

# A Brief Discussion of Intervening Factors in Criminal Law

Chenyu Zhang<sup>1\*</sup>

<sup>1</sup> Law School, Bohai University, Jinzhou, Liaoning, China

## Email Address

884658721@qq.com (Chenyu Zhang)

\*Correspondence: 8846587521@qq.com

**Received:** 13 November 2022; **Accepted:** 5 December 2022; **Published:** 23 December 2022

## Abstract:

Criminal law causation is an objective relationship between the harmful act and the result of the damage, including the factual causation and legal causation of two levels of content, is the basis of the objective responsibility of the actor for the harmful results. Criminal law causation in judicial practice usually has other elements to intervene and have some influence on the composition of causation and responsibility. In judging the criminal law causation, the first consideration should be to pass the conditional relationship, thus limiting the scope of causation, and then further consider whether there is equivalence between prior acts and harmful results according to the rule of thumb. The intervening factors are independent and abnormal, with different types of manifestations such as natural events, third party acts, victim acts and victimization acts. Whether the causal relationship can be interrupted also varies, taking into account factors such as the force of the prior act, the abnormality of the intervening factor, and the role of the intervening factor in the outcome.

## Keywords:

Causality, Intervening Factors, Independence, Abnormality

## 1. The Concept and Characteristics of Intervening Factors in Criminal Law Causation

Intervening factors, that is, the elements that exist between the prior act and the final result. [1] Direct causation in the theory is usually not controversial, the previous behavior directly led to the production of harmful results, there is no intervening factor between the previous behavior and the final result, such as Zhang directly shot Liu to his death. But in the actual case, so simple and clear facts of the case usually does not exist, the intricacies of the various facts are usually interrelated, in the original behavior and results of the chain between the embedded another intervening factor. The intervening factor is present in the process of development of the dangerous flow created by the harmful act and has an influence on the development process of the former act. This intervening factor may influence to a certain extent the association between the behavior and the result, and may also influence the developmental pattern between the original previous behavior and the final result. This element of intervention on the one hand directly caused the occurrence of the

result, on the other hand, the cause and effect of a specific association between this time, to determine whether there is a causal link between the previous behavior and the results of the harm, or intervening factors on the previous behavior and the link between the results of the harm produced what impact and the correct conviction and sentencing becomes a more complex issue.

The intervening factor is an independent factor that exists in the process of developing prior behavior into harmful results, the intervening factor is complex and diverse, the intervening factor has independence, abnormality and contingency. Independence, that is, the intervening elements for the prior behavior is independent of each other's behavior and events. Independence usually includes the following meanings: first, there is no affiliation between the intervening element and the prior behavior, and it is only an accidental existence in terms of the prior behavior; second, there is no relationship between the intervening factor and the prior behavior that triggers each other, that is, there is no derivative relationship between them. Abnormality, i.e., it does not occur under normal circumstances, such as a car accident on the road is rather abnormal. The appearance of such intervening factors, in the general perception, does not occur according to the usual circumstances and exists outside the expectation of the perpetrator and the victim. In cases where there are intervening factors, there must be two or more harmful acts, and with a prior and a subsequent chronological order. The combination of prior acts and intervening factors is contingent, and there is no common intention to contact each other, and the connection between the prior acts and the harmful results is not direct. The contingency of the intervening factor means that the appearance of another element does not necessarily interrupt the causal connection between the prior act and the harmful result, when the danger of the prior act plays a decisive role, and the intervening element has a small role in the danger, it cannot interrupt the chain of prior causal connection. [3] When the role of the danger of both are larger, for the occurrence of the results of harm at least two causal chains, and not just the existence of prior behavior a dangerous flow, but with the intervening elements of the common influence of the flow of danger superimposed on each other, together caused by the results of harm.

