



THE CONCEPT AND THEORETICAL-LEGAL CHARACTERIZATION OF COMPLICITY IN CRIME

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Abstract: The institution of complicity in crime occupies a significant position in criminal law because the commission of an offence by several persons involves complex relationships between participants, differences in their functional roles, and various forms of joint criminal conduct. The purpose of this study is to examine the concept, legal nature, historical development, and theoretical foundations of complicity in crime, with particular attention to the distinction between the type of participant and the form of complicity. The study applies comparative-historical, formal-legal, doctrinal, and analytical methods to examine the development of the institution in Russian, Soviet, and contemporary Uzbek criminal law. The analysis demonstrates that the concept of complicity has evolved from an undifferentiated understanding of joint criminal conduct toward a more structured legal institution based on the number of participants, intentional joint conduct, the nature of their interaction, and the distribution of criminal functions. Particular attention is given to the accessory theory of complicity and to scholarly approaches concerning the social dangerousness of joint criminal conduct. The study argues that the form of complicity should be distinguished from the type of participant and should primarily be determined by the nature and degree of interaction among participants rather than by the individual function performed by a particular person.

Keywords: complicity in crime, criminal participation, co-perpetration, accessory theory, participant, form of complicity, criminal association, joint criminal conduct, criminal liability.

1. Introduction

The precise definition of the concepts underlying a legal institution is essential for understanding its content, legal nature, and practical significance. In criminal law, legal concepts perform not only a theoretical function but also serve as instruments for determining the grounds and limits of criminal liability, establishing the legal status of persons involved in criminal conduct, and ensuring the proper qualification of offences.

This issue is particularly important in relation to complicity in crime, which is characterized by a complex structure, multiple forms of manifestation, and differences in the functions performed by participants. Unlike the commission of an offence by a single person, complicity involves the interrelated conduct of two or more persons intentionally participating in the commission of an intentional criminal act (1). The distinctive feature of complicity is that the contribution of each participant to the common criminal result may differ in nature, scope, and legal significance. One person may directly perform the objective elements of the offence, while another may induce the commission of the offence, organize its execution, or provide assistance. Consequently, the legal characterization of complicity cannot be based exclusively on the fact that several persons participated in the same offence. It also requires an assessment of the relationship between the participants, the unity of their criminal conduct, the commonality of their intent, and the actual contribution made by each person. The subjective element is particularly significant. Since Article 27 of the Criminal Code of the Republic of Uzbekistan defines complicity as the intentional joint participation of two or more persons in

the commission of a crime, intentional conduct constitutes one of its indispensable legal characteristics. Accordingly, complicity presupposes not merely the objective interaction of several persons but also a corresponding subjective connection between them.

The development of the institution demonstrates that its contemporary understanding was not formed immediately. During the nineteenth century, criminal-law doctrine gradually began to distinguish participation in the commission of an offence from involvement in crime. A.S. Jiryaev, for example, distinguished between participation in a crime and involvement in a crime, attributing the conduct of principal offenders and accomplices to the former and concealment, failure to report an offence, and similar conduct to the latter (3).

N.S. Vlashev subsequently emphasized that assistance in the commission of an offence should be distinguished from conduct occurring after the completion of a crime where such conduct had not been agreed upon beforehand (4). These theoretical developments contributed to the separation of complicity from involvement in crime as distinct legal phenomena.

The distinction was also reflected in nineteenth- and early twentieth-century Russian legislation. The 1885 Code of Criminal and Correctional Punishments differentiated participation depending on whether it was based on prior agreement, while involvement in crime was regulated separately (5). Article 51(1) of the 1903 Criminal Code likewise recognized the commission of an offence by several persons acting by agreement or with mutual awareness of one another's conduct (6).

The subsequent development of Soviet criminal legislation further institutionalized complicity. The Fundamentals of Criminal Legislation of the USSR and the Union Republics of 1958 defined complicity as the intentional joint participation of two or more persons in the commission of a crime and identified the principal offender, organizer, instigator, and aider as separate categories of participants (3). The 1960 RSFSR Criminal Code continued this approach in Article 17 and additionally addressed group-based forms of criminal conduct in Article 17¹ (4).

