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A COMPARATIVE ANALYSIS OF INTERNATIONAL AND MONGOLIAN APPROACHES TO QUANTIFYING AND ADDRESSING PSYCHOLOGICAL DAMAGES

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ABSTRACT

In our country, Article 16, Paragraph 14 of the Constitution of Mongolia states that if a person considers their rights and freedoms guaranteed by Mongolian law and international treaties to have been violated, they have the right to appeal to the court and seek compensation for damages illegally caused by others. This provision establishes the legal foundation for filing complaints and seeking remedies for psychological harm caused by criminal acts. However, despite legal reforms improving regulations on compensation for tangible damages to a person's body and property in the Civil Code, Civil Procedure Code, Criminal Code, Criminal Procedure Code, and Forensic Examination Law, the legal framework for remedying and determining compensation amounts for non-material damages, particularly psychological harm, remained undefined until recently.

The Civil Code, Civil Procedure Code, Criminal Code, and Criminal Procedure Code lack provisions defining psychological harm, specifying which crimes warrant compensation for such harm, what requirements should be met for calculation, and what criteria should be applied.

Due to this inadequate legal regulation, victims of crimes are unable to fully exercise their rights to receive complete and fair compensation for their damages.

On one hand, when calculating damages for loss of life, health, emotional distress, or psychological harm caused by criminal acts in Mongolia, courts have only been considering evidence-based costs such as medical treatment, funeral expenses, and transportation costs. In other words, courts have only been calculating actual material damages, while non-material damages such as emotional distress or psychological harm have remained undefined and consequently uncompensated.

On the other hand, victims of crimes who have suffered emotional distress or psychological harm have not been claiming compensation for their psychological damages, and the few claims filed in court have been dismissed, failing to provide genuine protection of human rights. However, the current situation has improved with the final approval of the revised Forensic Examination Law, which regulates the forensic examination process in detail and incorporates provisions for determining the severity of psychological harm (commonly referred to as emotional distress) through forensic examination, allowing courts to assess monetary compensation and settle damages. Amendments have been made to criminal and civil legislation accordingly.

KEYWORDS

Emotional Damage, Emotional Distress, Assessment, Remediation For Emotional Damage

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Introduction.

We believe that the discriminatory practices in determining emotional distress for crime victims have been eliminated, creating an opportunity for equal and accessible application of the law for everyone and advancing the protection of victims' legitimate rights and interests, including compensation for both material and non-material damages.

According to the law, psychological trauma manifests in various ways, and the Ministry of Justice and Home Affairs and the Ministry of Health have approved specific methodologies for its assessment. The National Institute of Forensic Examination determines the degree of psychological trauma, and the court determines the amount of compensation.¹

Although it is impossible to fully quantify psychological harm in monetary terms, this issue cannot be neglected, and its inclusion in the revised Forensic Examination Law represents a significant step forward.

Many countries have already established standards for "valuing" their citizens' emotional well-being, organs, and lives to prevent harm. Legal frameworks and practices exist for compensating suffering, emotional distress, unhappiness, disability, loss of working capacity, or loss of life resulting from the wrongful actions of others or judicial authorities.

Some countries have even developed systems for compensating non-material damages of a moral nature. If the guilty party lacks the assets to pay for the victim's emotional distress, compensation comes from the state budget. Most countries have established special state funds for emotional distress compensation, financed from the state budget.

European countries consider age categories, percentage of lost working capacity, aesthetic damage, and specific injuries to legs, arms, or brain when awarding monetary compensation for emotional distress. For example, in Belgium, a 16-year-old child with an irreparable facial scar received 18,600 euros; a court in The Hague awarded 20,000 euros to a person who lost their right eye, was unable to work for two years, and lost 15 percent of their working capacity; and a woman who had three centimeters of her leg amputated, received scars of 4, 12, and 14 centimeters, and had to postpone her education was awarded 14,500 euros.

However, until now, our country has not clearly defined in law how to compensate for non-material or emotional damages. The failure to specifically address emotional distress has left citizens who have suffered loss of life, health, or been wrongfully convicted without proper compensation.

In rare cases where emotional distress claims are filed, courts dismiss them for lack of evidence. In other words, under our current practice, citizens have no option but to prove their suffering in court. Therefore, we present examples of how other countries compensate for emotional distress.

