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Research Article

CONCEPTS OF CAUSATION IN CRIMINAL LAW: PROBLEMS, ANALYSIS AND SOLUTIONS

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ABSTRACT

The article widely uses logical, inductive, deductive, systematic, logical-legal, comparative-legal research methods. In particular, it was noted that the issue of causation in the institutions of general and special parts of criminal law is very complicated and there are many problems with it. In the theory of criminal law, scientists put forward eleven theories of causation in their scientific works, and the content of the most important of them is analyzed in this article, as well as specific shortcomings of theories of causation are recognized. The scientific views and researches of scientists regarding the theories of causation in criminal law, the similarities and differences between them are described in detail. At the same time, two of the theories of causation in foreign criminal law are widely used: the theory of equivalence and adequacy, and among them: the first contains the necessary conditions ("conditio sine qua non" - "there is no condition without a necessary condition..."), and the second is adequate(exactly the same, equal, suitable) are stated to represent conditions. Also, the legal nature of eleven theories of causation in the theory of criminal law, their specific rules are comparatively analyzed, their problematic aspects are identified and sequentially described. This article focuses on eleven theories of causation in criminal law theory and provides an instrumental and comparative analysis of their intertwined provisions. Also, out of the eleven theories of causation, the theory of direct causation was found to be the most widely used. At the same time, the doctrine of criminal law and existing scientific research were analyzed, and reasonable theoretical recommendations were developed in this regard.

KEYWORDS

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Crime, corpus delicti, objective side of a crime, socially dangerous act, legal causation, causation in law, theory, adequate, equivalent, conditio sine qua non.

INTRODUCTION

In the latest scientific studies on causation in the institutions of general and special parts of criminal law, it is noted that the issue of causation is very complex and there are many problems with it.

I. Ya.Kozachenko, V.N. Kurchenko, Ya.M. Zlochenko, Sh.Khaidarov emphasize that the issue of causality is so complicated that some authors, in many cases, confuse the theories of causality, and the issue of determining causality is also the cause of heated debate [1, P. 26, 44].

Eleven concepts and theories of causation are advanced in criminal law theory and existing monographic research. However, not all of them are supported, some of these concepts and theories are supported by scientists and others reject with their scientific approach [1, P. 26, 44].

In the theory of criminal law, scholars express the content of eleven concepts and theories of causation as follows:

1. "In judicial practice, there are many cases in which criminal consequences are the result of an action consisting of direct causes, which are equal in one respect" (equivalence concept).

2. "It is necessary to determine the main reasons that caused a particular crime. In the absence of the main (principal) cause - a certain event could not have occurred" (principal cause concept).

3. The categories "cause" and "consequence" are closely related to the category "conditions". At the same time, conditions do not play an active, decisive role in the occurrence of this consequence. Therefore, conditions and causes cannot be compared with each other, otherwise the boundaries between them will be undermined" (the concept of causes and conditions).

4. In the theory of criminal law and criminal legislation, the term "to be the cause" is used to reflect the immediacy of causality" (concept of direct causation).

5. "When solving the issue of responsibility for the consequences, it is necessary to proceed from the difference between the concepts of necessary and accidental causation. A causal relationship cannot be one of cause and effect. Conditions, unlike causes, are events that cannot directly cause another event (consequence) by themselves, but influence them and ensure their development to a certain extent, but occur due to other causes and circumstances" (the concept of necessary and accidental causality).

6. "Certain difficulties arise as a result of the addition of incoming (external) forces to the chain of causal connections in the course of specific causal connections, that is, complexity arises when causal connections intersect with the

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behavior of third parties, the intervention of natural forces, or the "fault" of the victim" ("incoming theory of forces).

7. "In judicial practice, it may be necessary to deal with judgments about the possibility of achieving a positive result in the treatment of the patient with different degrees of probability" (the concept of probabilistic causality).

8. "In order for liability to arise, the act of the accused must create real opportunities for causing harm. The possibility of the appearance of the effect must arise in the cause itself" (the concept of possibility and reality).

9. "The cause produces, causes, develops an effect that does not yet exist, but should appear with relative necessity" ("internal causality" concept).

10. "The development of the causal connection should be evaluated taking into account the subjective attitude of the person to the resulting criminal consequence (result)... In criminal law, the question of causation arises only when the action (inaction) is committed under the control of consciousness and will" ("culpability" concept).

11 Causal connection occurs even in small and insignificant activities of a person. How small and insignificant the action of the individual appears compared to the slight muscular action that pulls the trigger of a pistol, and yet the action of the individual causes death. In this case, only the general interaction of actions can be accepted as a necessary condition that caused certain consequences" (the concept of necessary conditions).

METHODOLOGY

Methods such as logical, systematic, historical, logical-legal, comparative-legal, analysis of criminal cases and statistical data, sociological surveys were used in writing the research work.

DISCUSSION

Among the concepts of causation in foreign criminal law, two are widely used: the theory of equivalence and the theory of adequacy. The first expresses the necessary conditions ("Conditio sine qua non" - "there is no condition without a necessary condition..."), and the second expresses adequate (exactly the same, equal, suitable) conditions [2, P. 108].

The concept of adequate causation. In this theory, each case is not considered separately, on the contrary, the rule is put forward that if they are considered separately, it becomes impossible to draw general conclusions. It puts forward a scientific approach that a number of specific cases should be grouped according to typical characteristics. According to this theory, conditions that are not adequate (namely, uniformity, equality, compatibility) cannot be considered as the cause of the phenomenon. Adequate conditions are conditions that are typical.