The modern legal framework of Uzbekistan reflects this historical development. Articles 27–30 of the Criminal Code establish an interconnected system regulating the concept of complicity, the types of participants, the forms of complicity, and the scope of criminal liability. Article 27 establishes the general concept, Article 28 identifies the participants, Article 29 regulates the forms of complicity, and Article 30 determines the liability of persons involved in a jointly committed crime. Despite this legislative framework, several theoretical questions remain unresolved. In particular, scholarly debate continues concerning the legal nature of complicity, the criteria for distinguishing its forms, the relationship between the form of complicity and the type of participant, and the extent to which joint criminal conduct increases the social dangerousness of an offence. The purpose of this study is therefore to provide a theoretical and legal analysis of complicity in crime, identify the principal criteria for determining its forms, and establish the appropriate relationship between the form of complicity and the individual role of each participant.

2. Materials and methods

The study employs a combination of doctrinal, historical-legal, comparative-legal, formal-legal, and analytical methods.

The **historical-legal method** was used to examine the evolution of the concept of complicity from nineteenth-century Russian criminal-law doctrine through Soviet legislation to the contemporary criminal legislation of Uzbekistan. Particular attention was given to the

works of A.N. Trainin, M.I. Kovalev, A.S. Jiryaev, N.S. Vlashev, and other scholars who contributed to the development of the theory of participation in crime (2–4).

The **formal-legal method** was applied to analyse the statutory provisions regulating complicity, particularly Articles 27–30 of the Criminal Code of the Republic of Uzbekistan, as well as the relevant provisions of the 1958 Fundamentals of Criminal Legislation of the USSR and the 1960 RSFSR Criminal Code.

The **comparative-doctrinal method** was used to examine different scholarly interpretations of the nature of complicity and its forms. The study considers the positions of P.F. Telnov, A.R. Zaynutdinova, V.P. Karlov, S.S. Avetisyan, and other researchers.

The **analytical method** was employed to identify the common and distinguishing elements of various theoretical approaches and to determine which characteristics should be regarded as essential for defining the form of complicity.

The study is based on the proposition that the **type of participant** and the **form of complicity** constitute distinct legal categories. The first concerns the functional role of a particular person, whereas the second concerns the nature of joint criminal conduct and the relationship among participants.

3. Results

3.1. Historical development of the concept of complicity

The historical analysis demonstrates that complicity developed gradually from a relatively broad understanding of collective criminal conduct into a distinct legal institution.

A.N. Trainin and M.I. Kovalev made substantial contributions to the theoretical development of complicity in Soviet criminal-law doctrine (2). Their works demonstrate that early criminal-law scholarship did not always clearly distinguish participation in an offence from other forms of involvement in crime.

By the middle of the nineteenth century, however, a conceptual distinction had begun to emerge. A.S. Jiryaev classified collective criminal conduct into participation in a crime and involvement in a crime (3). This distinction was particularly important because it separated persons directly contributing to the commission of an offence from persons whose conduct was related to the offence but did not constitute participation in its commission.

N.S. Vlashev further developed this distinction by emphasizing the temporal and subjective relationship between assistance and the commission of the offence. In his view, conduct occurring after the completion of a crime and not agreed upon beforehand could not constitute complicity (4).

Consequently, two important characteristics gradually emerged:

1. participation must be connected with the commission of the criminal act; and
2. the participant's conduct must be linked to the criminal conduct of other participants.

These characteristics subsequently became important components of modern theories of complicity.

3.2. Development of complicity in Soviet criminal legislation

A significant normative stage was represented by the Fundamentals of Criminal Legislation of the USSR and the Union Republics of 1958. Article 17 defined complicity as the intentional joint participation of two or more persons in the commission of a crime and identified the principal offender, organizer, instigator, and aider (3).

The significance of this provision lies in the fact that it combined three essential characteristics: the participation of at least two persons, joint conduct, and intentional involvement.

The 1960 RSFSR Criminal Code maintained this approach. Article 17 defined complicity in substantially similar terms and required courts to take into account the degree and nature of each participant's involvement when imposing punishment (4).

At the same time, Article 17¹ separately regulated offences committed by a group of persons pursuant to a prior agreement or by an organized group. This demonstrated the emergence of an additional criterion: the **nature and degree of interaction among participants**.