Most European countries use two methods to compensate for damages. Some countries use specific data schemes, which could be called "countries with compensation tables." Others determine compensation based on judicial discretion grounded in legal practice. Spain, France, Belgium, Italy, and the Czech Republic are among the "countries with compensation tables," while Germany, Switzerland, Austria, the Netherlands, and Poland are "precedent-based legal systems."

ASSESSMENT, REMEDIATION, AND RESTORATION OF RIGHTS RELATED TO EMOTIONAL DISTRESS IN FOREIGN COUNTRIES

Let's examine how different countries address the issues of assessing, remedying, and restoring rights related to emotional distress:

United States

The United States is one of the most effective countries in protecting individuals' non-property interests through monetary compensation. One distinctive feature of American law that differentiates it from English law is the liability for "intentionally causing severe emotional distress." The fundamental principle of liability for this tort is expressed in the Second Restatement of Torts (§ 46, 1965): "Any person who, by their extreme and outrageous conduct, intentionally or recklessly causes severe emotional distress to another person shall be liable for such emotional distress."²

¹ Article 40 of the Law on Forensic Investigation

² Bernstein R. D. discusses the First Amendment Limits on Tort Liability for Words Intended to Inflict Severe Emotional Distress in the Columbia Law Review in 1985. The case of *Falwell v. Flynt*, No. 83—0155 (April 19, 1985), is cited as an example. In this case, *Hustler* magazine published a satirical interview with Jerry Falwell, depicting him as an "incorrigible alcoholic." As a result, the court awarded Falwell \$200,000 in damages for the emotional distress caused by the publication.

Russia and Ukraine

Compensation for emotional distress is claimed from the guilty party through court proceedings. For non-material damage compensation, they use Civil Law, Labor Law, and the Erdelevsky Table. If the guilty party lacks sufficient assets to provide compensation, payment comes from the state budget. The state compensation fund is financed from the government budget. Every year, the Russian government approves the funding for this fund, which is regulated by the State Budget Law.

Germany

In Germany, criminal offenses are considered to cause mental, physical, and property damage to specific individuals. While emotional distress is an inevitable consequence of any type of crime, physical and property damage depend on the nature of the crime. In any case, they consistently face issues related to remedy of damages and protection of victims.

Germany approaches emotional distress compensation differently from common law countries. This is primarily explained by the strong influence of Roman law, which historically barely recognized moral interests. However, some scholars consider this view incorrect. The concept of emotional distress compensation was undoubtedly reflected in certain aspects of Roman law, even if not in a systematic form. This concept has continuously developed throughout historical development and inevitably evolved into the doctrine of damages and losses over time.

German courts have begun to implement techniques used in common law systems to address emotional distress when necessary circumstances arise to circumvent direct legal provisions. For example, German law, like common law, holds that if there is no general principle for compensating emotional distress, it should be developed urgently.¹

Belarus

Law enforcement agencies are doing significant work to implement one of the main national and international legal principles regarding the prevention of public harm from serious and especially serious crimes, and ensuring full compensation for property, health, and emotional damages suffered by crime victims, as stipulated in legislation. This issue occupies a central position when evaluating the effectiveness of central and local law enforcement agencies. In 2000, compared to 1999, the rate of compensation for damages caused by crimes increased from 71.4% to 73%. Additionally, multifaceted victim logical prevention work has begun.²

France

French civil law does not distinguish between property damage and emotional distress. Article 1149 of the Civil Code, when defining losses, states that addressing damages or compensating total losses is not limited to monetary payment. To remedy emotional and property damage, the defendant must be culpable for causing the damage. French civil law differs from German civil law in that it allows for compensation for mental damage regardless of whether its cause was a tort or a breach of contract. However, traditionally in France, the amount of compensation for emotional distress tends to be lower than in common law countries.

The institution of emotional distress compensation within the scope of French tort law protects citizens' interests, including: rights to bodily integrity, honor, and dignity; all rights of individual personhood (including rights to name and image); rights to professional activity and confidentiality of correspondence; copyright; rights to freely choose a profession and freedom of movement.

Belgium

Options for compensation through both criminal and civil procedures are available, and victims have the right to choose which path to pursue. Non-material damages can be claimed from public funds. For example, loss of ability to enjoy life, sexual dysfunction, and emotional distress are compensated as forms of non-material damage.