In this theory of causation, an action in general is considered a sufficient condition that can lead to the emergence of a certain consequence in any case.

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Proponents of adequate theory are divided into the following main directions: subjective and objective direction. According to Kries, who is a subjective approach, "This theory requires taking into account all the conditions known to the subject or at least familiar to him during the action" [3, P. 228].

According to the scientific approach of S.A.Tararukhin and I.A.Klepitsky, in order to solve the question of the necessity or randomness of causal relationships, whether the occurrence of a consequence in the situation under consideration belongs to a typical situation in which the occurrence of a necessary causal connection is evidence or, on the contrary, such a consequence is atypical for random situations (which occurs only in some cases) is required to determine the status [4, P. 100, 96-109].

In criminal law, two categories are used to resolve the issue of causation according to this theory. They are necessity and contingency. There are many controversial scientific views and approaches on whether or not it is correct to use these two categories.

In this theory, causation is mainly divided into two types: necessary and accidental causation. Dividing causation into necessary or accidental can raise many problematic issues. According to this theory, some causes are necessary, through which criminal consequences are inevitable, while some consequences are accidental, through which criminal consequences may or may not arise.

Proponents of the objective direction of the adequate theory solve this problem as they see fit. All conditions at the time of the crime must be taken into account. These conditions must be recognized not by the entity that committed the action, but by specific entities.

The existence of causality is determined by human science. This situation does not mean that the determination of the causal connection acquires a subjective character, that is, its determination does not depend on a particular judge.

In conclusion, it should be said that according to the theory of adequate causation, the action is recognized as the cause of the resulting result only when, under normal conditions and in a specific case, it leads to the intended result. For example, a shot to the head is fatal, but a light blow to the head with a stick is not. According to this theory, it is recognized that in the first case there is a causal connection, and in the second it is not.

The concept of prime causes. In the theory of main causes, the main (main) condition that has a decisive role in the repetition of this event is distinguished from all the previous conditions of a certain event, and it is recognized as the cause of the resulting consequence. In this theory, the main cause of criminal consequences is the committed criminal act (act or inaction).

This theory creates a good opportunity for guilty persons to avoid punishment. For example, if two people try to kill another person by giving poison, one person gives less poison and one person gives

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more poison. If the death was caused by the actions of the person who administered the poison. According to this theory, a person who administers less poison may escape criminal liability.

As a second condition of this theory, it can be seen that all types of participation (organizer, agent and assistant) are not brought to criminal responsibility. That is, according to this theory, the action of the executor is recognized as the main, main cause.

Stuebel's states "Theory of First Causes is a veritable refuge for murderers!" [5, P. 56].

According to B.S.Antimonov, "This theory can be useful for criminals (gangsters). They have only one thing to be careful of when committing a crime, namely, creating a more effective environment that will ensure the harmful outcome. By injecting the victim with a little less poison than his partner, the poisoner has the burden of proving that the poisoner is wrongly accused or not even a participant in the poisoning [6, P. 184].

In our opinion, it is appropriate to recognize the fallacy of this theory of causality. The determination of causality based on the rules of this theory leads to the incorrect application of the principles of legality, justice and responsibility of the JK in practice. It should be noted that the theory of main causes cannot be correct in the field of criminal law.

The concept of direct (proximate) causality. According to the theory of direct (proximate) causation, the only cause of criminal consequences is the act or omission that is the last, immediate and closest to the consequence. This theory is the most widely used type of causality theory in practice.

The Supreme Court of the Republic of Uzbekistan applies this theory of direct (proximate) causation in most cases. The phrase "causal connection" is used in 14 places of the decisions of the Plenum of the Supreme Court, and from the interpretation of this phrase in the clauses of the decisions, it can be known that it is a direct causal connection. They consist of:

- Paragraph 2: the attention of the courts should be drawn to the fact that in order to properly qualify the act in cases of bodily injury, it is necessary to establish in detail the existence of a causal connection between the act of the guilty party and the result. Paragraph 4: Liability for intentional injury to the body of any severity requires the existence of a causal connection between the consequences specified in articles 104-110 of the Criminal Code, caused by the act of the guilty party. If these consequences, although they are related to the illegal actions of the perpetrator, were caused by the individual characteristics of the organism or the inappropriateness of the medical care provided, the victim's own actions that caused the damage caused to him to worsen, or other circumstances not covered by the perpetrator's intent, the offense is punishable by the Criminal Code. there will be no grounds for qualification with the specified items... Paragraph 19: the courts should take into account that when qualified by

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paragraph "d" of the third part of Article 104 of the Criminal Code, in order to qualify the act as such, it is necessary to establish a causal connection between the serious injury caused to the body and the resulting death [7];

- Clause 3.4 "Other serious consequences" provided for in Article 285, Part 4, Clause "b" of the Criminal Code, are understood to be the consequences that are causally connected with the errant actions of the guilty party, and must be assessed by the court depending on the nature of their severity... In paragraph 4.1: it must be established that there is a causal connection between the wrongful actions of the official and the consequences of the crime committed by him... In paragraph 5.3.2: an inevitable characteristic of the composition of the crime is the existence of a causal connection between the committed violation and its consequences [8].

- in paragraph 13: criminal liability under Article 266 of the Criminal Code arises only when the driver has a technical possibility to prevent a traffic accident and when it is established that there is a causal connection between his illegal actions and the consequences [9].