## **2. Types of Intervening Factors in Criminal Law Causation**

### ***2.1. Types of intervening factors that constitute criminal law causation***

Natural events. For example, Zheng tried to hurt Feng on the beach, and after beating Feng into serious injury, Zheng left the scene. As a result, a tsunami occurred and swallowed B. B was killed as a result, where the intervening factor of tsunami is a natural event. Another example is that Zheng entered Chu's house for burglary and caused Chu to be seriously injured and unconscious when he had an argument with him. Later, due to the occurrence of an earthquake, B died as a result, at this time the intervening earthquake this factor also belongs to the natural events.

The behavior of third parties. The situation of the behavior of the third person is due to the intentional, negligent or no-fault behavior of the third person, combined with the previous behavior caused the emergence of harmful results. For example, Meng chased Li, who happened to meet his enemy Ding in the process of escape, Ding directly after finding Li drove him to death on the spot. Another example is that due to Dai's intentional injury to Liu, who was later taken to the hospital for assistance, the nurse died as a result due to a major error. Another example is Wang Mou night due

to drunken driving a motor vehicle will Cao Mou hit and run, due to Cao Mou lying in the middle of the road, after multiple cars drove through inadvertently Cao Mou crushed, Cao Mou died as a result. The elements of intervention in the above situation all belong to the behavior of the third person. [4]

The victim's own behavior. Intervention of the victim's own behavior is due to the victim's self-protection behavior, and the previous behavior together caused the harmful consequences. For example, Feng in order to kill Dai, at the edge of the cliff to Dai several knives, Dai was unconscious due to blood loss. Feng thought Dai had died and left. Li woke up and crawled a few steps then fell off the cliff and died. Then Liu committed suicide because he was raped by Zhang and could not accept it inside. Zheng was chased by Wang and struggled to escape. On the way to escape, he unfortunately fell down in the stairs and died due to a severe head injury. The elements of intervention in the above scenarios all belong to the victim's own behavior.

The actor's second act. The secondary act of the intervening actor is the first act of the perpetrator after the implementation of the first act, and intentionally implemented a second act, the combination of two acts together triggered the harmful results. For example, Zhang implemented the act of killing Li, Li due to excessive blood loss and shock, after Zhang in order to destroy evidence, threw Li into the lake and drowned. At this point the intervened to throw Li into the lake is the secondary behavior of the perpetrator. Another example, Liu intended to kill his wife, his wife's nap in the kitchen to open the gas, two hours later returned to destroy evidence of guilt will burn down the house. In fact, the wife did not die at that time because the window was not closed. In this case, the act of intervention is the act of Liu burning the house, this act is also the secondary act of the perpetrator.

The special physique of the victim. The victim's special physique is an objective and independent part of the victim's body condition before the existence of the act, and it is a part that cannot be separated from the person, closely related to each person's gender, age, physical quality and other factors, and has the exclusive property of the person, so the victim's special physique cannot be classified as an intervening factor, and cannot be denied due to the existence of the intervening factor of the victim's special physique. The victim's special physique cannot be classified as an intervening factor, and the causal connection between the previous act and the harmful result cannot be denied due to the existence of the victim's special physique as an intervening element

## ***2.2. Types of intervening factors that do not constitute criminal law causation***

Other unrelated actors based on different intention. In the presence of intervening elements of criminal law causation, the previous act for the production of the harmful results produced the premise, only to provide a certain basis for the production of the final result, in this case, the previous act is the necessary condition for the creation of intervening elements, but it is not the cause of the final result, it is the second act with the previous act does not exist dependence directly triggered the production of the harmful results. [5] For example, in order to kill Liu, Zhao set fire to Liu's house with the intention of burning it to death, and then Li, who had suicidal thoughts, passed by and ran into the fire, resulting in the death of Li. In this case, although Zhao's act of lighting the house created a certain danger, but this danger did not affect the rights and interests of Li, and Li did not have a relationship with the spontaneous act of

breaking into the fire led to the death of his own. In this case, Li's behavior and Zhao's behavior does not have any correlation, and thus Li's act of running into the fire is not an intervening factor between Zhao's act of setting the fire and the consequences of Li's death, Li's own choice and free will therefore led to the results of his own death. The victim has free will to act under the consequences of the harm caused, for the result of the result can not be attributed to the previous act.