- 25 euros per day for 100% loss of working capacity
- 13 euros per day for 50% loss of working capacity
- Additional compensation for pain and suffering

¹ Yearling R. F. Interest in practice. Yaroslavl, 1880. S. 32.

² The article discusses the status of crime victims in Belarus and efforts to prevent serious violent crimes against the population. Published in Justice of Belarus, No. 3 2002, Minsk, 2002.

Victims who have completely lost their working capacity are categorized by age:

- 3,300 euros for those aged 10 and under
- 2,425 euros for those aged 35 and under
- 1,410 euros for those aged 64 and under

Aesthetic damage is evaluated on a scale of 1-7:

- Level 1: 250-750 euros
- Level 4: 2,250-8,700 euros
- Level 5: 8,700 euros and above
- Level 7: 24,800 euros and above

Netherlands

- External injury (per week of lost working capacity): 100-500 euros
- Brain concussion (per week of lost working capacity): 300-1,000 euros
- Uncomplicated, treatable fracture of one arm: 600-2,000 euros
- Uncomplicated, treatable fracture of one leg: 1,250-3,500 euros
- Loss of one leg below the knee: 15,000-20,000 euros
- Loss of vision in one eye: 15,000-25,000 euros
- Paralysis due to spinal injury: 50,000 euros and above

Methodology for Evaluating Emotional Distress in Mongolia

The Criminal Code of Mongolia states that criminal liability shall be imposed for "publicly insulting another person's honor and dignity, or through mass media" and for "distributing clearly false defamatory information with the purpose of damaging a person's honor and dignity." If defamation is distributed through mass media, or if the offense is committed by a person previously convicted of insult or defamation crimes, the penalty is increased.

For this reason, there is a pressing issue in Mongolia regarding combating crimes against honor, dignity, and professional reputation, while also protecting journalists' lawful activities through criminal law.¹

According to the Criminal Procedure Code of Mongolia, "a civil plaintiff has the right to claim compensation and restoration for non-material damages".² Therefore, non-material damage is harm that cannot be expressed in monetary value when life is lost, health is damaged, or honor, dignity, and professional reputation are defamed, and represents consequences that cause emotional distress to the victim. These consequences can be remedied by: eliminating the material damage caused, providing monetary compensation for emotional distress, and restoring honor and dignity.³

Article 230 of the Civil Code of Mongolia states: "The victim has the right to demand compensation for non-material damage." However, the law also states that "non-material damage shall be compensated in monetary form only in cases specifically provided for by law." Therefore, the law establishes forms of remedying non-material damage through restoration (in natural form) and compensation (in monetary form) when prescribed by law.⁴

The Supreme Court of Mongolia's Resolution No. 03 dated January 19, 2000, on "Compensation for Damages Caused by Criminal Offenses" states: "The amount of damage suffered by a person regarding 'honor, dignity, and emotional well-being' is often impossible to determine in monetary terms, and in cases where a person recognized as a victim has proven material damage with substantiated evidence and presented a calculation of damages in monetary form, the court has an obligation to consider it through regular procedure".⁵

If the victim's or authorized person's action (or inaction) has contributed to the occurrence of damage or the increase in the amount of damage resulting from it, the responsibility for remedying the damage and its amount shall be determined taking into account their fault (Civil Code 230.3§). In this case, the principle that "if a person is at fault themselves, they do not have the right to claim full compensation" shall be applied.⁶

The Mongolian Association of Damage Evaluators developed a methodology for calculating emotional distress compensation in 2016.

¹ Jantsan.S, Some issues of protecting the lawful activities of journalists by criminal law // Issues of combating crime. 2004. No. 1 (8). pp. 19-20.

² Criminal Procedure Code of Mongolia. Official Gazette, 2017. Article 8.6.

³ D. Naranchimeg. Basic issues of civil law. Volume I. UB., 1999. page 89.

⁴ Commentary on the Civil Code of Mongolia. General Chapter. Experimental Edition. Published in UB in 2005, page 1030.

⁵ Collection of Resolutions of the Supreme Court of Mongolia. I.UB. 2001. Page 205.

⁶ Commentary on the Civil Code of Mongolia. General Chapter. Published in UB in 2005, page 1031.

