



International Journal of Innovative Technologies in Social Science

e-ISSN: 2544-9435

Scholarly Publisher
RS Global Sp. z O.O.
ISNI: 0000 0004 8495 2390

Dolna 17, Warsaw,
Poland 00-773
+48 226 0 227 03
editorial_office@rsglobal.pl

ARTICLE TITLE

ASSESSMENT AND COMPENSATION OF HEALTH, LIFE AND
EMOTIONAL DAMAGES RESULTING FROM CRIMINAL ACTS IN
MONGOLIA

ARTICLE INFO

Otgonsuren Chuluun. (2025) Assessment and Compensation of Health, Life and
Emotional Damages Resulting From Criminal Acts in Mongolia. *International
Journal of Innovative Technologies in Social Science*. 2(46). doi:
10.31435/ijitss.2(46).2025.3328

DOI

[https://doi.org/10.31435/ijitss.2\(46\).2025.3328](https://doi.org/10.31435/ijitss.2(46).2025.3328)

RECEIVED

22 April 2025

ACCEPTED

30 May 2025

PUBLISHED

16 June 2025

LICENSE



The article is licensed under a **Creative Commons Attribution 4.0
International License**.

© The author(s) 2025.

This article is published as open access under the Creative Commons Attribution 4.0 International License (CC BY 4.0), allowing the author to retain copyright. The CC BY 4.0 License permits the content to be copied, adapted, displayed, distributed, republished, or reused for any purpose, including adaptation and commercial use, as long as proper attribution is provided.

ASSESSMENT AND COMPENSATION OF HEALTH, LIFE AND EMOTIONAL DAMAGES RESULTING FROM CRIMINAL ACTS IN MONGOLIA

Otgonsuren Chuluun

Colonel, Ph.D. candidate, Head of the Border Security Department at the Vocational Training Center for Non-Commissioned officers, University of Internal Affairs

ABSTRACT

This study explores the existing legal framework for assessing compensation for human life, health, and emotional harm, highlighting key obstacles and proposing recommendations for enhancing compliance with global norms.

Changes in the political, socio-economic, and economic aspects of any country are ultimately reflected in laws and other legal acts. Law serves as the driving force of society. However, the control and management of this driving force depend on the individual, who is an integral part of society. Therefore, the essence of a state governed by the rule of law largely hinges on the guarantee and protection of human rights and freedoms.

According to international norms, Article 2.27 of the Universal Declaration of Human Rights stipulates that “Everyone has the right to compensation for material and psychological damage.” Similarly, Article 16, Part 1 of the Mongolian Constitution asserts that “everyone has the right to life,” and Article 14 grants individuals the right to seek protection of their rights through the court system if they believe their rights have been violated. Personal life, health, honor, and reputation are recognized and safeguarded as fundamental human rights and freedoms.

Therefore, it is essential to comprehensively address non-economic harm to human life, health, and mental well-being, as well as issues such as defamation and slander, and the legal mechanisms for their resolution and compensation.

KEYWORDS

Human Life, Health, Mental Health, Emotional Damage

CITATION

Otgonsuren Chuluun. (2025) Assessment and Compensation of Health, Life and Emotional Damages Resulting From Criminal Acts in Mongolia. *International Journal of Innovative Technologies in Social Science*. 2(46). doi: 10.31435/ijitss.2(46).2025.3328

COPYRIGHT

© The author(s) 2025. This article is published as open access under the **Creative Commons Attribution 4.0 International License (CC BY 4.0)**, allowing the author to retain copyright. The CC BY 4.0 License permits the content to be copied, adapted, displayed, distributed, republished, or reused for any purpose, including adaptation and commercial use, as long as proper attribution is provided.

Introduction.

Over 20 years have passed since the inception of valuation activities in Mongolia. With the increasing demand for valuation services due to the growth of the private sector and changes in property relations, the Mongolian Law on Property Valuation was enacted in 2010, providing a legal framework for valuation activities.

In the legal realm, the Civil Code includes 23 provisions concerning compensation for harm to human life and health, while the Criminal Code contains 65 provisions governing matters related to health and life. For instance, the Civil Code addresses emotional harm through provisions safeguarding the reputation, honor, and business standing of individuals. Article 511 specifies that non-pecuniary damages should be quantified based on the plaintiff's claims, considering the emotional impact on the victim.

