

# *The New Network Fraud of “Pig Butchering” from the Perspective of Criminal Law*

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**Abstract:** With the continuous development of the network, many new types of fraud also came into being, and “pig butchering” is a representative crime. This type of crime takes advantage of the weakness of human nature, that is, the lack of emotional life. In the face of this crime, the purpose of this article is to take an easy look at the new cyber crime of “pig butchering” from the perspective of criminal law. The purpose of this article is to show how to prevent and control this type of cybercrime and what countermeasures people should adopt in the face of these problems. It is argued that to solve the problem it requires the police to cooperate with the work of the judiciary while reducing errors in the investigation and collection of evidence. For another aspect, this new form of network fraud crime could be a challenge for the judicial system. The difficulties in identifying accomplices in the crime is also worthy of attention.

**Keywords:** pig butchering, network fraud, criminal law

## 1. Introduction

With the continuous development of the economy and the times, the Internet has gradually become popular in the lives of most people. Of course, the emergence of a new thing as well as the rise of a new thing will certainly lead to the emergence of many problems. For example, there may be some new types of crimes, imperfect systems, etc. And with the deepening of online dating, many online frauds have emerged. In the “Research Report on Telecommunication Network Fraud Governance in 2021” released by Tencent, the top three types of fraud cases in 2021 are swipe rebates (25.4%), kill pans (18.9%), and loan and proxy credit card frauds (18.1%) [1].

As a new type of network fraud crime, “pig butchering” is currently a crime with a large number of crimes and a large amount of money among telecommunication network frauds. At the same time, because this new mode of fraud using the Internet, and mainland China's criminal law does not explicitly classify the crime of network fraud as a separate crime. Therefore, this paper argues that the new network fraud crime of “pig butchering” is of practical significance in providing a small part of the theoretical basis for enriching the Criminal Law of the People's Republic of China.

## **2. Overview of the “Pig Butchering” Cybercrime**

### **2.1. What Is the “Pig Butchering”**

“Pig butchering” is a new form of network fraud crime, refers to the name of online dating or online dating, close the relationship with the victim, step by step to deceive the victim's trust. Then use the victim's identity and other information to cheat money and other illegal criminal activities. The main types include investment and finance, gambling, direct solicitation, and lending. At present, due to the vigorous crackdown by the Chinese government, pig butchering nests are mainly withdrawn from the mainland China. to avoid risks such as arrest.

### **2.2. The Process of “Pig Butchering” Cybercrime**

#### **2.2.1. Seeking “Pig” Stage**

In this period of time, pig farmers look for “pigs”, i.e. victims, through social software such as soul, microblogging or in live streaming software. In the first stage of this phase, the pig breeder's team will have a professional high emotional quotient words to gradually deceive the victim's trust. For example, the Shanxi Provincial High People's Court issued six typical cases of combating and managing telecom network fraud: Dong and six others fraud case - “kill the piggy bank” type telecom network fraud, Liu, Lv, Ge and others formed a more fixed fraud The criminal gang, conspiracy to use dating sites in the name of love dating to deceive the victim's trust, and finally cheat the victim's money in the illegal gambling sites to recharge the implementation of fraud [2]. This is a typical example.

#### **2.2.2. Raising “Pig” Stage**

At this stage, the pig farmer has already gained the complete trust of the victim and most likely has already established a “couple” relationship on the internet. In this time period, the team of pig farmers will decide what to do according to the victim's financial resources. In general, if it is not jewelry, gold and other valuable gifts can be appreciated will not accept. Even if it is received, a substitute will be arranged to carry out the point collection. Most of the cases are directly let the victim for bank transfer, so as to achieve the purpose of cheating money.

#### **2.2.3. The Abandoned Pig Stage**

In this stage, the victim has been almost extracted, and when the pig breeder starts to notice this he will start to mentally torture the victim with various reasons. Until the victim can't carry on either materially or mentally, she will break up with the pig breeder or ask the pig breeder for the money she was defrauded. At this time, the pig breeder will put off with various reasons. Until the victim's contact information is blacked out and deleted while the victim is not paying attention.

## **2.3. The Current Status of Research in Mainland China and Non-mainland China**

### **2.3.1. Non-mainland China**

The United Kingdom set up a special agency to deal with Internet fraud, although the United Kingdom in the fraud crime agencies have (a) too many agencies set up leading to jurisdictional crossover, complex relationships (b) the lack of cooperation between agencies and (c) the serious problem of crossover and expansion of power, but still have a role to play in the governance of Internet fraud in mainland China [3].

Korea has included computer and other frauds in its criminal law [4]. After reviewing this literature, The author went to the relevant Korean criminal law and found that the Korean criminal law does have this crime as a separate crime [5]

### 2.3.2. Mainland China

Experts and scholars in mainland China have different perspectives on the “pig butchering” type of cybercrime. Each viewpoint is from a different perspective. The following is a list of the basic views of mainland China's current mainstream on the deficiencies of the “pig butchering” type of cybercrime in the region.