It should be emphasized that the causal connection between the action of a person and the result resulting from it can be rejected even in cases where it is established that the direct existence of these connections is beyond doubt. For example, a driver who does not violate traffic rules hits a pedestrian who violates these rules (crossing the road, not the sidewalk) [10].

Understanding causation based on the rules contained in this theory presents some problems. For example, issues of responsibility for types of participation in crimes committed by participation, issues of responsibility for indirect damage to the object of the crime, issues of responsibility for certain circumstances taken into account by the guilty person in the causal connection between the criminal act and the consequence. According to the rules of this theory, it will not be possible to solve and justify these issues.

It should be noted that the beginning of the causation is a criminal act, and the end of it is a criminal consequence. Factors and forces that influence the study of causality between the time of initiation and completion play an important role in the development of this causality.

As a practical example, it is necessary to cite the following situation: for example, A. A criminal named B. pushes B. under a vehicle coming at a speed of 100 km/h. As a result of being hit by a vehicle B. dies on the spot. A.'s criminal act is not the direct cause of the occurrence of a socially dangerous consequence, but an indirect cause. There is a force that has had its effect on the development of an indirect causal connection, such as A. pushing B., which is the actions of the motor vehicle driver (motor vehicle movement). In this case, according to the theory of direct (proximate) causation, we cannot hold the criminal A., who pushed the victim B. under the vehicle, criminally responsible. Because according to this theory, the causal connection between the criminal act and the consequence

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should be direct. That is, according to this theory, the direct effect of B.'s death is taken into account.

The concept of necessary and accidental causality. The theory of necessary and accidental causation was widespread in the criminal law of the former Soviet Union and Uzbekistan until the 1990s.

According to A.A.Piontkovskii and S.B.Reshetnikova, "The issue of criminal responsibility can be solved only based on the necessary consequences of a certain human action. All accidental consequences of this action of a person are considered outside the scope of criminal law... Only necessary causal connections are important for criminal law" [11, P. 303, 42-46].

In the theory of criminal law, even now there are supporters of the theory of necessary and accidental causation.

In particular, according to L.D.Gauxman, "It should be emphasized that a random connection cannot be recognized as a causal connection" [12, P. 116]

However, V.B. Malinin and A.F. Parfenov criticize this theory and the practical examples it contains. They say "If the person who committed the action can foresee the development of the causal relationship and takes the necessary actions for the occurrence of the consequence. The servant purposely chases the boy into the pit where the metal objects are lying. The passenger recognizes that the drunken man lying on the ground is his neighbor-enemy, sees the approaching car, and deliberately lifts the drunken neighbor so that he is under the wheels of the car. Do we not admit that even in such cases there are causal connections?" [13, P. 108]

According to N.A.Knyazev, "Any causal connection is necessary and important. There cannot be accidental causal connections, because otherwise there would be a logical conflict with the principle of causality. A cause may be accidental with respect to another cause, or with respect to circumstances unrelated to it, but it cannot be accidental with respect to its own effect" [14, P. 77-78].

The following general examples are given in the theory of necessary and contingent causation: – A. a young boy called his servant by his nickname. Hearing this, B. a servant named after him chases him and the boy falls into a pit and breaks his leg while running away. B.'s wound gets infected and he dies because of this infection; - A. a person named is drunk and lies on the sidewalk. B. Seeing A. lying on the sidewalk drunk, he picked him up and continued his work. B tries to cross the road in a drunken state and falls to the side of the road and is hit by a motor vehicle. B. dies on the spot.

In this theory, the above-mentioned cases are considered to be random. According to the theory of necessary and accidental causation, these accidental actions are important.

But according to M.Usmonaliev and P.Bakunov, one of our national scientists, "The difference between necessary and accidental connections is that the necessary causal connection determines the essence of the event, while accidental causal connection is only a form of causal connection.

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Causal connection must be necessary for the objective side of crimes with material content" [15, P. 189].

According to M.Kh.Rustambaev, "Only the necessary causal connection has criminal legal significance. This means that causation exists only if the action is a necessary condition for the occurrence of the effect" [16, P. 168].

In short, by researching this theory, we put forward the scientific approach that causality is an ontological category, and neither randomness nor necessity can be used to define it. The relationship between the criminal act and its consequence, which is the main cause of criminal consequences, has nothing to do with randomness or necessity.

The concept of possibility and reality. In the theory of criminal law, there are several proponents of this theory, and they are as follows:

According to V.S.Prokhorov, "The fact of deep interdependence of events, their movement, formation and development through each other is expressed through the categories of possibility and reality. Each phenomenon, before its occurrence, has its basis in some objective reality, reality, and appears as a possibility in relation to the phenomenon under consideration. Thus, the opportunity represents the development trend of the envisioned reality" [17, P. 352].

According to P.G.Semenov, "Abstract (abstract) opportunity represents the ability to develop a certain reality, but does not determine its direction in advance. An abstract possibility is far from concrete, so it is not capable of producing another event by itself. A real real possibility is characterized by the presence of certain real conditions for the emergence of a new reality, that is, during its development, it is able to cause a certain event" [18, P. 280].

In this theory, abstract and real possibilities differ according to their objective nature. An event that determines the abstract possibility of the occurrence of certain consequences is not considered the cause of this consequence.

Thus, the committed criminal act becomes an objective reality by first creating a real possibility of certain socially dangerous consequences, and then causing certain criminal consequences by causing damage to the objects protected by the criminal law.

