



International Cooperation to Combat Cross-Border Telecom Fraud Crimes: an Examination of Cooperation between China and Myanmar

Bing S¹ and Jiang N^{2*}

¹PhD, Beijing Normal University, China

²Law Professor, Beijing Normal University, China

***Corresponding author:** Jiang Na, Law Professor, Beijing Normal University, China, Email: na.jiang@bnu.edu.cn

Review Article

Volume 8 Issue 4

Received Date: November 03, 2023

Published Date: December 27, 2023

DOI: [10.23880/ijfsc-16000340](https://doi.org/10.23880/ijfsc-16000340)

Abstract

In response to the increasingly rampant transnational Telecom fraud crimes between China and Myanmar, China and Myanmar have launched wide-ranging law enforcement cooperation on the basis of existing international cooperation mechanisms and have achieved remarkable results. However, on the one hand, the complex social situation in Myanmar has resulted in discrepancy in law enforcement capacity between China and Myanmar. On the other hand, the mechanism of law enforcement cooperation between China and Myanmar is not yet developed. Moreover, the judicial cooperation is still in a state of absence. These factors have brought challenges to China and Myanmar in combating cross-border crimes. China and Myanmar should seize the opportunity of jointly combating Telecom fraud crimes to deepen the international cooperation in the field of non-traditional security.

Keywords: Telecom Fraud; Crime; International cooperation

Introduction

In recent years, with the rapid development of information network technology, cybercrime has continued to show a high incidence. Networks make traditional crime more transnational and organized. As a result, cybercrime has become a global crime challenge after governance. Among the many cybercrimes, the situation of Telecom fraud crime is the most serious. In China, it has developed into the type of cybercrime that with the largest caseload, the widest scope, and the greatest concern among the people. Telecom fraud crimes are seriously jeopardizing the safety of people's lives and properties, the stable development of society, and the country's economic security. As China's efforts to combat Telecom fraud crimes continue to increase,

the organizations of Telecom fraud crimes have gradually fled outside the country. Due to unique geographic, political and cultural factors, the northern region of Myanmar has become a major crime site for Telecom frauds crime committed outside China. Recently, China and Myanmar have launched law enforcement cooperation based on existing law enforcement and security cooperation mechanisms. A large number of fraud dens in northern Myanmar have been dismantled. Myanmar governance has handed over thousands of suspects of Telecom fraud crimes to China. Combating cross-border Telecom fraud crimes is not only to maintain the security of the China-Myanmar border, but also conducive to safeguarding the smooth progress of economic and cultural exchanges. It is vital to maintaining good international relations between China and Myanmar. As we

all know, international law enforcement cooperation plays a crucial role in investigating, collecting evidence, tracking down criminal suspects, and prosecuting criminal suspects. It is essential for efficiently combating transnational crime. Therefore, there is an urgent practical need to strengthen law enforcement cooperation between China and Myanmar.

The mechanism of law enforcement cooperation and security meeting between China and Myanmar started in 2005. On October 5, 2011, the world-shaking Mekong River tragedy became an important opportunity for China, Laos, Myanmar and Thailand to build a mechanism for law enforcement and security cooperation in the Mekong River basin. In 2016, China reached an agreement with five countries, namely, Myanmar, Cambodia, Laos, Thailand, and Vietnam, to start the Lancang-Mekong Cooperation Mechanism. Under this mechanism, the five countries can carry out multilateral cooperation in combating terrorist activities, transnational crimes, and responding to natural disasters. Although existing research has recognized the importance of international cooperation between China and Myanmar, few studies have analyzed the current situation of cross-border Telecom fraud crimes between China and Myanmar, and what opportunities and challenges the telecom fraud crimes brings to China and Myanmar's law enforcement cooperation. The purpose of this paper is to elucidate the problems of existing cooperation mechanism and the future of international cooperation by studying the ongoing international law enforcement cooperation between China and Myanmar in combating Telecom fraud crimes. Specifically, this paper addresses the following issues: (1) what role international cooperation between China and Myanmar has played in combating cross-border Telecom fraud crimes; (2) the strengths and weaknesses of international law enforcement cooperation between China and Myanmar; and (3) how to strengthen international cooperation between China and Myanmar in combating cross-border crimes.