A. The police have not done enough at the level of: (a). prevention work is not active, for example, China's current treatment of network fraud, including the “pig butchering” is mainly reflected in the fight after the fact. (b). police enterprise cooperation mechanism is not sound, for example, in the case of police and enterprise data is not shared, if there is no good management, then the citizens' personal information is likely to be sold, may provide help for the “pig butchering” crime (c). propaganda means are not specific enough, for example, frequent friends will make the public boredom psychology, to Combined with local characteristics, better publicity, to prevent lawless elements from infringement [6].

B. The first thing you need to do is to strengthen the level of prevention in your heart: (a). overcome social cognitive bias, for example, in online chat do not just rely on the first impression, but to get deeper information from the content of the chat. (b)Cultivate rational thinking, such as people you have never met, put each other first, such as the message back in seconds, as if there is nothing to do all day. (c). cultivate “anti-temptation” strong will, such as do not easily accept the network to meet people to introduce investment, scan the code to get gifts and so enhance the sense of prevention, such as whatever the other persona is, as long as it involves “investment in finance” “stable earnings”, “small to large” and other words, do not continue to talk [7].

C. (a).From the individual level, to protect their personal information, for example, do not randomly click on the informal web links, not through the informal way to download the app. (b).from the enterprise level, the product positioning function to the minimum permissions can be, the privacy part to take the key mark to draw the user's attention; will collect user information stored in the user's personal terminal, and take encryption technology; strengthen the audit before the application on the shelves; effectively strengthen information security capacity building, improve information system security protection measures (c). from the government level, to strengthen the supervision of personal information, third-party payment platforms and network security; increase anti-fraud publicity, take the people's favorite way such as Jieyin Express B station [8].

D. Judicial and cross-border judicial cooperation: (a). strengthen legal regulation, such as the need to improve the corresponding legal system, to implement as soon as possible the only separate crime of telecommunications fraud (b). strengthen international law enforcement collaboration, “pig butchering” wire fraud crime, a significant portion of criminals ultimately rely on investment, betting sites and software, such sites The software is distributed on social networking platforms. The servers for these sites are located in countries that have legalized sites such as betting sites [9].

## 3. The Current Situation of China's Legal Regulation of the “Pig Butchering”

### 3.1. Criminal Law Section

As stated in the introduction, at present, the Criminal Law of the People's Republic of China does not have a separate crime for Internet fraud. Therefore, in the face of “pig butchering” network fraud, the current stage of judicial practice is basically based on the standard of Article 266 of the

Criminal Law: Fraudulent public and private property, a larger amount, shall be sentenced to fixed-term imprisonment of less than three years, detention or control, and a fine or a single fine; a large amount or other serious circumstances, a fixed-term imprisonment of more than three years and less than ten years, and a fine; a particularly large amount or other particularly serious circumstances, a fixed-term imprisonment of more than ten years or life imprisonment, and a fine or confiscation of property. If this Law provides otherwise, in accordance with the provisions. As a result, in judicial practice, there is a certain bias in the determination of the crime committed by the “pig butchering” network fraud criminal group, and the judicial authorities are unable to fully evaluate the illegal facts in the case [5].

### **3.2. Criminal Law Judicial Interpretation Part**

Regarding the crime of fraud, in the relevant judicial interpretation, it is not clear whether Article 266 of the Criminal Law applies to fraudulent activities on the Internet, but only that other means are used. And in the judicial interpretation, it only says “pension, medical, work injury, unemployment, maternity and other social security benefits”, but does not clearly define other private finances [6].

### **3.3. Other Legal Sections**

In the section on other laws, although the Law of the People's Republic of China Against Internet Telecommunication Fraud was introduced on September 2, 2022. However, it does not apply which crime, which legal provision and article of the substantive law for any cyber fraud.

## **4. “Pig Butchering” Network Crime in Judicial Practice in the Difficulties**

### **4.1. Difficulties in the Definition of the Crime**

In April 2018, a half-century old man from Shandong met his confidante “Xiaomei” through the Internet. After chatting online day after day, Lao Li learned that Xiaomei was a fitness instructor. Later, the old Li found that the network friend Xiaomei because of playing a gambling game called “micro orange shopping mall” life is so colorful, so they want to play with Xiaomei. In the beginning, Xiaomei was able to take Lao Li to gain 50,000 RMB a day. After he tasted the sweetness, he began to bet wildly, lost his savings of 200,000, and began to take out loans for online gambling. When Lao Li lost almost, Xiaomei found an excuse to black out and delete it. In April 2019, the police arrested the suspect with a huge amount of money and sentenced the defendant to open a casino in Rencheng District, Jinan City on December 28 of the same year [7]. The case, we can see that not all of the “pig butchering” are applicable to the crime of fraud. Although the case of the behavior of the small beauty is indeed fraud, but in judicial practice, the crime of fraud and the crime of opening a casino two crimes and punishments are rare, therefore, as soon as possible to increase the “pig butchering” case in the relevant legal provisions and judicial provisions of the interpretation, to prevent the emergence of crime and punishment is not equal to the situation.