According to T.L.Sergeeva, "The practical result of recognizing the possibility as a criterion of causal connection is that the objective basis of criminal liability is recognized only if it is determined that there is only one possibility of this result occurring in the action of the accused" [19, P. 85].

According to the rules of this theory, a causal connection between the action of a person and the criminal consequence exists in the following cases: - if the action turned the real possibility of the resulting consequence (result) into reality; - if the act actively participated in the change of the object of the crime as a result of the damage caused; - when the action is suitable for determining the causal connection between the criminal act of a person and the beginning of a socially dangerous consequence.

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In the theory of criminal law and scientific research, this theory was criticized by scientists in the early period of its formation and certain objections were expressed.

According to N.N.Yarmysh, "From the point of view of this theory, a "necessary" causal connection occurs only in cases where an action causes a consequence as a result of its own necessity - in cases where the consequence in a certain specific situation can really naturally result from the performance of these actions" [20, P. 444].

According to Sh.Khaydarov, "The inaction of the culprit in not properly performing his duties in relation to the profession creates an opportunity for these processes to develop in a negative direction, that is, it creates a risk of harmful consequences for the life and health of the victim. As a matter of fact, in the case of inactivity, there are real causal relationships, but they are characterized by certain characteristics" [21, P. 68-69].

In the study of causality theories in the doctrine of criminal law, it is appropriate to examine its theoretical aspects with examples, as well as its practical aspects. Let's look at a theoretical example above.

K. with L. a quarrel begins between them. L. Beats K. For this K. decides to kill him. K. finds his father's shotgun, hides it, and as the day passes, he begins to wait for an opportunity to kill L. One day K. He finds out that L. was drinking vodka with his friends. From this side of Anhor, K. shoots from the rifle towards K. from a distance of about 35 m. A shot from a shotgun hit L., changed its direction and hit L. his friend, who was next to him, touched O.'s head. O. He died on the spot due to a gunshot wound. L. and he will live without dying. The court finds that K.'s act has a causal connection with O.'s death, and finds his act against L. guilty under Articles 25, 97 and 102 of the Criminal Code [22].

According to the existing rules of the theory of possibility and real reality (authenticity) causal connection, the causal connection between the criminal act (K.'s shotgun shot) and L.'s death (the criminal consequence did not occur) is recognized. The connection between the death of O. and the criminal act should not be recognized.

The example given above shows in a practical way that this theory is wrong. According to this theory, the consequence caused by K.'s criminal action and the shooting of L. is a real reality. The second case, that is, O.'s death, is an abstract possibility. According to the rules of this theory, the cause of O.'s death is impossible. But as we can see in the practical example, O.'s death occurred as a criminal result. Contrary to the specific possibility category of this theory, L. survived without dying.

RESULTS

The concept of culpability or culpable causation. In this theory, scientific views and approaches about the need to use special, legal concepts of culpability in criminal law are put forward.

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In particular, according to V.D. Filimonov, "Causal connections can be legally significant or legally insignificant" [23, P. 164].

According to this theory, the general concept of causation is unnecessary to justify a criminal charge. According to this theory, a special concept of causation in the criminal-legal sense is formed, usually using the institution of criminal prosecution.

According to N.D.Sergeevskyi and P.P.Mikhailenko, "Only the causal connections that cover or should be covered by the subject's ability to see can have legal significance. A person can be accused only in connection with events that occurred as a result of his actions, that he saw in advance" [24, P. 46, 73-74].

In the opinion of N.D.Sergeevsky, "in criminal law, if the person performing the action saw or could have seen the consequences of this event, a causal connection is established between the person's actions and the event related to them" [25, P. 47]. I.A. Klepitskyi also stated the rules of this theory in his scientific work [26, P. 174-185].

According to this theory, when a person sees the consequences of a criminal act, it means that this person should know that the sum of his criminal actions is expressed as a crime in the criminal law. Also, according to this theory, a person perceives a criminal event only if he knows the combination of forces and facts specific to it.

In this theory, according to the existing rules, looking at the criminal consequences means knowing the incident and its content in all its details. At the same time, in some cases, it also means knowing some aspects of the criminal event. This includes understanding that mistakes can have unintended consequences.

As a disadvantage of this theory, it can be said that it is almost impossible for a person to see all the details of the combination of actions and consequences resulting from his criminal act.

In the theory of criminal law, it is considered sufficient that a person sees the real possibility of criminal consequences in intentional crimes. At the same time, the person is aware of the development of the causal connection. However, in the case of crimes committed through carelessness, it is enough that the person has the opportunity to see the consequences.

Criminal-legal causation in criminal law cannot completely abandon philosophical foundations. Criminal-legal causation is inextricably linked with the concept of dialectical causation in philosophy, which denies the introduction of any subjective sign into objective reality. That is why the concepts of causation and guilt are incompatible. They are expressed in the objective side and the subjective side of the crime.

In substantive crimes, the presence and level of guilt in the criminal act committed by a person is determined through causal connection, and there are sufficient grounds for bringing this person to criminal responsibility.

The concept of necessary conditions (conditio sine qua non). This theory is the most widespread among the theories of causation in the theory of

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criminal law, according to which, in order for a criminal act to be the cause of an effect, it must be a necessary condition for the occurrence of this effect.