International Cooperation between China and Myanmar to Combat Cross-Border Telecom Fraud Crimes

China and Myanmar have maintained good international law enforcement cooperation since 2011. The recent surge in cross-border Telecom fraud crimes has become an important opportunity to promote China-Myanmar international cooperation. This section analyzes the current situation of cross-border Telecom fraud crimes between China and Myanmar and examines the mode of cooperation between the two sides in combating cross-border crimes.

Telecom Fraud Crimes between China and

Myanmar

In recent years, Telecom fraud crimes have continued to show a high incidence in China, with 370,000 cases of Telecom fraud crimes uncovered by Chinese policing authorities in 2021, a figure that rose to 391,000 in 2022 [1]. As domestic efforts to combat Telecom fraud crimes continue to increase, Telecom fraud crimes are gradually spilling over a large number of Telecom fraud criminal organizations and members have moved outside the country. In 2021 alone, Chinese police cracked down more than 10,600 illegal exit gangs of more than three people, cracked more than 5,300 criminal cases, and arrested more than 44,690 criminal suspects [2]. Due to its unique political factors and geographic environment, northern Myanmar has become the hardest-hit area for overseas Telecom fraud crime. Telecom fraud crimes in northern Myanmar have thus developed new features that distinguish them from traditional Telecom fraud crimes. First, the Telecom fraud crime has formed a complete crime chain in the north of Myanmar. The criminals within the criminal organization have a clear division of labor. The organizers are engaged in obtaining the support of local armed forces and in organizing, planning and directing the entire process of the telecom fraud crime. The executors are Chinese citizens who have been lured or deceived into the northern region of Myanmar and are engaged in the direct implementation of Telecom fraud activities; in the success of the crime, it is by the specialized members. After the crimes has been committed, the next stage of money-laundering is carried out by specialized members. Second, the means of fraud gradually professional. The form of Telecom fraud in northern Myanmar has gradually developed from a "cast fishing net widely" to "focus on key object". That means criminals will conduct a detailed background investigation of the target so as to customize the crime script, therefore the fraudulent means are more deceptive and professional. Third, most of the Telecom fraud crimes in northern Myanmar are accompanied by other crimes. Criminals usually use tourist passports to enter Myanmar through a third country to avoid border police who will intercept them or persuade them to return. In order to stay in Myanmar for a long time, criminals even resort to dangerous methods to illegally cross the border. Perpetrators of telecom fraud crimes are usually subject to severe restrictions on their personal freedom upon arrival in Myanmar. They may be brutally tortured or executed if they escape. Members are subjected to intense work and labor within the organization organizers may even threaten the lives of members to extort a high ransom from their relatives. Illegal detention, kidnapping, extortion, human trafficking and other types of crimes are widespread in northern Myanmar.

Cross-border Telecom fraud crimes between China and Myanmar not only jeopardize the personal and property safety of Chinese citizens, but also have a great negative

impact on friendly relations between the two countries. In September 2022, Law of the People's Republic of China on Combating Telecom and Online Fraud passed, which has become an emerging area of legislation for preventing, curbing, and combating the telecom and online fraud. Article 37 of the Combating Telecom and Online Fraud Law clearly stipulates that international law enforcement and judicial cooperation should be strengthened, and effective cooperation mechanisms should be established with relevant countries and regions and international organizations to effectively crack down on and curb cross-border telecom and online fraud.

The Rise of Law Enforcement Cooperation between China and Myanmar

As the process of globalization accelerates, transnational organized crime, such as terrorism, human trafficking, drug trafficking and arms smuggling, is expanding at an accelerated pace on a global scale and has become a persistent problem that endangers people's lives and property, national security and the stability of the global order. Therefore, international law enforcement cooperation has become an inevitable choice for countries to jointly combat transnational crime. At present, cooperation within the framework of non-traditional security is a new trend in the development of international law enforcement cooperation. Since non-traditional security problems often manifest in the form of crimes and are global expanding, the solution of non-traditional security issues relies on law enforcement cooperation between countries and regions. International law enforcement cooperation is also no longer limited to the stabilization of the domestic social order, but is aimed at guaranteeing security and order between States [3].