### **4.2. Difficulties in the Identification of Joint Crimes**

In general, the difficulties in identifying accomplices in the crime of “pig butchering” are as follows. Hindsight, i.e. not knowing that the criminal is a “pig butchering” criminal. Generally there is no team of “pig butchering” criminals who choose to collect money not from their own accounts but from the bank accounts of their relatives or friends. Generally, they will use a variety of reasons to let them collect the money and then withdraw it, such as the bank single day limit and so on. These

people do not pay special attention to what the criminals say because they have a high level of trust in them. In this way they unknowingly become accomplices. It was only when the public security authorities summons arrived that they came to their senses. For this one, the premise is definitely that there has not been any conspiracy with the criminal, so fraud itself can be ruled out. And the next thing is to look at it in two ways. It depends on whether its knowledge of the source of the amount after withdrawal is fraudulent or not. The first aspect is that if the person knows that the money is fraudulent and hides it, he or she must be guilty of concealment and harboring. On the other hand, if it is not a case of concealment, then it does not constitute a crime. The key to the difficulty is whether it can be proven that the person who withdrew the money knew that the money came from fraud at the time of withdrawal.

### **4.3. Difficulties in Determining the Amount of Crime**

In general, with the increasing crackdown on telecom network fraud in mainland China, more and more telecom fraud criminals are choosing to move their dens to other countries. And criminals cannot deposit all the fraudulent amounts in one bank in one country. They can use various false identities to open different bank accounts in different countries. And it is extremely difficult to find all the victims, so it is extremely difficult to determine how much the criminals have defrauded and how many bank accounts are scattered in how many countries. When the exact amount of the crime cannot be clearly verified it can only be convicted as an attempt, which leads to a series of injustices and misdemeanors.

## **5. To Further Optimize the Punishment of the “Pig Butchering” Network Crime**

### **5.1. Accelerate the Legislative Work on Cybercrime and Improve the System of Concurrent Punishment for Several Crimes**

As stated in the introduction section, mainland China does not have a separate crime for internet fraud crimes, and in general, most of them are punished as frauds. But it is possible, for example, as the author mentioned above, the case of old Li Xiaomei in Shandong, this type of case is clear that both fraud and gambling are accounted for. And the circumstances themselves are also more serious, if not the crime of opening a casino and fraud at the same time sentenced, will bring a great backlash to the public, so to improve the system of several crimes and penalties.

At the same time, we can also find that the point of contention according to this one case is exactly which charge is applicable. Therefore, it is also necessary to properly explain in the relevant judicial interpretation for different types of internet fraud. To gradually eliminate the imperfection of the system.

The specific thing to do is to determine the good to do the crime of Internet fraud as a separate crime, from all over the country to search for relevant cases, in other countries or regions of the same legal system to exchange experience and different legal systems of countries or regions to refer to experience, and finally to legal experts to formulate the relevant laws and submit to the National People's Congress and its Standing Committee for consideration.

### **5.2. Specific Implementation**

After the establishment of the crime of telecom fraud or in parallel and choose a heavy on the network telecom fraud has been clearly defined. Administrative organs here mainly refers to the public security and judicial organs must implement the fight against this type of crime and trial efforts. For the case to be pronounced in accordance with the relevant laws and regulations. For the different roles in this type of case to carry out different legal regulation. It is also necessary to avoid

the difficult problem of identifying joint crimes mentioned by the author in the previous article. This requires the police to cooperate with the work of the judiciary while reducing errors in the investigation and collection of evidence [9].

### 5.3. Enhanced Regulation

In terms of regulation, as the author said in the previous article, there will be big discrepancies in terms of the flow of funds. For example, normal business transactions, or enrollment in a course will require a lot of funds [10]. This also causes a lot of problems. So it is necessary to strengthen the cooperation between police companies and police departments, and to use big data in an integrated way to establish a white list of accounts. For suspicious accounts to strengthen supervision, and when the people want to transfer money to remind the pop-up window [11]. This will help reduce the risk of “pig butchering” online fraud at the source.

## 6. Conclusions

Nowadays, with the continuous development of network technology, the crime of “pig butchering” has become one of the major crimes. In the face of this new type of crime, people are not without ways to deal with it. As long as people are vigilant in our daily lives, do not transfer money to unfamiliar online friends, do not freely help friends and relatives turnover money. Even if there is a need for turnover, it is necessary to repeatedly confirm the source of the money. This article explains the “pig butchering” cybercrime through various cases, and is also intended to provide advice on the current imperfections of the laws and legal system of in mainland China.

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