According to K.Hakimov, "causal connection can be determined in two forms in the crimes provided for in articles 98, 106 of the Criminal Code: firstly, the affected provoking effect and actions based on it are at least as a result of some illegal actions of the victim provided for in articles 98, 106 of the Criminal Code committed and connected with it; secondly, the victim's death, severe or moderately severe injury should have occurred as a result of a socially dangerous act committed by the perpetrator in a state of affect" [27, P. 48]. In his monographic research, he put forward both the theory of equivalence and the theory of necessary conditions.

In the concept conditio sine qua non("there is no situation without a necessary condition...") in order for a criminal consequence to occur, the aspects of all the conditions are fully present before it. These conditions are proximate and remote from the crime, but they are not equivalent. If each of them meets the rules and requirements of the criminal law, each of them is recognized as the cause of the committed criminal act. The cause of the criminal consequence is understood as a criminal act without which it is not possible to commit a crime, which is considered a necessary condition.

According to Dj. Fletcher, A.V. Naumov and U.S. Dzhekebaev, in the theory of "Necessary conditions (conditio sine qua non)" theory, in order for a criminal consequence to occur, all conditions must be fully present before it. "this theory is not a sufficient basis for bringing a person to criminal responsibility" [28, P. 178, 109].

D.M.Kushbakov and A.A. According to the Grebenkovs, "Separating the signs of drunkenness from the individual cases of criminal responsibility, the causality (the existence of a causal relationship between the consumption of these substances and the impairment of body functions) should be determined when bringing a person to criminal responsibility" [29, P. 107-108, 52]. It is clear from the opinion of scientists that the rules of this theory were applied. For example, a person would not have committed the crime provided for in Article 266 of the Criminal Code if he did not consume alcohol products while following the traffic rules.

In particular, according to A.V.Uspensky, "Any necessary conditions are expressed as reasons... Causal sufficiency exists throughout the system. The omission of any element from it, no matter how insignificant it may seem when considered separately, deprives the whole complex of its systematic character - the ability to be subjected to causality. Based on this, it is proposed to "determine the significance of the action not in relation to the consequences, but in relation to the system that creates this consequence" [30, P. 103-107].

According to V.N. Kudryavtsev and A.V. Naumov, "If used in practice, this theory will lead to the expansion of the scope of criminal responsibility.

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Such a theory cannot be accepted in the theory of criminal law. Responsibility for actions related to harmful consequences must have a certain character" [31, P. 111].

Based on this theory, a question arises, for example, A. He killed B. with a kitchen knife. Kitchen knife V. if the knife was made by a master craftsman. Then, master knife maker V. causes the victim's death and is he also prosecuted under this theory?

According to the criminal law, causal connection is not enough to bring a specific person to criminal responsibility. For him, it is required that all the signs of the crime structure be present.

It should be emphasized that if the persons referred to in the above example, that is, the master who made a kitchen knife for A., who committed the crime of intentional homicide, is proven guilty of this criminal act, then he must also be held criminally liable. For example, if he made a special knife for the master A. to kill a person, he will definitely be prosecuted as an accessory.

It will be appropriate to consider the following example in which theories of causality are relevant:

N. and O. they agree in advance to rob someone else's property, and after illegally entering the house of 65-year-old P., they tie him up and put a rag in his mouth so that he does not scream. N. and O. P. was hit several times on the head and different parts of his body because he resisted during the tying process. As a result of the blow, P.'s nose, jawbones and the base of the skull were broken. N. and O. robbing another's property, i.e. committing the crime of trespass, they take P.'s belongings. P. with hands and feet tied. dies on the spot as a result of mechanical asphyxiation caused by having a rag stuffed into his mouth [32].

The above practical example shows the failure and shortcomings of several theories of causation. They are as follows: - the theory of possibility and reality - the possibility of death due to mechanical asphyxiation caused by a cloth stuck in P.'s mouth is abstract; - theory of adequate causation - death due to mechanical asphyxiation caused by a cloth stuck in P.'s mouth does not always (typically) occur under normal conditions; - necessary and accidental causation - there is a higher probability of death as a result of bodily injury inflicted on P.; - theory of main causes - according to this theory, only the person who put a cloth in A.'s mouth should be responsible for the crime of murder.

CONCLUSION

In short, the issue of causation is so complex that in criminal law theory, the theories and concepts of causation are often confused. It is not possible to generalize one of the eleven theories of specific causation in solving the issue of causal connection between any criminal act and the resulting socially dangerous consequence. As a solution to this issue, it is necessary to develop specific criteria, rules and principles for determining causality.

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In short, definitions of causation in criminal law are based on two principles, which are methodologically important by their nature. The first principle is the principle of artificial isolation of events ("but-for test"), and the second is the rule of mental exclusion in determining causality.

In order to solve the problem of causation in the theory of criminal law and the practice of law enforcement, the following rules and principles should be applied as suggestions and definitions:

1) socially dangerous act-time-socially dangerous consequence rule. The act and the criminal consequence are in a specific sequence of time, and it must be determined that the act was committed before the criminal consequence;

2) the principle of artificial isolation of events, that is, first of all, it is necessary to isolate the behavior of a person, because if his behavior consists of criminal behavior, then the criminal act is the necessary cause of the resulting consequences. Secondly, it is necessary to separate the necessary conditions from the chain of causes (causal connection), because the necessary condition is a category that helps the necessary cause. Thirdly, it is necessary to distinguish the resulting effect. Also, the rule of special logical isolation should be applied, that is, the individual's behavior and the resulting consequences should be isolated and logically separated;

3) the principle of "consequence-criminal act". This principle consists in the application of the principle of proceeding from the criminal consequence to the act. In this method, the starting point is defined as a criminal consequence, first of all, the crime that caused a harmful consequence in the preliminary investigation is related to the determination of the consequence in the first place. Secondly, the causal connection consists of a chain of certain causes, and in order to know and determine it, it is necessary to go from one part of the chain to another.