To briefly demonstrate how the methodology is implemented:

- Assessment of lost opportunities
- Evaluation of emotional distress
- Calculation of health and emotional damage assessment including direct expenses or damages proven by evidence.

Assessment of Lost Opportunity Damages (ALOD):

The calculation uses statistical information on the average life expectancy of Mongolians to determine the active working years based on the difference between retirement age and working age. The total number of days of lost work opportunity is calculated from the day the injured person left work until retirement day, then converted to months (LWM) and multiplied by monthly salary (MS) to determine the total wage loss.

$$\text{ALOD} = \text{Number of LWM} * \text{MS}$$

Assessment of Direct Expenses or Direct Damages (ADEDD):

Direct expenses are calculated as the sum of treatment costs (TC) proven by documents related to the damage and other documented expenses (ODE).

$$\text{ADEDD} = \text{TC} + \text{ODE}$$

Assessment of Emotional Distress Damages (AEDD):

To express emotional distress calculations in monetary terms, the Gross Domestic Product (GDP) is divided by the population to determine GDP per capita, then multiplied by a multiplier (5.5, established by the Mongolian Association of Damage Evaluators) to determine the value of human life. Dividing this figure by calendar days (CD) gives the basic daily assessment of emotional distress (BDAED).

Table 1.

N	Types of damage-induced conditions	Coefficient
1	Resuscitation	5.0
2	Surgery, operation	4.0
3	Hospitalization	2.0
4	Suffered pain	2.0
5	Simple pain	1.0
6	Percentage of lost working capacity	0-1.0

These multipliers and coefficients were developed by the Mongolian Association of Damage Evaluators.

To calculate the total assessment of emotional distress, the number of days hospitalized (DH) is multiplied by the basic daily assessment of emotional distress and the relevant coefficient. If other damages corresponding to the above coefficients occur, they can be calculated using this methodology.

$$\text{AEDD} = ((\text{GDP per capita} * \text{Multiplier}) / \text{CD}) * \text{DH} * \text{coefficient}$$

The sum of the assessment of lost opportunity damages, emotional distress damages, and direct expense damages constitutes the total assessment of health and emotional distress damages (TAHEDD).

$$\text{TAHEDD} = \text{ALOD} + \text{ADEDD} + \text{AEDD} [1]$$

If we demonstrate how a citizen's emotional distress damages would be evaluated in court using the above formulas: Here is the translation of the content from the document you provided:¹

¹ In 2016, the Mongolian Association of Loss Assessors released a "methodology for quantifying emotions."

Table 2.

№	Specification	Measurement Unit	Average
1	Gross Domestic Product (2018)	Million Tugrug	32,306,653,450.00
2	Population (as of 2015-01-01)	Person	3,238,479.00
3	GDP per Capita	Thousand Tugrug	9,975.87
4	Multiplier (set by the Statistical Office)	Ratio	5.50
5	Value of Human Life (as of 2016)	Thousand Tugrug	54,867.30
6	Base Price of Daily Mental Harm	Thousand Tugrug	30.06

Mental Harm Calculation during Detention

Table 3.

№	Mental Harm Calculation During Detention	Measurement Unit	Calculation
1	Base Price of Daily Mental Harm	Thousand Tugrug	30.06
2	Days Detained (2018.11.06 - 2019.01.04)	Days	60.00
3	Multiplier (set by the Statistical Office)	Ratio	5.00
4	Total Mental Harm During Detention	Thousand Tugrug	9,018.00

Limited Duration Mental Harm Calculation

Table 4.

№	Limited Duration Mental Harm	Measurement Unit	Calculation
1	Base Price of Daily Mental Harm	Thousand Tugrug	30.06
2	Days Detained (2018.11.05 - 2019.10.23)	Days	291.00
3	Multiplier (set by the Statistical Office)	Ratio	4.00
4	Total Mental Harm Over Limited Duration	Thousand Tugrug	34,994.81

Overall Mental Harm Calculation

Table 5.

№	Mental Harm Calculation	Measurement Unit	Total
1	Mental Harm During Detention	Thousand Tugrug	9,018.00
2	Limited Duration Mental Harm	Thousand Tugrug	34,994.81
	Total	44,012.81	

The emotional damage of a Mongolian citizen was calculated using the emotional damage calculation method developed by Russian scientists in the above example.