China and Myanmar began law enforcement and security cooperation meeting in 2005. In 2011, the notorious Mekong River tragedy became an important opportunity for China, Laos, Myanmar and Thailand to establish a joint law enforcement patrol mechanism in the Mekong River basin. Under the framework of this mechanism, the four countries agreed to jointly address outstanding security issues and combat transnational crimes. To date, the four countries have conducted 135 joint patrols on the Mekong River, which has developed into a regularized multilateral law enforcement cooperation mechanism [4]. In 2015, the China-ASEAN Ministerial Meeting on Law Enforcement and Security Cooperation was held for the first time in Beijing, and the participants, including China and Myanmar, adopted the Beijing Declaration, under which a number of executive committees were set up for cooperation in counterterrorism, anti-narcotics, combating cybercrime and illegal migration, etc. In 2016, China, Laos, Myanmar, Cambodia, Thailand and Vietnam jointly established the "Lancang-Mekong"

cooperation mechanism, under which China and Myanmar can strengthen cooperation in non-traditional security areas such as counter-terrorism, anti-narcotics, and combating transnational crime.

Cross-border Telecom fraud crimes has attracted great attention from both sides. China and Myanmar have launched a number of law enforcement operations on this issue, Enhanced law enforcement cooperation between the two countries comes at a critical time. In July 2023, China's ambassador to Myanmar coordinated with Myanmar's foreign minister on combating Telecom fraud crimes. The two sides reached a consensus on taking more favorable measures to carry out a new round of joint combating operations, and explored the possibility of setting up a regularized cooperation mechanism on telecom fraud crimes. The law enforcement cooperation between China and Myanmar in combating transnational Telecom fraud has been effective and fruitful. On October 1, 2023, Myanmar handed over 209 Telecom fraud suspects to China, and a total of 706 suspects of fraud in Myanmar were handed over to the police of China's Yunnan Province on October 9, 2023 [5,6]. To date, a total of 31,000 telecom fraud suspects have been handed over to China by the Myanmar government in 2023, including 63 organizers and masterminds, and 1,531 suspects had been wanted by the police. Public Security Bureau of Wenzhou, Zhejiang province, issued wanted orders for four suspected key leaders of a telecom fraud criminal group operating in the Kokang Self-Administered Zone of northern Myanmar. All three suspects have now been arrested, except for one who committed suicide before being arrested. On 10 December, China issued arrest warrant again and offered rewards for 10 key figures in a telecommunication fraud organization in the Kokang region of Myanmar's Shan State. The Public Security Ministry of China issued a statement that emphasized the severity of the situation, stating that these "family criminal gangs" had been engaged in an extensive and long-term telecommunication fraud scheme targeting Chinese citizens. They are accused of openly carrying weapons to cover their illegal activities, causing significant economic losses and public outrage. China is urging them to surrender and face justice [8]. The Governments of China and Myanmar are highly concerned about non-traditional security of the two countries and combating transnational crime. On December 7, 2023, Chinese Foreign Minister Wang Yi and Myanmar's Deputy Prime Minister and Union Minister for Foreign Affairs U Than Swe co-chaired the Eighth Lancang-Mekong Cooperation Foreign Ministers' Meeting on in Beijing, where both sides agreed that in order to deal with threats to non-traditional security, the six countries should be resolute in combating cross-border crimes, especially telecommunication fraud, and eliminating problems that jeopardize public safety, social development and security [9].

Challenges in International Cooperation between China and Myanmar

Although China and Myanmar have achieved remarkable results in combating transnational Telecom fraud crimes, China-Myanmar international cooperation still faces a number of challenges, which mainly stem from three factors: discrepancy in law enforcement capacity, imperfections in law enforcement cooperation, and a lack of judicial cooperation between the two countries.

