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The Dilemma of the Crime of Helping Online Gambling - Take the "Kanong" of Providing Bank Cards as an Example

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Abstract. In online gambling crimes, the "kanong" who provides a bank card is a typical helper. His behaviour has the characteristics of technical dependence, vagueness of meaning, and difficulty in assessing guilt. Therefore, the determination of the crime of "kanong" behaviour faces the three dilemmas of subjective and knowingly difficult to prove, the scope of objective behaviour and the object of help is vague, and the standard of "serious circumstances" is unclear. In judicial practice, the subjective knowledge of "kanong" is overly dependent on presumptive rules, and the content hierarchy is unclear. Objectively, there is a problem of dividing neutral help behaviour and criminal help, and the generalisation of the object of help. The application of the standard of "serious circumstances" presents a lack of reason and the risk of expansion of the bottom clause. To solve the above dilemma, we should adhere to the method of combining comprehensive identification and reasonable presumption, clarify the content level of "generally knowing" to identify subjective knowledge, delimit the punishability boundary of help behaviour in objective aspects with both behavioural characteristics and the object of help, and carefully apply the bottom-up provisions of "serious circumstances" to promote the accuracy and modesty of online gambling helping behaviour.

Keywords: Online gambling, Criminal aid behaviour, Criminal determination, The Crime of helping information network criminal activities

1. Introduction

In recent years, the incidence of online gambling crimes has been high, especially across borders, and the criminal chain has become more and more industrialised and refined. In the payment and settlement link, a large number of "kanong" that provide bank cards and payment accounts have become a fundamental role in supporting the flow of gambling funds. However, because "kanong" is at the end of the criminal chain, the degree of participation is marginalised, the profit is meagre, and there is a lack of direct contact with upstream gambling platform operators, so it has long faced controversy in determining the crime. The existing research focuses on the help behaviour of online gambling, mostly concentrating on technical help behaviours, such as website development and server hosting, or more active gambling behaviours, such as website agents [1], while lacking a systematic analysis of roles such as "kanong". At the normative level, although Article 287 bis of the Criminal Law and a series of judicial interpretations provide a framework for the application of the

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crime of aiding and aiding, there are still relatively ambiguous issues such as the identification method of "knowing", the definition of the objective aspect of helping behaviour and the scope of the object of help, and the quantitative standards of "serious circumstances", which leads to the frequent occurrence of different sentencing in the same case of "kanong" behaviour. This article takes "kanong" as the entry point, combines the current situation of judicial identification of online gambling help behaviour, sorts out the dilemma of "kanong" behaviour identification in practice, and puts forward a corresponding improvement path, in order to provide a reference for the unification of judicial judgement standards and optimising the criminal system of cybercrime help.

2. The connotation of online gambling criminal aid behaviour

2.1. Conceptual definition of online gambling criminal aid behaviour

Online gambling is a gambling activity based on traditional gambling, using information networks and modern network communication technology and financial transaction means [2]. Online gambling crime assistance refers to the act of knowing that others use information networks to commit gambling crimes, but still providing them with financial payment settlement, technical support, advertising promotion, and other assistance to promote the implementation or completion of gambling crimes. According to the "Explanation on Several Issues on the Specific Application of Law in Handling Gambling Criminal Cases" and "Opinions on Several Issues on the Application of Law in Handling Online Gambling Crime Cases" (hereinafter referred to as "Explanation" and "Opinion 1") and other norms promulgated by the Supreme Court and the Supreme People's Procuratorate, etc., there are various ways to help online gambling, including providing technical support, fund payment and settlement, publicity and promotion. Its main body is an external participant who is relatively independent of the core organiser of gambling crimes. Subjectively, he "knows" that others use information networks to commit gambling crimes. Objectively, his behaviour is mainly to provide material or technical support for online gambling, such as raising gambling funds, developing software for gambling, publishing links to gambling websites, helping to accept bets, etc., rather than directly participating in the core links of gambling, which plays a role in promoting online gambling. At the same time, online gambling helps behaviour emphasise the implementation with the help of information networks, which have the characteristics of cross-time, anonymity, and high efficiency.