1. V.Ya. Ponarin's method of calculating emotional damage (ED). It includes 2 methods of calculating ED: daily indicator and sanction indicator. When using the first method:

$$ED = n \times D$$

Calculation of the average salary of the victim

$$19\,145\,450 = 1200000 / 22 \times 351$$

n - The number of days for which the court will demand ED

D - The defendant's average daily income.

In this case, ED depends only on the defendant's income, the victim's suffering and his individual characteristics are not taken into account.

In Russia, the Erdelevsky formula is used to calculate emotional damage. The formula is

$D = d * f_v * i * c * (1 - f_s)$, where D represents the total emotional damage, d is the compensation amount, f_v is the harm caused by the offender (between 0 and 1), i is the characteristic of the victim's emotional state, C is the coefficient for the circumstances of the harm, and f_s is the victim's degree of guilt. The Erdelevsky table is sometimes used as a model in other countries, with each type of crime having a specific coefficient ranging from 0 to 2.

Table.6.

№	Violation	Amount of compensation	
		Trustworthy	Minimum wage
1	Serious bodily injury	0.80	576
2	If the victim was tortured (tortured)	1.00	720
3	Moderate bodily harm	0.30	216
4	If the victim was tortured (tortured)	0.5	360
5	Minor bodily injury	0.03	24
6	Beat	0.025	18
7	Tamla	0.30	216
8	Threatening to kill or cause grievous bodily harm to a person	0.20	144
9	Requesting transplantation of human organs and tissues	0.40	288
10	Dependent and demanding of others	0.5	360
11	Sexually transmitted disease (STD)	0.05	36
12	AIDS attack	0.50	360
13	Causing moderate harm to the patient's health due to failure to provide assistance to the patient	0.03	24
14	Serious harm to the patient's health due to failure to provide assistance to the patient	0.30	216
15	Kidnapping	0.80	576
16	In case of causing physical harm	1.00	720
17	In case of severe or moderate damage to health	1.50	1080
18	Unlawful restriction of human freedom (one day)	0.30	216
19	In case of causing physical harm	0.50	360
20	In case of severe or moderate damage to health	0.80	576
21	Illegally placed in a mental hospital (for one day)	0.30	216
22	In case of severe or moderate damage to health	0.70	504
23	Spreading false and defamatory information	0.03	24
24	Through the media	0.05	36
25	In case of dissemination of information related to a serious crime	0.30	216
26	Insult	0.015	12
27	Through the media	0.03	24
28	Using violence, threats, or the victim's inability to move to engage in sexual intercourse or other sexual violence	0.60	432
29	In the case of a threat to kill or cause serious bodily harm to a person	1.00	720

30	In case of severe or moderate damage to health or AIDS	1.50	1080
31	Forcing someone to perform sexual acts by forcing them to submit to or threaten them	0.10	72
32	Civil discrimination	0.20	144
33	Violation of privacy	0.03	24
34	Violation of the confidentiality of telephone conversations, letters and postal communications	0.03	24
35	Violation of domestic inviolability	0.025	18
36	In cases of violence or threats	0.20	144
37	Illegal refusal to provide information to citizens	0.025	18
38	Obstruction of the exercise of electoral rights	0.03	24
39	Unlawful refusal to hire	0.03	24
40	Illegal dismissal	0.1	72
41	Violation of other labor rights	0.05	36
42	Violation of the intellectual property rights of authors and inventors	0.20	144
43	Violation of freedom of religion	0.025	18
44	Revealing the secrets of adoption and embryo transfer	0.20	144
45	Changing the baby	0.50	360
46	Violation of the user's property rights	0.05	36
47	In case of major damage	0.20	144
48	Causing the death of a close relative	0.30	216
49	In cases where the act resulted in death	0.80	576
50	Mistreatment of the body or grave of a close relative	0.025	18
51	Impeaching an innocent person	0.50	360
52	Charged with a serious crime	1.00	720
53	Blaming innocent people	0.40	288
54	It had serious consequences.	1.00	720
55	Illegal arrest	0.20	144
56	Illegal detention (one day)	0.04	28.8
57	Other cases of unlawful restriction of liberty (one day)	0.01	7.2
58	Forced reporting	0.30	216
59	A combination of violence and torture	0.80	576
60	Violation of civil rights and freedoms in other forms by illegal actions or decisions of authorized bodies or administrations	0.05	36
61	In case of major damage	0.20	144

The following criteria are used to determine the coefficient:

A person who has suffered severe emotional damage from physical abuse will exhibit unique characteristics in terms of physical and emotional trauma. While physical injuries can often be treated over time, emotional scars are believed to be more challenging to heal. The coefficient I is assigned a value above or below 1 based on the level of pain experienced by the victim following the abuse.