4) the rule of "logical exclusion and negation" ("but-for test"). The golden rule of causation, the rule of "logical exclusion and negation", should be applied. According to this rule, a certain criminal act-criminal consequence occurs, and only then there is a causal connection. That is, if the act we are interested in does not happen, criminal consequences cannot arise.

REFERENCES

1. И.Я.Козаченко, В.Н.Курченко, Я.М.Злоченко «Проблемы причинной связи в институтах Общей и Особенной частей отечественного уголовного права». СПб., 2003. – С. 26., 44., Хайдаров Ш.Д. Касб юзасидан ўз вазифаларини лозим даражада бажармаслик: жиноят-ҳуқуқий ва криминологик жиҳатлари. Монография. Масъул маҳарир: ю.ф.д., профессор Ж.А.Неъматов - Тошкент давлат юридик университети, 2021. – Б. 50. (I.Ya.Kozachenko, V.N.Kurchenko, Ya.M.Zlochenko "Problems of causality in the institutions of the General and Special parts of domestic criminal law." SPb.,

International Journal of Advance Scientific Research
(ISSN – 2750-1396)
VOLUME 03 ISSUE 06 Pages: 276-293
SJIF IMPACT FACTOR (2021: 5.478) (2022: 5.636) (2023: 6.741)
OCLC – 1368736135

2003. - P. 26., 44., Khaidarov Sh.D. Inadequate performance of one's duties related to the profession: criminal-legal and criminological aspects. Monograph. Responsible teacher: PhD, professor J.A. Nematov - Tashkent State Law University, 2021. - P. 50.)

2. Джекебаев У.С. Основные принципы уголовного права Республики Казахстан (сравнительный комментарий к книге Дж.Флетчера и А.В.Наумова «Основные концепции современного уголовного права»). – Алматы: Жеті жарғы, 2001, – С. 108. (Dzhekebaev U.S. Basic principles of criminal law of the Republic of Kazakhstan (comparative commentary on the book by J. Fletcher and A.V. Naumov "Basic concepts of modern criminal law"). - Almaty: Zheti zhargy, 2001, - P. 108.)
3. Kries J. Uber den Begriff der objectiven Moglichkeit und einige Anvendungen dessel ben. Leipzig, 1888. – S. 228. (Kries J. On the concept of objective possibility and some applications of it. Leipzig, 1888. – P. 228.)
4. Тарарухин С.А. Квалификация преступлений в следственной и судебной практике. Монография Киев: «Юринком», 1995.. – С. 100., Клепицкий И. А. Причинная связь в уголовном праве Англии //Вестник Университета имени ОЕ Кутафина. – 2022. – №. 10 (98). – С. 96-109. (Tararukhin S.A. Qualification of crimes in investigative and judicial practice. Monograph Kyiv: "Yurinkom", 1995 .. - P. 100., Klepitsky I. A. Causal connection in the criminal law of England // Bulletin of the University named after OE Kutafin. – 2022. – no. 10(98). - P. 96-109.)
5. Stubel. Uberden Tatherstand der Verbrechen, Leipzig, 1805. – S. 56. (Stubel. About the facts of the crimes, Leipzig, 1805. – P. 56.)
6. Антимонов Б.С. Значение вины потерпевшего при гражданском правонарушении. - М.: Госюриздат, 1950. – С. 184. (Antimonov B.S. The value of the guilt of the victim in a civil offense. - M.: Gosjurizdat, 1950. - P. 184.)
7. Ўзбекистон Республикаси Олий Судининг Пленумининг “Баданга қасддан шикаст етказишга оид ишлар бўйича суд амалиёти тўғрисида”ги қарори. https://lex.uz/docs/1592419 // Қонун ҳужжатлари маълумотлари миллий базаси. 2007 йил 27 июнь, 6-сон. (Decision of the Plenum of the Supreme Court of the Republic of Uzbekistan "On judicial practice in cases related to intentional bodily injury". https://lex.uz/docs/1592419 // National database of legal documents. June 27, 2007, No. 6.)
8. Ўзбекистон Республикаси Олий Судининг Пленумининг “Ҳарбий хизматни ўташ тартибига қарши жиноятларга оид ишларни кўриш бўйича суд амалиёти тўғрисида”ги қарори. https://lex.uz/docs/1449962 // Қонун ҳужжатлари маълумотлари

International Journal of Advance Scientific Research
(ISSN – 2750-1396)
VOLUME 03 ISSUE 06 Pages: 276-293
SJIF IMPACT FACTOR (2021: 5.478) (2022: 5.636) (2023: 6.741)
OCLC – 1368736135

миллий базаси. 2000 йил 15 сентябрь, 23-сон. (The decision of the Plenum of the Supreme Court of the Republic of Uzbekistan "On the judicial practice of considering cases related to crimes against the order of military service". https://lex.uz/docs/1449962 // National database of legal documents. September 15, 2000, No. 23.)