2.2. Boundary with related concepts

First, it is the crime of online gambling. It is generally believed that the sub-rules of criminal law are mainly aimed at the act of implementation, that is, the act of completing the constituent elements of a specific crime, while the act of helping is amended by the general rule to coordinate and support the act of implementation [3]. Article 303 of China's Criminal Law stipulates the three crimes of gambling, the crime of opening a casino and the crime of organising and participating in foreign gambling and the constituent elements of their implementation. Among them, the crime of gambling is divided into two behaviour modes: "gathering people to gamble" and "gambling as a career". Online gambling help is on the periphery of the criminal system, providing technology, funds, publicity and promotion, payment settlement, agency and other support and help for the implementation of the behaviour. It has the following characteristics: First, auxiliary and subordinate. Helping behaviour does not directly formulate gambling rules and organise gambling, but helps to transfer gambling capital, maintain gambling websites, provide advertising promotion,

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etc. Its harm and consequences depend on the implementation behaviour to a certain extent. Second, non-core and substitutability. Helping behaviour does not participate in the core operation of the gambling platform. The actor usually lacks a stable organisational affiliation with the gambling platform operator. He is at the downstream of the criminal chain and can be replaced at any time.

The second is to help with traditional criminal behaviour. Compared with criminal assistance in traditional physical space, the digital and virtual characteristics of online gambling criminal help behaviours have greatly improved its complexity and given it many special manifestations: on the one hand, the behaviour carrier has changed from the physical support of traditional helping behaviour to a digital help that breaks through the limitations of time and space. The perpetrator can provide digital technical support such as accounts, codes, network platforms, etc. For multiple criminal subjects at the same time, which enhances the concealment and harmfulness of criminal practice behaviour and helps behaviour; on the other hand, traditional help behaviour is mostly two-way communication and close collusion between criminals, while online gambling criminal assistance behaviour is mostly one-way knowledge with loose links, and there is an obvious lack of "conspiracy"; in addition, due to the refinement of the technical division of labour, the large scale of online gambling crimes and the large number of helpers, which may cover both physical and virtual spaces, forming the above characteristics have further led to a decrease in the dependence of online gambling helping behaviour on practice, resulting in the phenomenon that it is stipulated by the sub-rules of separate criminal law and given independent punishability and helping behaviour by legislation.

2.3. The peculiarity of "kanong" as a typical form of online gambling helps behaviour

"Kanong" is not a legal concept, but an image title for a class of criminal helpers in practice under the background of the industrialization of cybercrime and the refinement of the division of labour. It generally refers to the perpetrator who provides bank cards and phone cards for others to use for information network crimes. His behaviour mostly belongs to the type of help provided by providing funds, payment, and settlement in online gambling. Compared with other help behaviours, "kanong" help behaviours are low in technology and professionalism, the implementation cost is low, and the connection with upstream crime is loose, and most of them are one-time and short-term participation. The subject of the behaviour usually has a weak concept of personal privacy. Subjectively, there is a generalisation that bank accounts and personal information are used for online gambling, but they do not understand the specific situation and have a pessimistic attitude towards the purpose of the account for profit. Although "kanong" is at the end of the criminal chain, with strong substitutability, meagre profits and disproportionate risk-returns, in practice, its behaviour accounts for a relatively large proportion of crime, focusing on technical dependence, vagueness of meaning contact, difficulty in guilt assessment and other problems of online gambling. Taking "kanong" as the incision, we can see through the systematic dilemma of the determination of the crime of aiding behaviour in cybercrime, and also reveal the expansion risks and limited needs faced by criminal law in dealing with the helping behaviour at the edge of the chain of cybercrime.