The aforementioned laws have established legal guidelines regarding the assessment of damage resulting from a crime. However, in practice, there is a lack of a comprehensive system for evaluating such damage, and the legal framework remains unresolved. The resolution of emotional damage consequences (as outlined in Article 45.4 of the Criminal Procedure Code) is a key aspect in this regard.

Resolution of the consequences of emotional harm as outlined in Article 45.4 of the (Article 45.4 of the Code of Civil Procedure).¹

Out of a total of 41 civil cases extracted from the electronic court decision database, claims for emotional damage were present in all cases. In 22 of these cases, emotional damage was evaluated and awarded monetary compensation in accordance with Article 45.4 of the Criminal Procedure Code. Article 230.2 of the Civil Code specifies that non-pecuniary damage can only be compensated in monetary terms in cases explicitly provided for by law. In 19 cases, the court determined that it was not possible to compensate for emotional damage due to the absence of specific regulations in the law, with Article 45.4 of the Civil Code not being considered a "special regulation."

In essence, the lower court's decision acknowledged the possibility of claiming monetary compensation for non-pecuniary damage and emotional harm under Articles 45.1 and 45.4 of the Criminal Procedure Code. However, it found a lack of specific regulations for such compensation and did not consider the provision in Article 498.4 of the Civil Code, which holds the state responsible for compensating individuals who have suffered harm due to wrongful accusations or legal actions, as a direct basis for monetary compensation for non-pecuniary damage as outlined in Article 230 of the Code.

The reasons for the inconsistent award of emotional damages by civil courts and judges, as well as the lack of emotional damages awarded in certain cases, remain unclear. Out of 41 cases where emotional damages were sought, 22 cases received emotional damages, but the criteria and process for determining these awards are not transparent.

In another case, Citizen U.B. brought a criminal case under Article 148, Subsection 148.4 of the Criminal Code, resulting in a sentence of 200,000 tugriks in property confiscation and 10 years and 1 month in prison by the Khan-Uul District Court. However, upon appeal to the Capital City Court, U.B. was acquitted by ruling No. 202 dated March 5, 2013. During the period from October 25, 2011, until his acquittal, U.B. was under investigation for a total of 503 days and detained for 87 days. The plaintiff sought 25,000,000 tugriks for emotional damages. Considering the gravity of being investigated for a serious crime for two years, receiving a lengthy prison sentence, and being detained for 87 days, the court determined the emotional damages suffered by U.B. as 8,000,000 tugriks ($25,000,000 \times 1/3$), disregarding the emotional consequences and dismissing the remaining 17,000,000 tugriks.

When determining the compensation for emotional damage claimed by the plaintiff, no specific method or standard was used. The compensation was decided at the discretion of 30 percent of the initial amount claimed. For instance, in the case of D.M., who was accused of causing damage to the Social Insurance Fund, the plaintiff claimed 202,219,400 tugriks for emotional and health damage. Following the investigation, the Soum Inter-District Civil Court awarded 4,992,000 tugriks for emotional damage, calculated based on the minimum wage at that time (192,000 tugriks) multiplied by 26 months.

Additionally, the calculation of emotional damage in the case involved multiplying the minimum wage by the period of investigation to determine the monetary amount. However, the underlying rationale for utilizing this method was not explicitly stated. It is worth noting that the 2002 Criminal Code, applicable in Mongolia prior to 2017, employed the minimum wage for categorizing crimes, assessing criminal damages, and converting days of detention into prison terms. It is concerning that this outdated framework of labor relations continues to be applied in court proceedings for calculating emotional harm.

On February 6, 1995, citizen G was under investigation for 22 years in connection with the case of citizen B being found burned in a boiler. G endured 15 years of discrimination and humiliation and was in a challenging emotional state until he passed away due to illness on December 21, 2011. Following the acquittal of the case 21 years later, G's wife filed a lawsuit in court seeking 500,000,000 tugriks for emotional damages. The court decided to award B 10,000,000 tugriks for emotional damages, considering that B was detained for 77 days and was in pretrial detention for 21 years from May 15, 1995, to June 14, 2016.

Plaintiff O was arrested on January 5, 2016, on suspicion of murder. On January 6, 2016, a judge's order convicted and sentenced Plaintiff O under Article 91, Section 91.1 (intentional murder) of the Special Part of the Criminal Code of the Republic of Mongolia, resulting in detention for 119 days. The plaintiff sought 10,000,000 tugriks for emotional harm, and the court found in favor of the plaintiff, ruling that the claim was satisfied.