9. Ўзбекистон Республикаси Олий Судининг Пленумининг "Транспорт ҳаракати ва ундан фойдаланиш хавфсизлигига қарши жиноятлар билан боғлиқ ишлар юзасидан суд амалиётининг айрим масалалари тўғрисида"ги қарори https://lex.uz/docs/2710284 // Қонун ҳужжатлари маълумотлари миллий базаси. 2015 йил 26 июнь, 10-сон. (Decision of the Plenum of the Supreme Court of the Republic of Uzbekistan "On some issues of judicial practice in cases related to crimes against the safety of transport and its use" https://lex.uz/docs/2710284 // National database of legal documents. June 26, 2015, No. 10.)
10. Жиноят ишлари бўйича Шайхантохур туман суд архиви материалларидан. 2023. 1-1003-2301/334 рақамли иш. (From the materials of Shaikhantokhur district court archive on criminal cases. 2023. Case number 1-1003-2301/334.)
11. Уголовное право. Общая часть / Под ред. А. А.Пионтковского. - М.: Юрид. изд-во МЮ, 1948. – С. 303., Решетникова С.Б. Доктрины причинной связи в уголовном праве: проблемы практического применения //Отечественная юриспруденция. – 2016. – №. 8 (10). – С. 42-46. (Criminal law. General part / Ed. A. A. Piontkovsky. - M.: Yurid. MJ publishing house, 1948. - P. 303., Reshetnikova S.B. Doctrines of causality in criminal law: problems of practical application // Domestic jurisprudence. – 2016. – no. 8 (10). - P. 42-46.)
12. Гаухман Л.Д. Квалификация преступлений закон, теория, практика. - М.: ЮрИнфоР, 2001. – С. 116. (Gaukhman L.D. Qualification of crimes law, theory, practice. - M.: YurInfoR, 2001. - P. 116.)
13. Малинин В.Б., Парфенов А.Ф. М 19 Объективная сторона преступления. – СПб.:Издательство Юридического института (Санкт-Петербург), 2004. – С. 108. (Malinin V.B., Parfenov A.F. M 19 The objective side of the crime. - St. Petersburg: Publishing House of the Law Institute (St. Petersburg), 2004. - P. 108.)
14. Князев Н.А. Причинность: новое видение классической проблемы. – С. 77-78. (Knyazev N.A. Causality: a new vision of a classical problem. - P. 77-78.)
15. Усмоналиев М., Бакунов П. Жиноят ҳуқуқи. Умумий қисм: Дарслик. – Тошкент: Насаф, 2010. – Б. 189. (Usmonaliev M., Bakunov P. Criminal law. General part: Textbook. - Tashkent: Nasaf, 2010. - P. 189.)

International Journal of Advance Scientific Research
(ISSN – 2750-1396)
VOLUME 03 ISSUE 06 Pages: 276-293
SJIF IMPACT FACTOR (2021: 5.478) (2022: 5.636) (2023: 6.741)
OCLC – 1368736135

16. Rustambayev M.X.O‘zbekiston Respublikasi jinoyat huquqi kursi.Tom 1.Jinoyat haqida ta’limot.Darslik. 2-nashr, to‘ldirilgan va qayta ishlangan - T.:O‘zbekiston Respublikasi Milliy gvardiyasi Harbiy-texnik instituti, 2018. – B. 168. (Rustambayev M.K. Course of criminal law of the Republic of Uzbekistan. Volume 1. Doctrine of crime. Textbook. 2nd edition, supplemented and revised - T.: Military-technical institute of the National Guard of the Republic of Uzbekistan, 2018. - P. 168.)
17. Прохоров В.С. Объективная сторона преступления // Курс советского уголовного права/ Под ред. Н.А.Беляева, М.Д.Шаргородского. Т. 1. Общая часть. – С. 352. (Prokhorov B.C. The objective side of the crime // Course of Soviet criminal law / Ed. N.A. Belyaev, M.D. Shargorodsky. T. 1. General part. - P. 352.)
18. Семенов П.Г. Проблемы причинной связи в советском праве // Учен. зап. ВИЮН. М., 1958. Вып. 8. – С. 280. (Semenov P.G. Problems of causality in Soviet law // Uchen. app. VIYUN. M., 1958. Issue. 8. - P. 280.)
19. Сергеева Т.Л. Вопросы виновности и вины в практике Верховного Суда по уголовным делам. М., 1950. – С.85. (Sergeeva T.L. Issues of guilt and guilt in the practice of the Supreme Court in criminal cases. M., 1950. - P.85.)
20. Ярмыш Н.Н. Теоретические проблемы причинно-следственной связи в уголовном праве (философскоправовой аспект). Харьков, 2003. – С. 444. (Yarmysh N.N. Theoretical problems of causality in criminal law (philosophical and legal aspect). Kharkov, 2003. - P. 444.)
21. Хайдаров Ш.Дж. Касб юзасидан ўз вазифаларини лозим даражада бажармаслик: жиноят-ҳуқуқий ва криминологик жиҳатлари. Юридик фанлар бўйича фалсафа доктори (PhD)...дисс. –Тошкент: 2019. – Б. 68-69. (Haydarov Sh.Dj. Inadequate performance of one's duties related to the profession: criminal-legal and criminological aspects. Doctor of Philosophy in Legal Sciences (PhD)...diss. - Tashkent: 2019. - P. 68-69.)
22. Сурхондарё вилояти суд архиви материалларидан.. 2022. 1-1607-2202/105 рақамли иш. (From the materials of the court archive of Surkhandarya region.. 2022. Case number 1-1607-2202/105.)
23. Уголовное право России. Часть Общая / Под ред. Л.Л.Кругликова. М., 1999. – С. 164. (Criminal law of Russia. Part General / Ed. L.L. Kruglikova. M., 1999. - P. 164.)
24. Сергеевский Н.Д. О значении причинной связи в уголовном праве. - Ярославль: Типо-лит. Г. Фальк, 1880. – С. 46., Михайленко П.П. Уголовное право Украины. Общая часть. Киев, 1995. – С. 73-74. (Sergeevsky N.D. On the meaning of causality in criminal law. - Yaroslavl: Tipo-lit. G. Falk, 1880. - S. 46.,