3. Distillation of the practical dilemma of online gambling aids crime identification

3.1. Perspective on typical cases of "kanong"'s criminal dilemma

First, Liu helped with the information network crime activity case [4]. Liu asked Li Mouyi to apply for two new bank cards and bind a new mobile phone card. He gave them to Li Mouyi together with

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the password and U shield, and cooperated with face verification four times in the next two days. The bank cards involved in the case totalled more than 21 million yuan, some of which were related to telecommunications fraud and suspected of gambling. Liu argued that he only lent the bank card because he was a friend and did not know that the other party had committed a crime, and did not profit from it. He believed that the court of first instance assumed that the bank staff had informed him of the relevant risks and that he "knew" did not comply with the provisions of judicial interpretation. In this regard, the court of second instance held that Liu still opened a separate card and bound a new mobile phone number to give it to others even though he already had more than one bank card; when he opened the card, he signed the "Risk Reminder Notice", knowing that lending a bank card may be suspected of committing a crime; he should be asked to cooperate with face verification twice, and his behaviour was obviously abnormal. Based on the above situation and his cognitive ability and social experience, it is enough to presume that he has subjective knowledge.

Second, the case of Hou and others helping with information network criminal activities [5]. The defendants Hou and Liu were instructed by Song to lead the defendant Liu and three other people to apply for bank cards from Taiwan to the mainland to help with potential upstream crimes. Five people applied for a total of 12 bank cards at various bank outlets in Jinhua, but they were arrested by the police in the hotel on the day they applied for the card before they were handed in. Hou's defence lawyer advocated a light punishment on the grounds that it was not harmful to society. The court of first instance did not adopt the defence.

Third, the case of Dai helping with information on cybercrime activities [6]. Due to the lack of money, Dai took the initiative to provide a bank card for online gambling money laundering. He provided his own bank card, and the account received a total of 70,000 yuan, including 50,000 yuan transferred by the victim, Yang. Dai's profit was only 500 yuan. According to this, the defence lawyer believes that his behaviour does not fall under the "serious circumstances" stipulated in the crime of aiding. The court of first instance held that Dai knew that others used the information network to commit crimes, but still provided bank cards for payment and settlement, resulting in the victim Yang being defrauded of 50,000 yuan, which belongs to the "huge amount of fraud" in the judicial interpretation of the relevant fraud crime, causing serious economic losses to the victim, which should be recognised as "explanation" stipulated in Item (6) of Article 12, Paragraph 1, "the crime committed by the object of help caused serious consequences", which is "serious circumstances".

Fourth, Chen and others helped with the information network criminal activity case [7]. The defendant Chen and others still sold their mobile phone cards to upstream criminals, knowing that others bought mobile phone cards to send illegal information, such as online gambling and pornographic websites. According to the investigation, the 24 mobile phone cards involved in the case were used to carry out multiple telecommunications frauds, involving more than 450,000 yuan. The court of first instance held that the behaviour of the three people was in line with the "serious circumstances" stipulated in the Interpretation and constituted the crime of complicity.

3.2. The practical dilemma of "kanong" being convicted

From the above cases, it can be seen that the online gambling criminal aid committed by "kanong" is still controversial in the determination of the crime, and the difficulty of conviction is mainly reflected in the following aspects.

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3.2.1. The problem of identifying subjectively knowing the elements

The unity of subjectivity and objectivity is an important principle of criminal law. "Kanong" must have subjective "knowing" elements to be criminal. Article 2 of Opinion 1 lists the specific circumstances that can be determined to have the "knowing" elements of "knowing" as an accomplice in opening an online casino, such as "continuing to engage after receiving a notice from the competent administrative authority", "obviously charging", and "deliberately evading investigation". The Explanation also adopts a similar position. However, the "generally knowing" of "kanong" has increased the difficulty of identifying subjective knowledge elements in many aspects. First, the academic and practical circles are still controversial about the scope of "knowledge" itself. With the most likely "kanong" behaviour to constitute "help information network crime" and "should know" and "may know" as the keywords, 18 judgments were retrieved on the China Referee Document Network. Among them, 15 articles are determined to be subjectively aware of "should know" or "should know or should be known", and a total of 11 articles are that the defendant meets the behavioural characteristics of "kanong"; one defendant argues that "should know" does not belong to "knowing", and one article regards "may know" as knowing; the other two articles are guilty of the crime of concealing and concealing the proceeds of crime, and one is guilty of the crime of above-end fraud. Second, it is difficult to apply subjective knowing presumption rules. In the trial, "kanong" often argued that he did not know about the crime he was involved in and was only negligent, and it was difficult to obtain strong evidence that could directly prove that he was "knowing" in the investigation, so the judge had to adopt the presumption rule. However, due to the special status of "kanong" in the criminal structure, its help behaviour is meagerly profitable and often does not meet the standard of "obviously abnormal charges", and its attitude is mostly laissez-faire rather than "deliberately evading the investigation". If the judicial interpretation is strictly followed to determine "knowingly", a large number of "kanong" may be guilty because they do not conform to the typical situation; and relying on the presumption of the bottom clause, such as Liu's case, may cause controversy over the abuse of presumption rules. Previously, scholars have criticised such a "bank reminder is knowing" identification method [8]. Third, the subjective knowledge of "kanong" is vague. It often only knows that bank cards and accounts are used for certain illegal activities, and it is unclear whether the illegal activities are related to online gambling, whether they constitute crimes, are used to "open casinos," or are general gambling.