E.V. Yepifanova notes that Soviet criminal-law scholarship of the 1940s–1960s proposed distinguishing forms of complicity according to the nature of the relationship between participants. The proposed categories included participation without prior agreement, participation based on prior agreement, and a criminal organization, with an organized group subsequently added to this classification (2).

Thus, the historical development demonstrates a gradual movement from the differentiation of individual participant roles toward recognition of the significance of the internal relationship among participants.

3.3. The concept of complicity under the Criminal Code of Uzbekistan

The adoption of the Criminal Code of the Republic of Uzbekistan on 22 September 1994 marked a new stage in the development of the institution of complicity.

Articles 27–30 establish four interconnected dimensions of the institution:

- Article 27 — the general concept of complicity;
- Article 28 — types of participants;
- Article 29 — forms of complicity;
- Article 30 — liability of participants.

Such legislative structure demonstrates that Uzbek criminal law differentiates between **who a person is within the commission of a crime and how several persons jointly commit that crime**.

This distinction is theoretically and practically important. The principal offender, organizer, instigator, and aider represent different functional roles. By contrast, simple complicity, complex complicity, an organized group, and a criminal association describe different forms of joint criminal conduct.

The analysis indicates that treating an individual's role as a criterion for determining the form of complicity may lead to conceptual confusion. The individual role should primarily determine the type of participant, whereas the form should be established on the basis of the nature of interaction, degree of coordination, prior agreement, stability of relationships, and other legally relevant characteristics.

3.4. Theoretical approaches to the form of complicity

P.F. Telnov defines the form of complicity as the external manifestation of the manner in which offenders interact (6). According to this approach, the form demonstrates how the intentional conduct of two or more persons is integrated into a single criminal act.

This position is important because it shifts attention from the conduct of a particular person to the nature of cooperation among participants. However, limiting the form exclusively to its external manifestation may be insufficient because the relationship among participants also has an internal dimension.

A.R. Zaynutdinova further developed this approach by arguing that the form of complicity represents an external manifestation of joint criminal conduct while simultaneously reflecting its internal structure (7). This interpretation more comprehensively captures the relationship between the external and internal characteristics of joint criminal activity.

Nevertheless, the form of complicity should not be equated entirely with the internal structure of the relationship. Rather, it should be regarded as a legally relevant manifestation of how participants interact in the commission of a crime.

V.P. Karlov associates the form of complicity not only with the nature of the participants' conduct but also with their intellectual and informational interaction (8). This approach draws attention to the communicative dimension of joint criminal conduct.

However, information exchange cannot constitute an independent defining criterion. Persons may exchange information concerning a criminal act without thereby forming an organized group or another legally recognized form of complicity. Therefore, information exchange should be considered an auxiliary factor rather than a decisive criterion.

3.5. Relationship between the form of complicity and the type of participant

The analysis of the relevant scholarly approaches demonstrates that the distinction between the **type of participant** and the **form of complicity** is essential.

The type of participant determines the functional contribution of an individual. For example, one person may perform the offence directly, another may organize its commission, another may induce another person to commit it, and another may provide assistance.

The form of complicity, in contrast, characterizes the relationship among several participants as a collective phenomenon.

This distinction is supported by the observation that the same type of participant may occur in different forms of complicity. For example, an organizer may operate within a simple form of joint participation as well as within a more stable and coordinated criminal association.

Therefore, the functional role of a person cannot by itself determine the form of complicity.

3.6. The social dangerousness of complicity

Another significant theoretical issue concerns whether complicity increases the social dangerousness of an offence.

Some scholars maintain that the joint commission of an offence by several persons increases its social dangerousness because cooperation, distribution of functions, and mutual assistance may facilitate the implementation of a criminal plan. Other scholars argue that complicity should not automatically be treated as an aggravating circumstance because the degree of dangerousness depends on the specific characteristics of the offence and the actual contribution of the participants (10).

In our view, joint participation may increase the social dangerousness of criminal conduct where cooperation enhances the participants' capacity to commit the offence. The distribution of functions may allow participants to overcome practical obstacles, provide mutual assistance, reduce the risks associated with individual action, and increase the effectiveness of the criminal plan.

L.V. Monakhova similarly considers complicity to be indicative not only of the increased social dangerousness of the offence but also of a higher degree of social dangerousness attributable to the offender (11).

