

Theoretical and Practical Issues of Exemption from Criminal Liability Upon Compensation for Damage Caused

Urazaliyev Murod Koraeovich
Professor of the Department of Criminal Law,
Criminology and Anti-corruption of
Tashkent State University of Law



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ABSTRACT

Objective: The humanization of criminal law and the reduction of the repressive nature of punishment constitute key priorities of state policy in the Republic of Uzbekistan, aimed at ensuring justice, legality, and effective protection of individual rights. Within this framework, exemption from criminal liability and punishment upon compensation for damage caused occupies an important place, as damage resulting from socially dangerous acts may be material, physical, or moral, and its nature and extent directly influence crime qualification and legal consequences. Despite extensive legislative regulation and foreign experience, compensation for damage is not systematized in Uzbek criminal law as an independent legal institution, but is mainly applied as an auxiliary element within reconciliation or genuine repentance, leading to legal ambiguities and inconsistent law enforcement practice. The study aims to analyze the theoretical and practical foundations of exemption from criminal liability and punishment upon compensation for damage, identify existing legal conflicts, and substantiate proposals for improving criminal legislation. The analysis demonstrates that full, voluntary, active, and lawful compensation for damage serves as a reliable indicator of reduced social danger and genuine remorse, while comparative analysis shows that many foreign legal systems recognize compensation as an independent ground for exemption or mitigation of punishment. The study offers a comprehensive doctrinal justification for distinguishing exemption from liability upon compensation for damage as a separate criminal-law institution, based on national legislation and comparative legal analysis. The findings support the introduction of an independent institution of exemption from criminal liability and punishment upon compensation for damage in the Criminal Code of Uzbekistan, which would enhance legal certainty, strengthen victim rights protection, promote timely restoration of harm, and further advance the principles of justice and proportionality in criminal justice policy.

INTRODUCTION

Ensuring the supremacy of law, strengthening legality, and establishing a judicial system aimed at the reliable protection of individual rights and freedoms constitute core priorities of state policy in the Republic of Uzbekistan. In recent years, criminal law reforms have increasingly focused on the principles of justice, humanity, and proportionality, with the objective of reducing the repressive nature of punishment while enhancing the restoration of violated rights. Within this framework, the liberalization of criminal liability and punishment occupies a central place, reflecting a shift toward balancing public interests with the protection of victims' rights and social justice[1].

A key element of this process is the legal institution of exemption from criminal liability and punishment upon compensation for damage caused. The relationship between damage, its legal characterization, and the possibility of exemption from liability is of particular significance in criminal law. Damage arising from socially dangerous acts may be material, physical, or moral in nature, each requiring different legal mechanisms for restoration.

The extent and nature of the damage directly influence the qualification of crimes and the application of criminal-law relief mechanisms. Compensation for damage thus serves not only as a means of restoring violated rights but also as an indicator of the offender's genuine remorse and reduced social danger.

Theoretical approaches to damage and compensation are well developed in criminal law doctrine, including concepts of material harm, moral damage, and physical injury, as well as theories of genuine repentance and reconciliation. Previous studies emphasize that exemption from liability is justified when compensation reflects voluntary, active, and complete restoration of harm. However, scholarly debate persists regarding the strict formalization of statutory conditions and their practical application, particularly concerning the interpretation of voluntariness, completeness, and first-time offending[2].

Despite extensive legislative regulation and comparative foreign experience, a knowledge gap remains in systematizing exemption from liability specifically on the grounds of compensation for damage as an independent legal institution. Existing legislation often treats compensation as an auxiliary element within reconciliation or genuine repentance, rather than as a distinct basis for exemption. This creates legal ambiguities and inconsistencies in law enforcement practice.

This study applies doctrinal legal analysis, examination of national legislation, and comparative analysis of foreign criminal law models to assess the theoretical and practical foundations of exemption from liability upon compensation of damage. The expected results include identifying legal conflicts, clarifying essential conditions for exemption, and substantiating proposals aimed at improving criminal legislation. The findings have important implications for further humanization of criminal law, ensuring effective restoration of victims' rights, and enhancing the fairness and efficiency of criminal justice in Uzbekistan[3].