3.2.2. Definition of the scope of the objective helps behaviour and helps object

First, the behaviour of the "kanong" bank card or account provided is weak in appearance, which is highly similar to daily life behaviour. Some scholars also classify it into the discussion category of "neutral help behaviour" [9]. In practice, "kanong" often covers up the essence of helping crimes in the form of "borrowing" and "helping from friends". For example, in Liu's case, the defendant argued that he lent his bank card only because he was friends with the person he helped, and did not make a profit from it. The judgement of the punishable boundary of such acts is often controversial: the perpetrator's lending of a bank card or account may be based on human kindness and social relations, not necessarily to obtain illegal benefits, and cannot be directly equivalent to crime. If the act of helping is too broad, it may criminalise the behaviour of daily life, but if it is too limited, it may indulge in crime, resulting in a loophole in punishment. How to distill the criteria for distinguishing the nature of behaviour from the external performance of objective behaviour has become a difficult point for judicial identification.

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Second, the beneficiaries in the "kanong" case often have generalised characteristics. A bank card may be used by multiple gambling platforms in turn, or used for different levels and types of cybercrime, and helping behaviour is usually punishable on the premise of the existence of a clear and specific object of help. When it is difficult to determine the object of help due to generalisation and is affected by the crime of aiding separately stipulated by the legislation, there is a long-term controversy about whether the behaviour of the helped person needs to meet the standard of crime. At the doctrinal level, supporters believe that the crime of "kanong" must be based on the premise that the assisted person commits criminal acts. If the behaviour of the helped only constitutes an administrative violation, the act of helping should not be criminal; however, in the online gambling industry chain, a single "kanong" bank card may be used for the flow of many gambling funds. Each individual gambling behaviour may not meet the criminal standard, but the aggregation supports the implementation of gambling crimes. At this time, according to the characteristics of the positive crime of the act of helping and the crime of aiding, the opponents argue that the assisted person does not necessarily constitute a crime [10]. At the practical level, there are also differences in the degree of identification of upstream crimes by judges in individual cases, and there are extreme cases where the helper is convicted and punished for the crime of aiding, when the implementation of the middle and upstream crimes in Hou's case is unclear.

3.2.3. The evaluation criteria for "serious circumstances" are unclear

"Kanong" commits online gambling to help, which may constitute the crime of gambling, the crime of opening a casino, or the crime of aiding. According to Article 303 of the Criminal Law, if the act constitutes a common crime of opening a casino, "serious circumstances" is the sentencing rule, and Article 2 of Opinion 1 clarifies the measurement standard; according to Article 287 of the Criminal Law, when the act may constitute the crime of aiding, "serious circumstances" is the element of the crime. The first paragraph of Article 12 of the Interpretation stipulates seven "serious circumstances", of which items (1) to (5) are quantifiable specific standards, item (6) "serious consequences caused by the crimes committed by the object of assistance" is relatively general, and item (7) "other serious circumstances" is the bottom clause. In addition, the second paragraph stipulates two special circumstances in which "serious" is determined when the assisted object reaches the degree of crime and cannot be verified. However, there is still a practical dilemma of unclear standards in assessing whether the behaviour of "kanong" has the element of "serious circumstances".