International Journal of Advance Scientific Research
(ISSN – 2750-1396)
VOLUME 03 ISSUE 06 Pages: 276-293
SJIF IMPACT FACTOR (2021: 5.478) (2022: 5.636) (2023: 6.741)
OCLC – 1368736135

Mikhailenko P.P. Criminal law of Ukraine. A common part. Kyiv, 1995. - P. 73-74.)

25. Сергеевский Н.Д.О значении причинной связи в уголовном праве.-Ярославль:Типо-лит.Г.Фальк,1880.-С.47. (Sergeevsky N.D. On the meaning of causation in criminal law.-Yaroslavl: Tipo-lit. G. Falk, 1880.-P.47.)

26. Клепицкий И.А. Причинная связь в уголовном праве Франции //Актуальные проблемы российского права. – 2023. – Т. 18. – №. 3 (148). – С. 174-185. (Klepitsky I.A. Causality in the criminal law of France // Actual problems of Russian law. - 2023. - T. 18. - No. 3 (148). - P. 174-185.)

27. Ҳакимов К.Б. Аффект ҳолатида содир этиладиган жиноятлар (жиноят-ҳуқуқий ва криминологик жиҳатлари). Монография. Масъул муҳаррир ю.ф.д. доцент. М.Ўразалиев. – Тошкент: ТДЮУ, 2019. – Б. 48. (Hakimov K.B. Crimes committed in a state of affect (criminal-legal and criminological aspects). Monograph. Responsible editor Yu.F.D. associate professor M. Orazaliev. - Tashkent: TDUU, 2019. - P. 48.)

28. Флетчер Дж., Наумов А.В. Основные концепции современного уголовного права. – М.: Юристъ, 1998. – С. 178., Джекебаев У.С. Основные принципы уголовного права Республики Казахстан (сравнительный комментарий к книге Дж.Флетчера и А.В.Наумова «Основные концепции современного уголовного права»). – Алматы: Жеті жарғы, 2001, – С. 109. (Fletcher J., Naumov A.V. Basic concepts of modern criminal law. - M.: Jurist, 1998. - P. 178., Dzhekebaev U.S. Basic principles of criminal law of the Republic of Kazakhstan (comparative commentary on the book by J. Fletcher and A.V. Naumov "Basic concepts of modern criminal law"). - Almaty: Zheti zhargy, 2001, - P. 109.)

29. Кушбаков Д.М. Жиноят субъектининг жиноят-ҳуқуқий тавсифи ва унинг хусусиятлари. Юридик фанлар бўйича фалсафа доктори (PhD)...дисс. – Тошкент: 2021. – Б. 107-108., Гребеньков А.А. Уголовная ответственность лиц, совершивших преступление в состоянии опьянения. Автореф. дис. ... канд. юрид. наук. – Краснодар, 2009. – 52 с. (Kushbakov D.M. Criminal-legal description of the subject of crime and its characteristics. Doctor of Philosophy in Legal Sciences (PhD)...diss. - Tashkent: 2021. - P. 107-108., Grebenkov A.A. Criminal liability of persons who committed a crime in a state of intoxication. Abstract dis. ... cand. legal Sciences. - Krasnodar, 2009. - 52 p.)

30. Успенский А В. Проблемы обоснования причинной связи при соучастии в преступлении // Вестник МГУ. Сер. 11. Право. 1995. № 5. – С. 103-107. (Uspensky A. V. Problems of substantiation of causality in case of complicity in a crime // Bulletin of Moscow State University. Ser. 11. Right. 1995. No. 5. - P. 103-107.)

International Journal of Advance Scientific Research
(ISSN – 2750-1396)
VOLUME 03 ISSUE 06 Pages: 276-293
SJIF IMPACT FACTOR (2021: 5.478) (2022: 5.636) (2023: 6.741)
OCLC – 1368736135

31. Российское уголовное право. Общая часть / Под ред. В.Н.Кудрявцева, А.В.Наумова. М., 2001. – С. 111. (Russian criminal law. General part / Ed. V.N. Kudryavtseva, A.V. Naumova. M., 2001. - P. 111.)

32. Сурхондарё вилояти суд архиви материалларидан.. 2022. 1-1515-2202/101 рақамли иш. (From the materials of the court archive of Surkhandarya region.. 2022. Case number 1-1515-2202/101.)

33. Allanova A. THE CONCEPT OF THE CRIMINAL AND HIS CRIME RATIO TO THE SUBJECT //International Journal of Advance Scientific Research. – 2023. – Т. 3. – №. 02. – С. 18-23.

34. Allanova A. GENERAL CONDITIONS FOR RELEASE FROM CRIMINAL LIABILITY IN CONNECTION WITH THE FACT THAT THE GUILTY PERSON HAS ACTUALLY REPENTED OF HIS ACT //International Journal of Advance Scientific Research. – 2022. – Т. 2. – №. 12. – С. 94-99.