RESEARCH METHOD

This study is based on a doctrinal and analytical research methodology aimed at examining the theoretical and practical issues of exemption from criminal liability and punishment upon compensation for damage caused. The research applies methods of formal-legal analysis, interpretation of legal norms, and systematic analysis to examine the provisions of the Criminal Code of the Republic of Uzbekistan, particularly Articles 54, 66, and 661, as well as related legal acts regulating harm, compensation, and criminal-law relief mechanisms. Comparative legal analysis is used to study foreign criminal law models, including the legislation and law enforcement practices of Belgium, the Netherlands, Germany, Spain, Poland, and the Republic of Belarus, in order to identify alternative approaches to exemption from liability and punishment based on compensation for damage. In addition, the study employs logical and structural analysis to classify types of harm—material, physical, and moral—and to determine their legal significance in crime qualification and restoration of violated rights. Elements of empirical analysis are reflected through the examination of law enforcement practice, including investigative and judicial approaches to reconciliation, genuine remorse, and voluntary compensation. Special attention is given to identifying legal conflicts, gaps, and inconsistencies arising from the absence of an independent legal institution for exemption from liability upon compensation of damage. The methodological framework also incorporates synthesis and generalization to formulate proposals for improving criminal legislation and ensuring the humanization of liability. This comprehensive methodological approach ensures the reliability of conclusions and allows for a balanced assessment of both theoretical doctrine

RESULTS AND DISCUSSION

In our country, ensuring the supremacy of law and strengthening legality, as well as establishing a judicial and legal system aimed at the reliable protection of individual rights and interests, has long been one of the priority and decisive tasks of state policy. The main goal is to implement the principles of justice and humanity and to reduce the repressive functions of punishment. This, in turn, contributes to the predominance of the “scales of justice” in society by guaranteeing the constitutional rights and freedoms of individuals in fair judicial proceedings.

Indeed, as emphasized by the President of the Republic of Uzbekistan, Shavkat Mirziyoyev, “...we consider it our primary task to further establish in our lives the sense of justice, which our people have long valued and held above all else.”

Improving the social environment and preventing crimes occupy a leading place in the system of objectives of the criminal law policy implemented in the Republic of Uzbekistan. To accomplish these tasks, numerous reforms are being implemented in our country. In particular, the Decree of the President of the Republic of Uzbekistan dated May 14, 2018, “On Measures for the Radical Improvement of the Criminal and Criminal-Procedure Legislation System,” as well as the “Uzbekistan-2030” Strategy adopted based on the Presidential Decree of September 9, 2023, and other normative legal acts being introduced, reflect provisions aimed at ensuring the supremacy of law, improving the judicial and legal system, and liberalizing criminal penalties[5].

Indeed, any violation of the law results in harm to an individual, society, or the state in a certain way. Depending on the consequences of a socially dangerous act, the harm may be material, physical, or moral. For this reason, Article 54 of the Criminal Code of the Republic of Uzbekistan stipulates that “if there is evidence that a socially dangerous act committed by a person, including a person with mental incapacity, has caused moral, physical, or material harm, such a person is recognized as a victim.” However, legal acts do not provide a precise definition of the types of harm. Material loss or harm is understood as consequences that can be measured and expressed in monetary terms, caused by the destruction of material goods. The Uzbek Legal Encyclopedia defines damage as: “Damage (in law) is the monetary loss suffered by one person as a result of the violation of their rights by another person”. In the Russian text of the Criminal Code, the term “damage” mostly refers to material or property damage[6].

Illegally inflicting physical or moral suffering does not have an economic value and cannot be expressed in monetary terms. However, the victim has the right to claim compensation for the expenses incurred to eliminate the consequences of such suffering. In our view, physical harm refers to damage caused to a citizen’s life and health as a result of unlawful actions. Material harm, on the other hand, refers to damage caused to the property of individuals and organizations through criminal acts. In the literature on criminal law, moral damage is defined as an offense against a person’s honor and dignity. The need to distinguish between types of harm primarily relates to the restoration of the violated right. This is carried out through civil, as well as administrative and criminal legal mechanisms. That is, “...it is impossible to regulate the inflicted harm through a single legal institution”. If the compensation for harm is analyzed from a criminal-legal perspective, as noted above, exemption from liability and punishment occurs precisely when the inflicted harm has been compensated. This type of exemption is not

separately distinguished in either theoretical literature or legal acts[7].