First, a large number of judgments lack sufficient reason for the determination of "serious circumstances". The author searched the judgment of "kanong" on the China Judgment Document Network and Peking University Fabao and found that a considerable number of judgments found that "the circumstances were serious" only generally expressed that "the defendant knew that others used the information network to commit crimes and still provided him with payment and settlement assistance, and the circumstances were serious". He did not quote Article 12 of the Interpretation or only quoted the title of the judicial interpretation without clearly indicating which provisions of Article 12 meet, and did not fully argue the specific behavioural characteristics of "kanong" in the case, such as the amount of running water, illegal income, the degree of participation, and the actual consequences caused by it [11]. This practice not only leads to the lack of reviewability of the determination of "serious circumstances", but also blurs the applicable boundaries between different types of "serious circumstances", making it difficult for the "kanong" crime standards to form a unified judgement scale.

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Second, although the judicial interpretation has made quantitative provisions on "serious circumstances", most "kanong" cases in practice can also be convicted accordingly, but the basis for criminalising exceptional circumstances that do not meet the quantitative standard is still unclear. Specifically, First, the object of help, payment settlement amount, and profit of "kanong" are lower than the identification standard, but the upstream crime seems to have caused considerable harmful consequences. For example, in Dai's case, the defendant's profit is only 5% of the crime standard of 10,000 yuan, and the payment settlement amount is only 25% of the criminal standard of 200,000 yuan, but the upstream fraud crime is "huge", causing serious economic losses to the victim; Second, "kanon" provides a telephone card, not a bank card, and there is no payment settlement amount, and there are no other "serious circumstances". For example, in Chen and others' cases, the phone cards provided by the three defendants were used to send fraudulent and gambling information without payment settlement. At this time, the judicial judgement has to rely on the first paragraph (6), (7), and the second paragraphs of Article 12 of the Interpretation "or cause particularly serious consequences", and these standards themselves are relatively vague and general, and as mentioned above, they lack the case of sufficient reason. In fact, it is still impossible to clarify the scope of the crime of "kanong" behaviour, which may aggravate the ambiguity of the elements of "serious circumstances" and the risk of expanding the scope of punishment.

4. Improve the path of identifying the crime of online gambling help

4.1. Grasp the "knowledge" elements from both aspects of certification standards and the content level

4.1.1. Comprehensive identification and reasonable presumption are combined to identify "knowingly"

First of all, in the delineation of the concept of "knowing", we can't simply think that "should know" is equivalent to "knowing". The basic meaning of "knowing" should be "clearly knowing" and "knowing", while "should know" contains the semantics of "actually unknown", which should not be classified as "knowing" [12]. At the same time, the exclusion of "should know" from "knowing" will not lead to the excessive difficulty of the subjective element to prove, and the excessive limitation of the scope of the crime. "It should be known" actually indicates that the presumptive method can be adopted to prove the "knowing" element [13]. As long as the judicial organ has sufficient objective evidence of the subjective knowledge of the perpetrator, and the defendant fails to raise counter-evidence, it can still be proved as the "knowing" element.

Secondly, in the specific determination, we should adhere to the rule that comprehensive identification is the main one and reasonable presumption is the supplement. Article 4 of the "Opinions on Issues Related to Handling Criminal Cases Such as Helping Information Cybercrime Activities" (hereinafter referred to as "Opinions 2") promulgated by the Supreme People's Court and the Supreme People's Procuratorate and Article 1 of the "Meeting Minutes of the Third Criminal Trial Chamber of the Supreme People's Court, the Fourth Procuratorate of the Supreme People's Procuratorate and the Criminal Investigation Bureau of the Ministry of Public Security on the Application of Law in the 'Card Break' operation" in 2022 (hereinafter referred to as the "Minutes ") both require the adoption of a comprehensive identification method to determine the "knowing" status of the perpetrator. The comprehensive determination requires the judge to evaluate the evidence of the case as a whole, so as to be able to effectively deal with the situation where the subjective knowing state is not obvious, and the defendant's confession is difficult to obtain.