Out of the 22 civil court rulings that awarded monetary damages for emotional harm, 7 cases involved amounts exceeding 10 million tugriks or included detention. In these instances, the standard amount of 10,000,000 tugriks was typically awarded without a detailed assessment of the claimed facts, following the

¹ It uses quantitative data and decision-making research from a study supported by the Open Society Forum.

guidelines outlined in Chapter 45 of the Code of Civil Procedure and Article 498 of the Civil Code. This decision may have been based on established norms at the time. The determination of emotional harm compensation often relies on the judge's discretion, the advocacy skills of the lawyer, the quality of evidence presented, and the specifics of the claim. While some cases may not require concrete evidence for emotional harm compensation, in others, public reporting and detention may be deemed necessary.

In B.O. No. 1759 dated December 4, 2018, the Supreme Court of Justice ruled that B.O.'s claim for 50,000,000 tugriks for emotional damage was justified. B.O. had been detained for 134 days on false charges, was a suspect and accused for 21 years, and suffered damage to his emotional, property, and reputation. He lost his job, received a minimum pension, couldn't provide for his children's education, and was ostracized by the community, and faced threats and pressure. The court found no evidence to refute B.O.'s claims and acknowledged that his freedom had been violated. Considering the severity of the criminal offenses, the lengthy period of suspicion and accusation, and the conditions of his detention, the court's decision to award compensation was deemed appropriate. Dismissing the claim based on a lack of specific regulations in the Civil Code would contradict the principle of protecting civil rights and restoring violated rights. Therefore, the court applied Article 511 of the Civil Code analogously, awarded damages in accordance with Article 4.2, and concluded that the compensation was justified.

Therefore, the civil appellate court ruled in favor of awarding compensation for emotional distress, considering the plaintiff's individual circumstances and prolonged emotional strain. However, in a separate ruling, it was determined that while the plaintiff had the right to seek non-monetary damages, the claim would not be granted. For instance, in case No. 179 of the Supreme Court of Justice of the Kyrgyz Republic dated April 14, 2020, it was stated that "...the mere existence of Article 45.4.1 of the Criminal Procedure Code and Article 3.1 of the Civil Procedure Code, which address the right to seek non-monetary damages in court, does not constitute sufficient legal grounds for granting the claim."

An analysis of 96 court decisions in the online database of civil cases concerning compensation for property damage resulting from the unlawful actions of investigators, prosecutors, and judges, addressing issues such as honor, reputation, business reputation, health, emotional distress, and the entitlement to pensions, benefits, housing, and other rights, has revealed the following findings:

- The majority of claims filed by plaintiffs were awarded for legal fees (in 79 cases) and lost wages or income due to illegal detention or investigation, as well as loss of livelihood (in 59 cases). This indicates a prevailing trend in judicial practice to award damages in these categories.
- Compensation for one day of detention is typically calculated based on the minimum monthly wage, with variations in some cases. Emotional damages are also sometimes calculated based on the minimum wage for the duration of the investigation, rather than a fixed amount.
- The competence of the plaintiff's legal representative, the clarity of the claim, and the quality of evidence presented have a direct impact on the court's decisions in civil cases. Skilled legal representation often results in higher calculations for damages related to detention, lost income, salary, and emotional distress. This suggests inconsistencies in the application of the law by the courts and variations in the determination of damages.

There has been limited research and analysis in this field in Mongolia, primarily focused on studying the experiences of foreign countries. This field is relatively new and requires further exploration to align with social and economic needs.

Researchers are increasingly involved in research and project work conducted by the Mongolian Forensic Science Association, examining the assessment of economic and property damage resulting from disputes.

In some countries with advanced legal systems, there is a compensation system for emotional damage where the guilty party must pay, and if the guilty party is not identified, the state compensates for emotional damage along with property damage. For instance, in the United Kingdom, minor emotional damage is valued at 1,290-4,900 pounds sterling. Moderate emotional damage is valued at 4.9-45 thousand pounds, and severe emotional damage is valued at 45-96 thousand pounds sterling. In tugriks, this translates to emotional damage being valued at 4-300 million tugriks. The Civil Code of the neighboring country states that emotional damage is the physical and mental suffering caused by an act that violates a citizen's personal non-economic rights or related non-economic assets, as specified in other laws.