When the inflicted harm is compensated, exemption from liability and punishment is considered a component of the institution of criminal-legal relief: it includes both releasing the offender from liability due to genuine remorse for their actions and releasing them in connection with reconciliation.

In particular, according to Article 66 of the Criminal Code, the grounds for exemption from criminal liability are:

- a) the person who committed the crime admits their guilt;
- b) reconciliation between the offender and the victim;
- c) the harm caused to the victim by the offender has been compensated (regardless of the victim's circumstances related to the harm caused by the offender).

According to Article 66¹ of the Criminal Code, reconciliation between the parties is considered a necessary condition for the termination of a criminal case, while "eliminating the harm" has a facultative nature. The victim has the right to: 1) forgive the offender (fully or partially); 2) waive the right to demand full or partial compensation for the harm caused to them[8].

In practice, we can also observe that when the harm caused by a crime is compensated, cases are generally closed through the application of the reconciliation institution. Genuine remorse for one's actions refers to a situation where a person who committed a socially less dangerous or minor crime for the first time voluntarily compensates for the harm caused by the crime, admits their guilt, sincerely regrets their actions, and contributes to the investigation of the crime.

For exemption from criminal liability on the basis of genuine remorse, the following conditions are considered essential: 1) the person is committing a crime for the first time; 2) the committed crime is not of high social danger or is relatively minor; 3) the harm caused has been compensated; 4) the person has admitted their guilt; 5) the offender is genuinely remorseful; 6) the offender has actively assisted in the investigation of the crime. The presence of these indicators provides evidence of the offender's genuine remorse and acknowledgment of guilt, which is sufficient for exemption from criminal liability. The absence of any of these indicators may prevent the cancellation of criminal liability, in which case only mitigation of punishment is possible[9].

Some authors argue that strictly applying the conditions set out in Article 66 of the Criminal Code - such as the offender admitting guilt, assisting in the investigation, compensating the harm caused by the crime, or eliminating the damage - creates unnecessary formalism, and in practice, following them literally can make exemption from criminal liability impossible. Admitting guilt, compensating the harm, and actively assisting in the investigation are the only forms that truly demonstrate genuine remorse. Compensating the harm is one of the essential indicators of sincere remorse. The law specifies "compensation" rather than merely "restoration" of damage, and these two concepts are distinct from each other.

Compensation for harm refers to restoring the previous property status (returning the taken property) or paying monetary compensation for the material damage caused.

The following forms of compensating harm caused by a crime exist:

- exact compensation for the material damage caused;
- return of stolen property;
- repair or restoration of damaged property;
- providing property of the same type and quality as the damaged property;
- monetary compensation for the value of the damaged property;

reimbursement of expenses incurred by the victim as a result of the harm (e.g., medical expenses);

compensation for the harm in other ways;

compensation for moral harm (e.g., apologizing to the victim publicly or in front of members of a community);

providing medical or other assistance to the victim after the crime has been committed.

The following indicators exist for exemption from liability and punishment when the harm caused has been compensated:

Voluntariness of the actions of the person who committed the crime. In this case, it does not matter whose initiative prompted the action—whether it was the offender’s own initiative or under the influence of law enforcement officers. Such actions are not considered compulsory and do not limit the individual’s freedom. This is because law enforcement officers are required to guide the offender along the correct course of action by explaining the legal norms and clarifying that voluntarily admitting guilt serves a practical purpose[10].

Activity of the person who committed the crime. In this case, the compensation for the harm must be carried out by the offender’s own efforts and resources. It is not appropriate for one participant in a crime to compensate for the harm on behalf of other participants.

Completeness of compensation. Exemption from liability and punishment is granted only when the harm has been fully compensated. If the harm is only partially compensated, this may result in mitigation of liability and punishment.