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Although comprehensive identification is an indirect proof, it does not reduce the legal certification standard, and the difficulty of its proof is still greater than the presumption [14], which can avoid the improper expansion of the scope of the crime. At the same time, when applying indirect evidence to prove subjective knowledge, it is necessary to fully examine the whole situation, including the defendant's defence. It is not possible to take only the format reminder of the bank at the time of card opening and the mental state of the perpetrator as the main basis for determining "knowledge". We must adhere to the principle that suspicion is beneficial to the defendant. Even if you have to make a presumption to "knowingly", you should carefully apply the presumption rules and pay attention to the counter-evidence and the defence of the perpetrator. Specifically, the judicial organ determines whether "kanong" "knowingly" should not only rely on the confession of the perpetrator, but should comprehensively consider the time, manner, number of times, tools, whether the act violates the prohibition provisions of the law, whether it evades supervision or circumvents investigation, illegal profit and other factors, and make a comprehensive judgement in combination with the perpetrator's cognitive ability, professional identity, past experience, relationship with the person being helped, etc., and give "kanong" sufficient room for refutation.

4.1.2. Analyse the minimum requirements of "knowledge"

"Kanong"'s online gambling helping behaviour is criminalised, and it does not require him to have a particularly clear and specific understanding of the criminal behaviour committed by the helped person. The "knowledge" of the crime of aiding is a kind of general knowledge. The perpetrator only needs to know that others may use information networks to commit illegal crimes. He does not need to know the specific types and all the details of upstream crimes, let alone the "kanong" and the "conspiracy" of the helpers. Only when the "kanong" behaviour may constitute the crime of concealing and concealing the proceeds of crime, the accomplice to the crime of gambling, and the accomplice to the crime of opening a casino, a higher degree of "knowledge" is required. The "knowing" of the crime of concealing and concealing the proceeds of crime emphasises that the perpetrator has a clear understanding that the funds are the proceeds of the crime and the proceeds of the crime. The accomplice of gambling crime and the accomplice of the crime of opening a casino require the perpetrator to "knowingly" cause others to commit specific criminal acts of gathering people to gamble or open a casino. From the one-sided accomplice theory, the perpetrator does not need to reach the level of knowing the level of conspiracy to constitute an accomplice in a gambling crime or the crime of opening a casino. They only need to know that it is a gambling website and provide help. Therefore, "kanong" only needs to have a low degree of "generally knowing", and his behaviour may be evaluated as a crime, and the specific degree of "knowledge" is a consideration for distinguishing different crimes, and "conspiracy" is not an inevitable requirement for "knowledge".

However, the content of "generally knowing" should also be limited. First of all, the crime of accommodation clearly requires "knowing that others use information networks to commit crimes", that is, the perpetrator's "knowing" object should be a "crime", not a legal act or a general administrative violation. The crime of helping information network criminal activities is not "the crime of helping information network illegal activities". In practice, "kanong" cannot be recognised as knowing that others "did not do anything good" as knowing that others "commit crimes". Secondly, limiting the object of "knowing" to "crime" does not require the perpetrator to be proficient in criminal law and be able to accurately identify whether the assisted behaviour meets the constituent elements of a specific crime when providing help, but requires him to have a basic understanding of the nature and severity of the assisted behaviour and know that the assisted

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behaviour may be criminally punished. Otherwise, the criminal circle that has been expanded through the crime of abetting will expand again, which is against the humility of criminal law.

4.2. Determine the scope of objective help behaviour in combination with behavioural characteristics and help objects

First, the punishable boundary of helping behaviour is delimited by the characteristics of "neutral helping behaviour". In addition to being a daily life behaviour, this behaviour also has the characteristics of the perpetrator not pursuing illegal purposes and objectively helping others to commit crimes [15]. Therefore, even if the appearance of the "kanong" card supply is not obvious in illegality, it is only necessary to strictly control the subjective elements of the "kanong" crime. From the objective function of the behaviour in the criminal chain, we can naturally distinguish between the real "neutral help behaviour" and the actual online gambling criminal help behaviour. If the perpetrator is generally aware of the purpose of the account and the act objectively provides substantial payment settlement support for the gambling crime, it can be recognised as a criminal aid act that needs to be regulated by criminal law; on the contrary, if the perpetrator is an occasional, unpaid loaner and lacks reasonable doubts about the purpose, it should not be criminalized. This identification method is also in line with the spirit of paragraph 2 of Article 4 of the "Minutes" that simply provides "two cards" without implementing the act of transferring money, cashing out, cashing out and providing verification services such as face-swiping in cooperation with others to carry out the above acts from the scope of "payment and settlement". When "kanong" does not provide further help and assistance, its card provision behaviour cannot reflect the characteristics of pursuing illegal purposes, and its helpful effect on criminal acts is also extremely limited.