Discrepancy between China and Myanmar in Law Enforcement Capacity

The main reason for the gap between China's and Myanmar's law-enforcement capabilities is the complex social situation in northern Myanmar. The northern region of Myanmar has long been in a state of armed division of ethnic minority regions, and there are a large number of interest groups in the northern Myanmar that are independent of the Myanmar government, so that the rules and regulations and legal documents of the Myanmar government usually cannot be effectively implemented in this region. In addition, the level of economic development in northern Myanmar is backward, so Telecom fraud crimes can take root in the region precisely because Telecom fraud crimes in northern Myanmar brought huge economic gains to the armed forces. There is frequent transfer of benefits between Telecom fraud organizations and the armed forces, so the armed forces have become a strong umbrella for Telecom fraud crime organizations in the region [10]. Due to the lack of dominance of the Myanmar government in northern Myanmar, and the fact that crime organizations are sheltered by armed forces, the Myanmar government's ability to enforce the law in northern Myanmar is greatly reduced. China's security authorities often face foreign affairs management problems when cooperating with the Myanmar police, making it more difficult to carry out law enforcement and security cooperation between China and Myanmar.

Immature Development of Law Enforcement Cooperation

Based on the above, it can be seen that the law enforcement cooperation mechanism between China and Myanmar has two distinctive features: first, the law enforcement cooperation between the two sides is emphasized by the political high level, so the basis for the law enforcement cooperation is usually a political document. For example, the joint patrols and law enforcement operations carried out by the four countries in the Mekong River are based on the "China-Laos-Myanmar-Thailand Joint Declaration on Law Enforcement and Security Cooperation in the Mekong River Basin". Second, the law enforcement and security cooperation

between China and Myanmar is usually incorporated into the regular political, diplomatic and economic cooperation mechanism. For example, the Lancang-Mekong Cooperation Mechanism, which is based on the three pillars of political security issues, social cultural and people-to-people exchanges, economic and sustainable development, contains the content of deepening law enforcement and security cooperation. The drawback is that the legal basis for China-Myanmar international law enforcement cooperation is weak, especially since law enforcement cooperation relates to the sovereignty and jurisdiction of the two countries. The process of law enforcement cooperation inevitably involves the issue of sovereignty cession, while political documents obviously do not have the function of ceding sovereignty and delimiting jurisdiction. Finally, China and Myanmar have not yet established an efficient and complete information management and sharing platform, which greatly restricts the exchange of intelligence between the two sides in the fight against Telecom fraud crimes. While the exchange of intelligence and evidence is precisely the focus of law enforcement cooperation, information asymmetry seriously impedes the efficiency of cooperation and the trust. Finally, in the case that the awareness of law enforcement security cooperation is not yet fully unified, if disputes and conflicts occur between the two sides in the process of law enforcement, there is a lack of corresponding dispute resolution mechanisms.

Lacking Legal Basis for Criminal Justice Cooperation

As can be seen from the above, cooperation between China and Myanmar is limited to cooperation in law enforcement, and there has been no judicial cooperation in criminal matters between China and Myanmar, because China and Myanmar have not yet signed a treaty on any form of judicial cooperation in criminal matters. There is a lack of a legal basis for criminal judicial cooperation. International judicial cooperation usually takes four forms, namely, extradition, mutual legal assistance, transfer of criminal proceedings and mutual recognition and enforcement of sentences. To date, in South-East Asia, China has signed bilateral extradition treaties only with Laos, the Philippines, Cambodia, Thailand and Indonesia, and treaties on mutual legal assistance only with Malaysia, Thailand, the Philippines and Indonesia. The number of treaties signed is relatively small and the scope is not sufficiently broad. As a relatively well-developed form of international cooperation, criminal judicial cooperation involves the distribution of rights and obligations between the two parties in the judicial process and pays more attention to the protection of human rights so criminal judicial cooperation must be based on treaties, agreements, laws or regulations. Criminal justice cooperation and law enforcement cooperation are two

important aspects of international cooperation, and the lack of a legal basis greatly restricts the diversity and flexibility of international cooperation between China and Myanmar, so that law enforcement cooperation seems to be the only option between the two countries when it comes to solving cross-border organized crime, including Telecom fraud crimes.

The Future of International Cooperation between China and Myanmar

More effective international cooperation between China and Myanmar is imperative, so the two sides should improve existing law enforcement cooperation mechanisms and develop new criminal justice cooperation mechanisms.