For a pregnant woman who has been physically assaulted resulting in a miscarriage, the coefficient is adjusted based on her ability to conceive again:

- If the assault was intentional with the aim of causing a miscarriage and no emotional damage is present, the coefficient I is considered to be zero.

- If the pregnant woman has a history of multiple miscarriages, 0.5 points are added.
- If she is able to conceive after the assault, 1 point is added.
- If she requires medical treatment, 1.5 points are added.
- If she was subjected to torture, 2 points are added.
- If it is determined that she cannot conceive a child, 2 points are added.

In cases where a close relative has passed away, the following factors are considered to determine additional points:

- The number of years the deceased and the victim lived together as family members.
- Points are adjusted based on the age of the deceased and whether they had plans to marry in the future.

- Each relative of the deceased victim is eligible for compensation for emotional trauma.

If the victim's reputation is harmed, the assessment of the credit is based on the nature and scope of the defamation, including how widely it was disseminated and the number of media outlets involved.

The credit of the victim is determined by evaluating the character of the victim and the impact of the defamation, such as dismissal from work, violation of voting rights, divorce, etc.

Infringement of reputation at work

If the person's rights are illegally restricted and detained, the credit is i-1. If the victim is illegally detained and his rights are illegally violated, the credit is c-1 or higher.

In the event of an unjust conviction:

- If the victim has a prior criminal record, the coefficient is lower compared to a victim with no prior record.
- The coefficient C is adjusted based on factors such as the size of the assigned area per person, treatment by other inmates, violations of prison rules, negative impact on employment, and the extent of individual rights restriction.
- Factors like non-consensual sexual activity, forced sexual orientation change, or rape by a professional evaluator can affect the coefficient.
- The coefficient C varies based on the circumstances of the crime, such as physical harm, sexually transmitted diseases, pregnancy resulting from rape, or rape in front of others.
- The coefficient is reduced for cases involving intoxication, drug use, or self-instigated incidents.

Disclosure of personal or corporate information:

- If a bank or financial institution publicly reveals account details leading to financial harm, the C rating is 2.
- If a doctor discloses a patient's medical history, the rating is adjusted based on the consequences.

F_s – Degree of victim's culpability 0-1

If the victim intentionally incurred harm and experienced emotional distress, it is classified as fs-1; otherwise, emotional compensation is not awarded and is considered 0. $D = d * f_v * i * c * (1 - f_s)$.

If the victim suffered emotional distress through no fault of their own, F_v is excluded from the calculation. $D = d * i * c * (1 - f_s)$

$$420000 = d * 0.3 * 2(1-0) \quad d = 27,300,000$$

4. Calculation method for A.L. Yuzhaninova's compensation.

The proposed formula is as follows:

$ED = (\text{amount of physical suffering} + \text{amount of anxiety}) \times (\text{consequence}) \times (\text{nature of the impact})$. Yuzhaninova suggests evaluating the degree of suffering based on physical suffering, nature of suffering (severe, moderate, mild), consequences (functional, organic, chronic), and intensity of physical suffering (strong, moderate, weak). Unfortunately, there is no specific formula for determining the amounts of physical suffering and anxiety, but expert methodologies can be utilized.

5. E.N. Kholopova's method for determining the ED involves the following formula:

$$ED = EDm \times Vc \times Co \times It$$

Where:

EDm - the minimum level of emotional damage specified by the law,

Vc - the factor representing the victim's culpability,

Bb - the factor representing the culpability of the offender,

Is - the factor accounting for psychological or individual traits.