Nevertheless, the existence of complicity should not automatically result in an identical assessment of the dangerousness of every participant. The degree of liability should remain connected with the nature and extent of each person's contribution.

4. Discussion

The findings demonstrate that the contemporary concept of complicity has developed through the interaction of legislative practice and criminal-law doctrine. Several theoretical conclusions can be drawn from this development.



First, **joint participation and involvement in crime should be clearly distinguished.** The historical works of Jiryaev and Vlasyev demonstrate that the differentiation of conduct directly connected with the commission of an offence from subsequent or otherwise unrelated conduct was one of the earliest stages in the development of the modern concept of complicity (3; 4).

Second, **the form of complicity should not be confused with the type of participant.** The participant's type reflects an individual functional role, whereas the form reflects the nature of collective criminal conduct. This distinction is particularly important for avoiding excessive attribution of the conduct of one participant to another.

Third, **the degree of interaction among participants constitutes an important criterion for distinguishing forms of complicity.** Historical development shows that criminal-law theory gradually moved from merely identifying individual roles toward examining the nature of relationships among participants.

Fourth, **prior agreement alone should not necessarily be treated as sufficient to characterize a higher form of complicity.** The legal assessment should also take into account the degree of coordination, stability of relationships, distribution of functions, common criminal purpose, and other legally relevant circumstances.

Fifth, the position of S.S. Avetisyan, according to which all members of a criminal group or association may be regarded as co-principals irrespective of their actual functions, requires a cautious assessment (9). Although this approach emphasizes the unity of collective criminal activity, its general application may undermine the principle of personal criminal liability. Automatically treating organizers, instigators, and aiders as principal offenders could obscure differences in their actual contributions.

Accordingly, criminal liability should be determined on the basis of the **actual contribution of each participant**, the nature of the assistance or involvement provided, the participant's intent, and the causal or functional relationship between that conduct and the common criminal result.

From the perspective of Uzbek criminal law, this conclusion is particularly important for the application of Articles 27–30 of the Criminal Code. The legislative differentiation between the concept of complicity, participant types, forms of complicity, and liability should be preserved and further developed through clearer criteria for distinguishing the various forms.

The study also supports the proposition that the **degree of coordination among participants should be treated as a principal, but not exclusive, criterion.** It should be assessed together with prior agreement, continuity of interaction, division of functions, common purpose, and the factual contribution of each participant.

5. Conclusion

The study establishes that complicity in crime constitutes a complex criminal-law institution based on the intentional joint participation of two or more persons in the commission of a crime. Its legal nature is determined not merely by the existence of several participants but by the objective and subjective connection between their conduct.

The historical development of the institution demonstrates a gradual transition from a broad understanding of collective criminal conduct toward a differentiated legal framework distinguishing participation in a crime from involvement in crime and recognizing the functional roles of individual participants.

The analysis of Russian and Soviet criminal-law doctrine shows that the criteria for distinguishing forms of complicity gradually expanded from the mere identification of

participants to the assessment of the nature of their interaction, prior agreement, coordination, and degree of cohesion.

The study further establishes that the **type of participant and the form of complicity are independent but interconnected legal categories**. The former concerns the individual function performed by a person, while the latter characterizes the manner and degree of joint criminal conduct. Consequently, the role of a participant should not serve as the sole criterion for determining the form of complicity.

The most appropriate approach is to determine the form of complicity on the basis of a combination of criteria, including the nature of interaction among participants, the existence and scope of prior agreement, the degree of coordination, distribution of functions, continuity of relationships, and common criminal purpose.

At the same time, the principle of personal criminal liability requires that each participant's responsibility be determined according to his or her actual contribution to the commission of the offence. Therefore, even within more complex forms of joint criminal conduct, the liability of organizers, principal offenders, instigators, and aiders should be differentiated according to their respective roles and intentions.

For the further development of Uzbek criminal law, these conclusions support the need for clearer doctrinal and legislative criteria distinguishing the forms of complicity regulated by Articles 27–30 of the Criminal Code. Such clarification would contribute to more consistent legal qualification, prevent unjustified expansion of criminal liability, and strengthen the principle of individual responsibility in cases involving several participants..

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