First, it should be made clear in law enforcement cooperation agreements that law enforcement cooperation is based on the principle of "respect for sovereignty, adherence to equality and mutual benefit". China-Myanmar law enforcement cooperation has always been carried out on the basis of respect for sovereignty. Clarifying the principles of law enforcement cooperation is conducive to dispelling the doubts of other countries or the international community as to whether law enforcement cooperation is a disguised form of interference in the internal affairs of other countries. Secondly, international law enforcement cooperation should be carried out on the basis of law. China and Myanmar should sign an agreement on combating cross-border crime and provide for law enforcement cooperation in a special chapter or section. Alternatively, China and Myanmar could sign a special agreement on law enforcement cooperation, thereby promoting the legalization of political agreements. China and Myanmar can not only reach a bilateral agreement, but also sign a six-country multilateral agreement based on the Lancang-Mekong cooperation mechanism. Specifically, the agreement may set out in detail the scope of law enforcement cooperation, matters of organization and command, the rights and obligations of the parties in law enforcement cooperation and a range of other issues. In order to cope with contradictions and disputes arising in the course of law enforcement cooperation, a specialized dispute consultation and settlement mechanism should be established. In law enforcement cooperation based on multilateral conventions, the signatories of the conventions can set up a specialized committee responsible for coordinating the legal provisions and policies of each party, dealing with emergent matters in the course of law enforcement, as well as settling disputes and controversies between countries [9]. Third, China and Myanmar should set up a platform for intelligence exchange and sharing as soon as possible. The sharing and exchange of criminal intelligence is a core aspect of law enforcement cooperation. China and Myanmar can establish a shared database to realize the exchange and sharing of

information on the sources of cases, basic information on criminal suspects and criminal evidence. Fourthly, China and Myanmar must pay attention to regular training of police personnel. In carrying out law enforcement cooperation, both sides must abide by the international law and domestic law and pay attention to the protection of human rights in pursuing and arresting criminal suspects, which requires the improvement of the law enforcement qualities of police personnel and the reserve of legal knowledge.

Fifthly, China and Myanmar should actively promote the process of criminal justice cooperation and speed up the signing of extradition treaties and treaties on judicial assistance. Both sides should make good use of alternative measures to extradition, such as the repatriation of illegal immigrants, and seek a good time to reach cooperation based on extradition in individual cases, so as to enrich the experience and practice of China's criminal justice cooperation with Southeast Asian countries.

Conclusion

Starting from cross-border Telecom fraud crimes between China and Myanmar, this paper introduces the current situation of cross-border Telecom fraud crimes between the two countries, and discusses the great significance and realistic effectiveness of China-Myanmar law enforcement cooperation in combating such crimes. It also briefly examines the history of law enforcement security cooperation between China and Myanmar. This paper argues that immature law enforcement cooperation mechanisms and the lack of judicial cooperation mechanisms are key impediments to international cooperation between China and Myanmar. Today, transnational crime is prevalent and non-traditional security is emphasized, China and Myanmar should firmly grasp the opportunities for cooperation brought by Telecom fraud crimes, summarize experiences in practice, and continuously improve the mechanisms for law enforcement cooperation and judicial cooperation, so as to safeguard the security of the China-Myanmar border and the overall security of the country.

References

1. (2023) See China's Rule of Law Development in 2022 and Prospects for 2023.
2. (2021) This year of combating electronic fraud: more than 370,000 cases were uncovered and the number of cases continued to decline. The State Council of China.
3. Wang J (2017) On International Joint Law Enforcement and Security Cooperation. Journal of Liaoning University (Philosophy and Social Sciences Edition).

4. Zekun Y (2023) Crackdown on telecom fraud bearing fruit. China Daily.
5. Zekun Y (2023) Cross-border cooperation catches online fraudsters. China Daily.
6. Zekun Y (2023) Crackdown on telecom fraud bearing fruit. China Daily.
7. Yunbi Z (2023) Lancang-Mekong nations pledge unity, greater links. China Daily.
8. (2023) The United Nations, ASEAN and China agree on an action plan to solve fraud crimes in Southeast Asia. United Nations News.
9. Kong L (2013) Legal Basis and Institutional Construction of Joint Law Enforcement in the Mekong River Basin between China, Lao People's Democratic Republic, Myanmar and Thailand (Southeast Asian Studies).