Compliance of harm compensation with legal requirements. The harm must be compensated using lawful means and resources obtained as a result of legal actions, not through proceeds derived from criminal activity.

If the harm caused is compensated using loans obtained from the offender’s relatives or friends, the offender must actively participate in the process, or this compensation must be manifested through the offender’s own active actions. That is, passive involvement of the offender does not serve as a basis for exemption from criminal liability and punishment. Investigators and officers of the inquiry body must indicate in the criminal case materials who compensated the harm and in what manner. In addition, the case materials should include information on whether the victim is satisfied or dissatisfied with the offender after the harm has been compensated, and whether the victim consents to the termination of the criminal case[11].

The institution of exemption from liability and punishment when the harm has been compensated cannot be applied to any socially dangerous act or to the person who committed it. This is because doing so may lead to an increase in the crime statistics in the country and may prevent the intended purpose of punishment from being achieved.

The grounds for exemption from criminal liability and punishment apply to persons who, for the first time, have committed a crime that is not socially dangerous or is relatively minor—that is, individuals who have not previously been convicted, whose cases have not been submitted for investigation or trial, and who have not evaded investigation or court proceedings. Committing a crime for the first time indicates that the person has not previously committed such an offense. The law does not provide precise guidance on the circumstances under which a crime is considered to have been committed for the first time, although legal literature offers varying opinions on this issue. In essence, if a person has committed an act deserving of criminal punishment for the first time, and a previous similar act did not result in criminal liability, then the act is regarded as committed for the first time. For example, acts

committed by a person who has not reached the age of criminal responsibility or who committed the crime while mentally incapable are not taken into account. Similarly, if a person's first or previous offense is under investigation or being heard in court, it is not considered a first-time crime. Even in cases where crimes exist both in reality and in an ideal sense, the act is not regarded as committed for the first time[12].

The criminological basis for applying Article 66 of the Criminal Code is to provide an opportunity to eliminate the offender's social dangerousness. If educational or corrective measures have been applied to the offender for a crime committed for the first time, or if the statute of limitations for bringing the offender to criminal liability for the first-time crime has expired, the crime may be considered a first-time offense. However, if the statute of limitations for bringing the offender to criminal liability for the first-time crime has not expired, the offender cannot be exempted from criminal liability, even if they genuinely repent for their actions.

Exemption from liability or punishment for a person who has committed a crime is linked to the offender's ability to compensate for the harm caused. The absence of such an opportunity alone invalidates this ground. When the offender attempts to compensate for the harm, which is most often expressed as material damage, circumstances that prevent full compensation do not, by themselves, negate this ground.

In legal literature, two main models of alternative measures applied in the justice systems of foreign countries dealing with criminal matters are distinguished. The first is the "Netherlands-Belgium" model. This model, which encompasses exemption from criminal liability, operates on the principle that if a person who committed a crime voluntarily agrees to pay a specified sum of money into the state treasury, the investigative authorities refrain from prosecuting the offender. This model, which emerged in Belgium in 1935, was intended to apply when the offender admits their guilt and in cases of minor economic crimes, helping to avoid formal court proceedings. The institution of exemption under this model became firmly established in Belgium in 1984. Since then, this measure has been applied to any criminal act punishable by imprisonment for up to five years. The rules allow its application during the pre-trial stage of criminal proceedings. Under this system, the prosecutor determines the amount of money that must be paid within a legally established period. A proposal is then sent to the offender regarding payment of the specified sum. If the offender refuses to pay the sum into the state treasury, criminal prosecution proceeds according to the standard procedure[13].

The practice in the Netherlands is almost identical to the rules in Belgium. The difference is that in the Netherlands, compensation may be paid for crimes punishable by imprisonment of up to six years. This institution is applied to nearly one-third of criminal cases received by investigative authorities in the Netherlands. The second model of alternative measures in foreign countries is known as mediation in criminal law, which appears in both simple and complex forms. The essence of mediation is that if the offender agrees to compensate the harm caused, it is necessary to act as a facilitator in reconciling the victim with the offender. According to Russian legal literature, an important aspect of the mediation system is that the authorized person must not remain passive but take an active position to resolve the criminal-legal conflict by bringing the parties to reconciliation[14].