Second, the object of "kanong" online gambling crime assistance should be limited to the act of committing a crime for others. As mentioned above, the differences and dilemmas in this part mainly lie in the nature of the crime of aiding. The idea of "sequencing rules" or "the positive crime of helping behaviour" usually leads to the opposite answer to this question. However, this article believes that no matter what view you hold, helping behaviour cannot be completely recognised independently of being helped behaviour. Previously, some scholars have pointed out that "the positive crime of helping behaviour" is not equal to "the positive crime of helping the criminal", and there are also different degrees of "the positive crime of helping behaviour". Therefore, even if the crime of aiding is the positive crime of helping behaviour, it does not mean completely abandoning the accomplice subordinate attribute theory [16]. Although the judicial interpretation allows the adoption of the rule of "cumulative crime" in some cases, it can be directly recognised as the crime of aiding without proving that the assisted behaviour has reached the level of crime. It is only a compromise that the judiciary has to make in response to real dilemmas, such as the massification of cybercrime measurement objects and the strong concealment of the means of implementation to make up for the loopholes in punishment. Therefore, when determining the online gambling helping behaviour of "kanong", the prior verification of the nature of the assisted behaviour should still be adhered to. According to the minimum attribute, the assisted behaviour needs to at least meet the constituent elements in principle; only when it meets the special circumstances of "cumulative crime" clearly stipulated in paragraph 2 of Article 12 of the Interpretation, can it be directly convicted according to the amount of the "kanong" behaviour itself.

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4.3. Strengthen the obligation to explain the "serious circumstances" and carefully apply the bottom clause

On the one hand, in the process of identifying crimes, judicial workers should clearly point out what kind of "serious circumstances" the "kanong" constitutes, and enhance the interpretation of the law. At present, although there is still a certain ambiguity in the rules for the determination of the element of "serious circumstances", more and more judicial interpretations have tried to further refine its judgement standards. Judicial practice should make full use of the current judicial interpretation guidance resources to clarify the "serious circumstances" of the case to the specific type as much as possible. Even if the "serious circumstances" elements of the case of "kanong" are atypical, difficult to classify into a certain type or have to rely on the bottom clause of "other serious circumstances" to cover the cases, the reasons for the determination of "serious circumstances" should be fully argued under the comprehensive determination requirements stipulated in "Opinions 2" in combination with the overall situation of the whole case.

On the other hand, it is considered that "the circumstances are serious" by prudently applying items (6) and (7) of the first paragraph of Article 12 of the Interpretation, such as vague, generalised, and bottom-up provisions. For Article 12, Paragraph 1, Item (6) of the "Explanation", "Serious Consequences Caused by the Crimes Committed by the Object of Assistance", you can refer to Article 5 of the Meeting of "The Third Criminal Trial Chamber of the Supreme People's Court, the Fourth Procuratorate of the Supreme People's Procuratorate, and the Criminal Investigation Bureau of the Ministry of Public Security on Issues Related to the In-depth Promotion of the 'Card Breaking' Action" in 2020, the provision that others use "two cards" to commit fraud "causing the death, serious injury and mental disorder of the victim and their close relatives" is recognised as the "serious circumstances" crime of aiding. There is also a point of view that the economic loss caused by the victim who is helped can also fall under this situation [17]. However, because the perpetrator must be responsible for the "serious circumstances", and the "kanong" is often neither predictable nor controllable for the consequences of upstream crimes, it is not appropriate to directly attribute all the serious consequences caused by upstream crimes to "kanong". Therefore, it is also necessary to pay attention to examine the causal relationship between the "serious consequences" of upstream crimes and "kanong" behaviour. For the "Explanation" Article 12, Paragraph 1 (7) "Other Serious Circumstances", it is necessary to strictly grasp the qualifying conditions of "Opinion 2" and "Commentary" as the applicable provisions, such as whether the recipient of assistance should first verify whether the recipient meets the standard of constituting a crime. In addition, the behaviour that can be covered by the bottom clause should be homogeneous with the "serious" situation listed specifically, that is, the behaviour to be evaluated is equivalent to the socially harmful examples clearly listed in items (1) to (5) of the first paragraph of Article 12 of the Interpretation.