The class form that arises when two acts compete with each other. The causation that arises due to the competition of multiple acts or elements with each other and that is capable of causing the final result even if each element exists separately, i.e., the causation of choosing a competition. For example, Zhang and Li each placed a lethal agent into Liu's glass of water without meaningful contact, and Liu died after drinking it. At this point, the existence of only the behavior of either party is sufficient to cause the result of Liu's death, in this case is the behavior of the two parties at the same time, the two acts in time does not have the order of priority, does not belong to the type of intervening factors in the criminal law causation.

The causal relationship between two acts overlapping each other. In this case, a single act is not able to cause the emergence of harmful results, the two sides in the accidental situation without meaningful contact, combined with each other to cause the harmful results, the behavior of either party is indispensable. For example, Zhang and Li both intended to kill Liu, but no meaningful contact between each other, respectively, put poison in Liu's food. However, it was later found that neither of them was able to cause Liu's death, but the sum of the doses they put in caused the consequences of Liu's death. The actions of Zhang and Li overlapped with each other and caused the death of Liu, but neither of them could cause the death of Liu, which is not a type of intervening factor in criminal law causation in this case.

### **3. Influence of Intervening Factors On the Establishment of Causality**

#### ***3.1. Intervening factors interrupt causality***

In this case due to the intervention of other factors between the previous act and the result of the hazard, completely blocked the connection between the previous act and the result of the hazard. At this time, due to the intervening factors for the results of the hazard of the danger of greater utility, so that the previous danger lost the connection between the results of the hazard, that is, no utility. Professor Zhao Yanguang believes that: intervening elements to interrupt the causal relationship, must meet the following requirements: First, there must be another cause of intervention, which has the real possibility of producing the final result; second, the intervening factor must be abnormal; third, the intervening factor to trigger the appearance of the final result must be consistent with certain regularity. [6]

First, the intervening cause must be completely new and independent, can not be triggered by the previous act. For the occurrence of harmful results can not only have a lesser role in promoting the role, not only as a condition in the process of the realization of the danger of the previous act, must have a significant influence on the production of the final result, otherwise it can not interrupt the causal relationship. For example, Han cut Chen several times to cause serious injuries, Chen was rescued to the hospital, the doctor in the course of surgery Chen due to untimely rescue, rescue and death, at this time the intervening doctor rescue behavior only as a condition in

the development of the causal relationship, the occurrence of the risk of Chen's death results in a lesser role or even no risk, so you can not make the causal link between Han's behavior and Chen's death results in interruption. Secondly, the intervening factors have unusual characteristics, such elements do not appear in the general situation. For example, in general circumstances, falling down the stairs when seriously injured is more abnormal, but if the fall down the stairs while being chased by others is not abnormal. Another example is that Sun deliberately injured Li to cause serious injury, Li therefore unconscious, and then died because of unaided bacterial infection of the wound. At this time the intervention of the bacterial infection of this element does not have abnormality, may not lead to Sun's intentional injury and Li's death results in the interruption of the causal link, so Sun shall be responsible for the results of Li's death. Finally, the interruption of the causal relationship indicates that the previous behavior and damage to the consequences of the condition between the association was interrupted, while the intervening causes lead to the ultimate consequences must be in line with the law. For example, after Zhang caused minor injuries to Li, the nurse used expired drugs or fake drugs for treatment, thus leading to Li's death. Another example is when Meng is operated on in a hospital due to a car accident, and the doctor produces a mistake that causes Meng's death, the causal connection is interrupted if the doctor's surgical act has a significant impact on the consequences of Meng's death.

### ***3.2. Intervening factors do not interrupt the causal relationship***

In this case, contrary to the above, the intervening element often has an initiating relationship with the prior act, in other words, the intervening element is not independent, but is the result of the prior act. The intervening element is ipso facto and universally occurring, so that there is no break in the causal relationship.