In Belgium, the principle of mediation is applied to all criminal cases punishable by imprisonment for up to twenty years. A criminal case may be terminated if the offender performs the following actions: compensates for the harm caused, undergoes medical treatment, engages in socially beneficial work, or receives vocational training.

At present, mediation exists in one form or another in Germany, Austria, Portugal, France, and several other countries. It is evident that many foreign countries are exploring various alternative options for exemption from criminal liability. Such measures serve as an important tool to simplify the work of the investigative and judicial system and to prevent the penal system from becoming overcrowded with convicts. Currently, in various countries, the institution of exemption from criminal liability is implemented based on circumstances such as the offender's genuine repentance, admission of guilt, reconciliation with the victim, compensation for the harm caused, and other related factors[15].

Specifically, Chapter 12 of the Criminal Code of the Republic of Belarus is titled "Exemption from Criminal Liability and Punishment." Article 82 outlines the general rules for exemption from criminal liability and punishment. According to it: "An offender may be exempted from criminal liability and punishment or released ahead of schedule under the circumstances provided for in this Code." In the Republic of Belarus, there are various grounds for exemption from criminal liability or punishment, including: exemption from criminal liability due to the expiration of the limitation period; exemption from punishment due to the expiration of the execution period; exemption from criminal liability under the condition of administrative liability; exemption from criminal liability on the grounds that the person has lost social danger; exemption from criminal liability due to the offender's genuine repentance; exemption from criminal liability for voluntarily compensating the damage caused or paying income obtained through criminal means; exemption from criminal liability due to reconciliation with the victim; conditional release from punishment; amnesty; pardon and other similar forms.

In addition, under the criminal legislation of the Republic of Belarus, a person who has committed a socially less dangerous or not very serious crime for the first time and has compensated for the damage caused, or paid income obtained through criminal means, or otherwise compensated for the damage resulting from the crime, may be exempted from criminal liability on the condition of administrative liability. If the person can be rehabilitated without being subjected to punishment or other criminal measures, this provision is applied.

Analysis of the criminal laws of several foreign countries shows that separate chapters have been dedicated to the institute of exemption from criminal liability. For example, the 1995 Criminal Code of Spain contains a provision on "exemption from criminal liability due to forgiveness by the victim before the execution of the sentence." According to Article 340 of the Spanish Criminal Code, if a person who has committed one of the offenses provided in Chapter 16 voluntarily compensates the damage caused, the court or tribunal may impose a lighter sentence when determining punishment. Similarly, Article 66 of the 1997 Polish Criminal Code provides that "if the damage caused is compensated, criminal prosecution may be conditionally terminated."

In the German Criminal Code, the principles for sentencing are set out in Part Three, Chapter Two. According to Article 46(a) of this Code, if a person who has committed a crime:

If the person who committed the crime makes efforts to reach a settlement with the victim, resulting in the full or partial compensation of the damage, or takes serious steps to compensate for the damage;

If compensating the damage requires significant personal actions from the person who committed the crime, or giving up something of value, and the damage is fully or partially compensated to the victim, the sentence may be mitigated or the offender may be exempted from punishment. This applies if the punishment does not involve more than one year of imprisonment or a fine exceeding 360 daily rates.

Regarding **exemption from liability and punishment when the damage caused is compensated**, based on the above-mentioned considerations, it is proposed that in the Criminal Code of the Republic of Uzbekistan, as a separate type of exemption from liability and punishment, the **institution of exemption from liability and punishment upon compensation of damage** be established and defined in the Criminal Code as follows:

“Article 66. Exemption from Liability and Punishment on the Grounds of Compensation for Material Damage

It is appropriate to supplement the article with a provision stating that a person who has committed a first-time economic offense, has sincerely repented for their actions, fully compensated the damage caused, actively assisted in the investigation of the crime, and within thirty days from the date the crime is detected has remedied the consequences of the crime and compensated the material damage, shall be exempted from liability.”