5. Conclusion

As the terminal helper of the payment and settlement of online gambling crimes, the dilemma of criminalization reflects the adaptive problems of the traditional accomplice theory in the context of the structured and industrialised nature of cybercrime. To solve these dilemmas, it is necessary not only to refine the identification standards at the normative level, adhere to the combination of comprehensive identification and reasonable presumption, and carefully apply the underlying provisions, but also to strengthen the judgment at the judicial level to avoid the general definition of "serious circumstances". Only by seeking a dynamic balance between combating crime and

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restraining criminal law can we realize the fundamental purpose of adapting the punishment of crime.

References

[1] Yin, Jianfeng. (2025). On the Judicial Determination of Assistance in Online Gambling Crimes. Legal Application, (12), 17–31.
[2] Han, Yubo, & Dai, Rui. (2022). Research on the Scope of Legal Application of Cross-border Online Gambling. Police Education, (09), 43–48.
[3] Nie, Lize, & Sun, Hailong. (2004). On the Act of Perpetration in Criminal Law. Studies in Law and Business, (04), 100–105.
[4] See Criminal Judgment No. (2024) Xin 01 Xing Zhong 130, Intermediate People's Court of Urumqi, Xinjiang Uygur Autonomous Region.
[5] See Criminal Judgment No. (2018) Zhe 0702 Xing Chu 915, Wucheng District People's Court of Jinhua City, Zhejiang Province.
[6] See Criminal Judgment No. (2023) Qian 0524 Xing Chu 598, Zhijin County People's Court of Guizhou Province.
[7] See Criminal Judgment No. (2021) Ji 1126 Xing Chu 32, Gucheng County People's Court of Hebei Province.
[8] Tong, Zehong, Xia, Wei, & Du, Xuan. (2023). Empirical Analysis and Restrictive Application of the Crime of Assisting Information Network Criminal Activities from the Perspective of the Principle of Legality. China Prosecutors, (19), 30–34.
[9] Xiao, Sa. (2021). Expansion and Restriction of Criminal Regulation on Assisting Conduct in Cybercrime. Criminal Law Review, 45(02), 473–486.
[10] Pi, Yong. (2017). On the Management Obligations and Criminal Liability of Network Service Providers. Studies in Law and Business, 34(05), 14–25.
[11] See Criminal Judgment No. (2024) Jin 1181 Xing Chu 73, Xiaoyi People's Court of Shanxi Province.
[12] Wang, Xin. (2013). The Meaning and Determination of "Knowingly" in Chinese Criminal Law: An Analysis Based on Criminal Legislation and Judicial Interpretations. Law and Social Development, 19(01), 66–75.
[13] Liu, Xianquan, & Fang, Huiying. (2017). Difficult Issues in the Determination of the Crime of Assisting Information Network Criminal Activities. People's Procuratorate, (19), 9–12.
[14] Mei, He, & Qian, Xiaowei. (2024). On the Application of the Comprehensive Determination Method in Identifying "Knowingly" in the Crime of Assisting Information Network Criminal Activities. Journal of Southwest Petroleum University (Social Sciences Edition), 26(03), 91–98.
[15] Zhang, Mingkai. (2016). On the Crime of Assisting Information Network Criminal Activities. Political Science and Law, (02), 2–16.
[16] Yu, Chong. (2016). Research on the Types and Criminalization Approach of the Principalization of Assisting Conduct. Tribune of Political Science and Law, 34(04), 164–175.
[17] Ming, Wenjian, & Gao, Feilong. (2024). Restrictive Application of the Catch-all Clause for "Serious Circumstances" in the Crime of Assisting Information Network Criminal Activities. China Prosecutors, (12), 37–40.