crime, considering the disengager's proactive abandonment of criminal activities. Even if they

fail to prevent other accomplices' criminal actions, they still reduce the social harm to some extent, though this approach seems biased. In China, treating accomplice disengagement merely as a mitigating factor also falls short. This not only contradicts the principles of unity between subjective and objective aspects and the alignment of crime, culpability, and punishment but also significantly undermines the motivation for accomplices to disengage from criminal activities, which is detrimental to suppressing criminal organizations. Accomplice disengagement should not be conflated with accomplice discontinuation and attempted crime due to its distinct differences. As a separate theoretical entity, it should also have an independent punitive mechanism. The analysis and investigation of a disengager's actions prior to disengagement should consider both subjective and objective factors to ascertain their culpability. As for the criminal actions of other accomplices post-disengagement, the disengager should not bear responsibility.

Currently, Chinese criminal law lacks specific provisions for accomplice disengagement, and the concepts of accomplice disengagement and discontinuation remain unclear. It is proposed that Articles 22 and 23 of Chinese criminal law could be expanded to address both individual and joint incomplete criminal acts collectively, thereby clarifying the accountability scope for those who disengage and those who discontinue. By rationalizing the distinction between these concepts and clarifying the sequence of issue resolution, a comprehensive regulatory framework for adjudication standards can be established, allowing for a reasonable determination of accomplice disengagement.

It is essential to recognize accomplice disengagement as an independent legal concept within criminal law, distinct from concepts such as accomplice discontinuation and attempted crime. Accomplice disengagement defines the attribution of criminal outcomes and delineates the scope and degree of responsibility among accomplices, whereas accomplice discontinuation solely assesses the criminal act and its cessation status.

Secondly, a clear pathway for adjudication must be established. Accomplice disengagement involves evaluating whether an accomplice relationship exists, while accomplice discontinuation assumes the persistence of such a relationship to then assess the state of crime cessation. When an accomplice voluntarily exits the collective, an assessment should first be made regarding the existence of the accomplice relationship, whether the departure has severed the physical and psychological causality, and whether the original accomplice relationship has been dissolved or terminated. If accomplice disengagement is established, the person who disengaged is not responsible

for subsequent criminal actions by other offenders; if not, the principle of “partial actions, full responsibility” still applies.

Thirdly, the criteria for recognition must be clarified. This includes evaluating the temporal and spatial scope, subjective elements, severance of causality, and the awareness level of other accomplices. The primary focus is on severing the causal relationship, with other factors playing a supporting role in determining whether disengagement has been achieved.

Finally, the assignment of responsibility must be addressed. Once accomplice disengagement is recognized, the accomplice relationship is terminated, and the person who disengaged is not responsible for any further criminal actions carried out by other accomplices after the disengagement. They are only accountable for their actions prior to disengagement; if these actions were completed, they are dealt with as completed offenses, and if not completed but successfully disengaged, they should be independently considered under accomplice disengagement and not subject to punishment.

4. Conclusion

As research into joint criminal ventures deepens, the issue of accomplice disengagement has increasingly captured scholarly attention. Assessing how to reasonably evaluate the cessation of criminal activities among accomplices in cross-border telecommunications fraud necessitates the incorporation of the concept of accomplice disengagement. This approach should be explored and assessed in a manner that reflects China’s unique characteristics. Under the theoretical framework of causality in accomplice theory, employing the notion of severing causal links allows for a comprehensive assessment of the temporal and spatial scope, subjective and objective elements, and the awareness level of other accomplices. Examining whether the physical and psychological causality has been effectively severed in light of actual circumstances can facilitate the dissolution of joint criminal enterprises, encourage offenders to reform, and reduce the societal harm of such crimes. In terms of legal responsibility, accomplice disengagement should be distinctly codified within criminal law, differentiated from other forms of criminal conduct, and applied concurrently. Practical application should adhere to a case-by-case analysis, incorporating and developing new and exemplary theoretical contributions promptly. Such exploration should strive to develop a theory of ac-

complice disengagement that responds to the principles of criminal law and aligns with China’s national conditions, thereby addressing the complex issues of criminal responsibility in cases like telecommunications fraud involving intricate accomplice relationships. This approach aims to embed the principle of fairness throughout the process of recognizing accomplice disengagement, paving new pathways for combating telecommunications fraud.

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