Based on these considerations, it can be concluded that the institution of exemption from liability and punishment when the damage caused has been compensated holds significant social importance, as it ensures that the harm inflicted on victims is remedied in a timely manner. In other words, this institution serves the interests of both offenders and victims simultaneously. Therefore, it is appropriate to introduce, both in the theory of criminal law and in criminal legislation, a separate type of exemption from liability and punishment when the damage caused has been compensated.

CONCLUSION

The conducted analysis demonstrates that exemption from criminal liability and punishment upon compensation for damage constitutes a socially significant and legally justified mechanism within the ongoing process of humanizing criminal law in the Republic of Uzbekistan. The study confirms that compensation for material, physical, or moral harm serves not only as a means of restoring violated rights but also as a reliable indicator of reduced social danger, genuine repentance, and the offender’s readiness for lawful conduct. The findings reveal that, in current legislation and law enforcement practice, compensation for damage is primarily applied as an auxiliary element within the institutions of reconciliation and genuine remorse, rather than as an independent legal basis for exemption, which creates legal ambiguities and inconsistent application. Comparative analysis of foreign criminal law models illustrates that many legal systems recognize compensation for damage as a самостоятельное основание for exemption from liability or punishment, contributing to procedural efficiency, victim satisfaction, and reduction of punitive measures. The implications of this study indicate that establishing an independent institution of exemption from liability upon compensation for damage in the Criminal Code of Uzbekistan would strengthen legal certainty, enhance the protection of victims’ rights, and further advance the principles of justice and proportionality. Such reform would also promote timely restoration of harm and reduce unnecessary criminal repression. Further research should focus on empirical analysis of judicial practice, assessment of victim satisfaction outcomes, and evaluation of the long-term criminological effects of compensation-based exemptions, thereby supporting evidence-based legislative improvement and sustainable development of criminal justice policy.

REFERENCES

- [1] Collective of Authors, Civil Law (Part II). Tashkent: Adolat, 2016.
- [2] Collective of Authors, Course of Criminal Law. Volume 2. Moscow: Zertsalo, 2002.

- [3] Collective of Authors, Course of Criminal Law. Volume 2. General Part: Doctrine of Punishment. Moscow: Zertsalo, 2002.
- [4] Federal Republic of Germany, «Criminal Code of Germany». <https://www.unodc.org>
- [5] Republic of Belarus, «Criminal Code of the Republic of Belarus». 1999 г.
- [6] UNODC, Handbook on Restorative Justice Programmes. Vienna: United Nations, 2018.
- [7] E. Askerov, «Institute of Exemption from Criminal Punishment in the Criminal Legislation of Foreign Countries», Criminal Law, вып. 4, сс. 9–14, 2005.
- [8] A. Ashworth, Principles of Criminal Law. Oxford: Oxford University Press, 2015.
- [9] M. Tonry, «Punishment and Crime Control», Crime and Justice, т. 40, сс. 1–53, 2011.
- [10] R. A. Duff, Punishment, Communication, and Community. Oxford: Oxford University Press, 2018.
- [11] G. P. Fletcher, Rethinking Criminal Law. Oxford: Oxford University Press, 2007.
- [12] A. Ahmedov и Н. Bektemirov, Russian–Uzbek Dictionary of Legal Terms. Tashkent: Adolat, 2002.
- [13] M. Urazaliyev, «Specifications of Exemption from Liability in Compensation for Damage», Scientific and Practical Journal of Criminology and Criminal Justice, т. 4, вып. 4, сс. 107–112, 2024.
- [14] Editorial Board, Uzbek Legal Encyclopedia. Tashkent: Sharq, 2011.
- [15] Sh. M. Mirziyoev, «We Will Build a Free and Prosperous, Democratic State of Uzbekistan Together with Our Brave and Noble People», Xalq So‘zi, дек. 2016.

* **Urazaliyev Murod Koraevich**

Professor of the Department of Criminal Law, Criminology and Anti-corruption of
Tashkent state university of Law

Email: u.murodbek_78@mail.ru