6. G.G. Gorshenkov's method for calculating the minimum wage involves the following formula:

$$\text{Minimum wage} = Ip \times Wm \times Hd$$

Where **Ip** represents the average index of punishment, calculated based on the severity of the crime (e.g., for rape under Article 131 of the Criminal Code of the Russian Federation: Part 1 - 3 to 6 years of restriction of freedom; Part 2 - 4 to 10 years; Part 3 - 8 to 15 years.

Therefore, $In = 3 + 6 = 9/2 = 4.5$; $In = 4 + 10 = 14/2 = 7$; $In = 8 + 15 = 23/2 = 11.5$.

Wm is the minimum wage, and **Hd** is the health damage coefficient based on Articles 111-115 of the Criminal Code of the Russian Federation.

7. A.V. Cherkunova's method for calculating compensation for emotional damage was used in the study to determine the amount of compensation for emotional damage.

In the study, the compensation for emotional damage was calculated using this formula.

$$EDcle = (EDcdi + PDci)$$

EDcle - Compensation for emotional damage to a legal entity.

EDcdi - Compensation for emotional damage to an individual

PDci - Compensation for physical damage to an individual

Individuals of a legal entity include the management of the organization (director, founder-individual), employees who suffered emotional damage. The amount of compensation for emotional damage to each individual is determined by the results of work [8].

The formula for calculating the compensation for emotional damage is as follows:

$$ED = Umrc * Ess * Ef * Ts$$

Where:

Umrc - the unit of measurement reduction coefficient,

Ess - the energy spent on the strain,

Ef - the frequency of energy fluctuations, and

Ts - The time of strain.

Conclusions and Recommendations

The comparison of international and Mongolian approaches to quantifying and addressing psychological damages highlights progress in Mongolia's legal framework and areas for improvement. Recent amendments to Mongolia's Forensic Examination Law represent a significant step in recognizing and compensating psychological harm. By establishing methodologies for assessing emotional distress and creating mechanisms for courts to determine appropriate monetary compensation, Mongolia is aligning with international practices. The methodology developed by the Mongolian Association of Damage Evaluators, which considers lost opportunities, direct expenses, and emotional distress using GDP-based calculations, provides a structured approach that was previously lacking.

The international comparative analysis reveals diverse approaches to quantifying psychological damages. Countries like the United States, Russia, Germany, Belarus, France, Belgium, and the Netherlands have sophisticated systems that consider factors such as age, working capacity, aesthetic damage, and specific

injuries. Some nations use compensation tables with predetermined amounts, while others rely on judicial discretion based on legal precedent. Many have established state funds to ensure compensation when perpetrators lack sufficient assets.

However, Mongolia's system is still evolving compared to these established frameworks. While the legal foundation now exists, there is a need for further refinement of assessment methodologies to capture the full spectrum of psychological harm. The Erdelevsky method used in Russia, which utilizes indicators such as minimum wage and gross domestic product, shows similarities to approaches adopted by assessment institutions in Mongolia and could provide valuable guidance for further refinement.

Specific case experience highlights critical gaps in the current system. For instance, when evaluating emotional damage during the detention and restriction of rights of an innocent Mongolian citizen, several issues emerged:

- Despite being capable of work, the victim faced employment challenges due to damaged reputation
- Previous employers refused reinstatement due to lost trust
- Social stigma discouraged the victim from seeking new employment
- Family members (elderly parents, spouse, and teenage child) and friends experienced indirect emotional harm that went unaddressed in the assessment

To further advance its approach to psychological damages, Mongolia should consider the following recommendations:

- Develop more comprehensive compensation tables similar to those used in European countries
- Consider establishing a state compensation fund to guarantee victims receive appropriate compensation regardless of perpetrators' financial status
- Provide training for legal professionals, forensic experts, and judges on applying these new methodologies consistently
- Refine and integrate criteria developed in conjunction with forensic psychology to establish standardized methodology
- Expand assessment scope to consider indirect harm experienced by victims' family members
- Incorporate rehabilitation services for victims as part of a holistic approach to victim support

In conclusion, Mongolia has made significant progress in addressing the previously neglected area of psychological damages through legal reforms and assessment methodology development. However, continued refinement of these approaches, informed by international best practices and real case experiences, is essential to fully achieve the goal of providing fair and adequate compensation for psychological harm resulting from criminal acts. As these systems mature, they will significantly contribute to the protection of victims' rights and the advancement of human dignity within Mongolia's legal framework.

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