In appearance, it appears that the intervening factor caused the final result, but in fact it was the former actor who made use of the intervening factor, or rather the intervening factor was actually part of the process by which the dangerous flow of the previous act caused the final result. The intervening factor is not subjectively intentional or negligent, but is used as a tool of the former, and the intervening factor allows the risk stream created by the previous act to continue to develop, and objectively the final result of the damage is still the result of the previous act. So at this point the prior conduct should be responsible for the appearance of intervening factors, intervening factors do not have abnormality, the prior conduct should be responsible for the results. For example, Meng Mou hit Liu Mou into a coma at night on the road in the city center, Meng Mou did not rescue him and fled, which led to the death of Liu Mou by multiple cars, Liu Mou was crushed by multiple cars due to Meng Mou's previous accident, which is inevitable, so the factor of intervening vehicle crushing does not interrupt the causal link between the previous act and the later result, Li Mou should be responsible for Liu Mou's death. [7] Another example is Zheng Mou to Gu Mou to carry out home invasion robbery, Gu Mou run out of the house, in down the stairs unfortunately fell to serious injury, because Gu Mou's fall does not have abnormality, is caused by Zheng Mou's chasing behavior, so can not interrupt the causal relationship between Zheng Mou's behavior and Gu Mou serious injury results.

## **4. Factors Considered in the Criteria for Judging Criminal Law Causation under Intervening Factors**

In cases where there are intervening factors, the degree of realisation of the danger created by the act of execution should be considered: (1) the magnitude of the force of the actor's prior actions in causing the harm; (2) the magnitude of the abnormality of the intervening factors; (3) the magnitude of the force of the intervening factors in causing the final consequences. [8].

### ***4.1. The actor's prior line of the cause of the harmful results of the size of the force***

The causal force of the prior conduct is the degree of prior conduct realised as the final result. If the prior act of danger played a decisive role, and the intervening factors of the degree of danger is small, at this time the prior act for the occurrence of harm between the results with causal relationship, that is, the prior act led to the harmful results. [9] Conversely, if the former act of creating danger did not play a decisive role in the final outcome of the cause of the force is very small, there is no criminal law causal relationship between the occurrence of prior acts of harm. If Sun intended to kill Ye, Ye was seriously injured, and then Dai passed by, out of revenge to Ye's buttocks kicked two feet, after Ye died. As Sun's behavior has a decisive role in the outcome of Ye's death, and Dai's behavior has very little or even no causal force, so the outcome of death should be attributed to Sun, and should not be attributed to Dai.

### ***4.2. Abnormality size of intervening factors***

The magnitude of the abnormality of an intervening factor refers to the magnitude of the contingency of the intervening element occurring in general social life. An intervening factor is anomalous if the situation in which it intervenes rarely occurs in everyday life, or if it does not appear to occur to the average person to be an unexpected situation. If the intervening factor is abnormal and there is no initiating relationship with the previous act, the abnormal intervening factor acts independently as the cause of the final result, and the causal connection between the previous act and the subsequent result is interrupted. For example, Meng slightly injured Tian, sent to the hospital on the way due to a third person drunk driving car accident, resulting in the death of Tian on the spot. During Tian's recovery in the hospital, the hospital accidentally had a fire accident and Tian died as a result. In this case, the chances of hospital fire in daily life are extremely small and unforeseeable, and the anomalous nature of the intervening fire accident is greater, so there is no criminal law causal connection between Meng's intentional injury and the outcome of Tian's death.[10]

However, if the intervening factors that usually occur in the general perception, i.e., the chance of occurrence in daily life is high, even with the triggering relationship between the prior act or directly as a component of the prior act, then this intervening factor is not abnormal and cannot block the causal relationship between the prior act and the subsequent result, and the final harmful result should be attributed to the prior act. Such as Liu wanted to burn Qianmou, ignited the clothes of Qianmou, Qianmou had no choice but to jump into the nearby pool, but because he could not swim and drowned. At this point, Qianmou jumped into the pool in order to put out the fire does not have the abnormality, but because Liu triggered, Liu should be responsible for the results of Qianmou's death.

### **4.3. Magnitude of the role of intervening factors in the occurrence of the outcome**

If the intervening factor has a large role in the occurrence of the result and can interrupt the flow of danger created by the previous act, which alone led to the harmful consequences, it shows that the previous act does not have a causal link with the final harmful result. Conversely, there is a causal relationship. Judgment of the role of intervening factors usually consider the following factors: First, to see the intervening elements for the occurrence of hazardous results produced by the size of the danger. Secondly, to see the intervening factors for the previous act of creating a dangerous flow of whether there is a blocking relationship. If there is, it shows that the ultimate consequences of the occurrence of the intervening factors have a greater force. For example, Meng sneaked into Sun's house to steal, to resist arrest seriously injured Sun to unconsciousness, Meng fled the scene. Later, the house collapsed due to an earthquake, Sun was killed on the spot, which intervened in the earthquake this factor has a greater risk of death of Tian, and to its death on the spot to interrupt the flow of danger created by the previous act, the two have a blocking relationship, so Meng's intentional injury and Sun's death does not have a causal relationship between the consequences of criminal law.

## **5. Conclusions**

Criminal liability is based on criminal law causation as the key element, and the perpetrator bears criminal liability must address the issue of causation, which involves not only the factual causation level, but also the legal causation level. When judging criminal law causation, the first consideration should be to pass the conditional relationship, thus limiting the scope of causation, and then further consider whether there is equivalence between prior acts and harmful results according to the rule of thumb. The intervening factor is an independent factor that exists in the process of developing prior acts into harmful results, the intervening factor is complex and diverse, the intervening factor has independence, anomaly and contingency. This intervening factor may have some influence on the link between the prior behavior and the final result, and may even interrupt the causal relationship between the two. It is of great significance to judge the composition of the causal relationship under the intervening factor, and when considering the influence of the intervening factor, it should be considered whether the intervening factor is abnormal, the prior behavior and the size and force of the intervening factor as a cause for the occurrence of the result.

## **Conflicts of Interest**

The author declare that there is no conflict of interest regarding the publication of this article.

## **Funding**

This research received no specific grant from any funding agency in the public, commercial or not-for-profit sectors.

## **References**

- [1] Li, L.F.; Lu, L. A Study on the Identification Model of Causality in Criminal Law, *Journal of Social Sciences, Jilin University*, 2011, 51(5.)

- [2] Li, H. Reflections on the Theory of Causality in Criminal Law, Chinese Journal of Criminal Law, No.5, 2004. Li Hong, Reflections on the Theory of Causality in Criminal Law. *Chinese Journal of Criminal Law*, 2004, 5.
- [3] Chen, X.L. A Study on Causality in Criminal Law. *Modern Law*, 1999, 21(5).
- [4] Su, J.X. From the Theory of Causality in Criminal Law to the New Objective Imputation Theory. *Jurist*, 1997, 3.
- [5] Li, S.Y. On the Interventional Factors in the Causal Relationship of Criminal Law, *Law and Society*, 2015, 10(1).
- [6] Wang, Y.B. The special constitution of victims does not belong to the causality intervention factor of Criminal Law. *Procuratorial Daily*, 2017-09-06 (003).
- [7] Li, L.H. On the Causality of Criminal Law in the Case of Intervention. Jilin University, 2005.
- [8] Kong, W.X. A Study on the Normative Judgment of Intervening Factors in Causality, *Law and Society*, 2008, 11 (middle).
- [9] Yang, C.X. The Crisis Reflection and Solution of the Theory of Causality in Criminal Law. *Journal of National Academy of Procurators*, 2004, 4.
- [10] Zhang, M.K. Criminal Law (Second Edition), Beijing: Law Publishing House, 2003. M.D. Ortega, P. Blanco, R. Gómez, C. Martínez, E. Schmucke, J. De Santiago. Truancy: Intervening Factors. *European Psychiatry*, 2015, 30(S1).



© 2022 by the author(s); licensee International Technology and Science Publications (ITS), this work for open access publication is under the Creative Commons Attribution International License (CC BY 4.0). (<http://creativecommons.org/licenses/by/4.0/>)