Assessment of emotional and physical harm

Monetary compensation is awarded for emotional harm, with the court considering the nature of the physical and emotional suffering experienced by the victim and the circumstances that led to the harm in determining the amount of compensation.

In contrast, our neighboring country does not have a specific formula for calculating non-economic damages, with the court instead making decisions based on the individual circumstances of each case.

Germany has implemented a unique approach to addressing emotional harm, which the court adheres to when issuing rulings.

When determining the amount of damages, factors such as the defendant's culpability, the harm suffered by the victim, and the defendant's financial situation are considered. In South Korea, the standard compensation for emotional distress is typically set at around 80 million won, which is equivalent to approximately 191,200,000 tugriks in Mongolia.

During a speech, human rights lawyer M. Ichinnorov emphasized that while it is difficult to assign a monetary value to a human life, there are methods that attempt to quantify it. One approach involves calculating the economic value of a person by subtracting their age from life expectancy and multiplying the result by the per capita gross domestic product. According to this method, the economic value of a Mongolian individual ranges from 150-300 million tugriks. In other countries, this value can vary from 50,125 USD to 7 million USD.

As previously stated, there is a wealth of international research data available. In Mongolia, the Mongolian Association of Damage Assessors members created a methodology in 2016 to quantify emotional damage.¹ The methodology involves:

- Evaluating lost opportunities
- Assessing emotional damage
- Determining the health and emotional damage assessment, considering direct costs supported by evidence.

Loss of Opportunity Assessment (LOA):

The average life expectancy of Mongolians is determined using statistical data, and the number of years of productive work is calculated by subtracting the retirement age from the working age. The total days of missed work are calculated from the time the individual stopped working until retirement, converted to months (MLA), and multiplied by the monthly salary (MSA) to determine the total salary loss.

$$\text{LOA} = \text{number of months of MLA} * \text{MSA}$$

Direct Costs or Direct Damage Assessment (DCA):

Direct costs are determined by adding up the documented medical expenses (DCA) and other documented expenses (OCA) associated with the injury.

$$\text{DCA} = \text{DCA} + \text{OCA}$$

Emotional Damage Assessment (EDA):

To quantify emotional damage in terms of monetary value, the formula involves dividing the gross domestic product (GDP) by the population, then multiplying it by the GDP per capita (GDPPC) to estimate life expectancy. This figure is then divided by calendar days (CDs) to calculate a basic emotional damage assessment (EDA).

<i>Action status due to injury</i>	<i>Coefficient (C)</i>
Resuscitation	5.0
Surgery	4.0
Hospitalization	2.0
Pain	2.0
Mild pain	1.0
Percentage of work disability	0-1.0

The National Institute of Mental Health created this multiplier and coefficient. To determine the total emotional damage assessment (TEDA), multiply the basic one-day emotional damage assessment (calculated based on the number of days in hospital /HID/) by the appropriate coefficient (C). This method can also be used to calculate other damages (OD) that correspond to the coefficients mentioned above.

¹ Resolution of the Board of Directors of the Mongolian Association of Loss Assessors 2016 UB

$$\text{EDA} = (\text{GDPPC} * \text{Multiplier}) / \text{OD} * \text{HID} * \text{C}$$

The total health and emotional damage (THED) is calculated by adding the assessment of lost opportunity costs, emotional damage, and direct cost losses.

$$\text{THED} = \text{LOA} + \text{DCA} + \text{EDA}$$

CONCLUSIONS

There was a time when human life and health were considered invaluable. However, it is important to compensate for any harm caused to individuals and provide them with appropriate treatment.

Therefore, Mongolia should adopt international standards and establish a methodology for evaluating the value of human life, health, and emotional well-being. It is essential to include Article 511 in the Civil Code to address emotional harm resulting from loss of life or health due to criminal acts.

While the current requirements for claims related to damages to human life, health, and emotional distress are being partially fulfilled, the challenge lies in quantifying emotional distress in monetary terms. This issue is not due to courts resolving cases based on their own methods and judges' personal beliefs. In the future, decisions may be influenced by expert opinions aligned with a standardized assessment methodology.

It is recommended to initiate the development and approval of a comprehensive bill on damage assessment. Immediate action is necessary to establish detailed regulations governing the court's jurisdiction in resolving disputes involving human life, health, and emotional distress. This includes determining if the plaintiff has experienced health or emotional distress, assessing benefits, calculating damages, and interpreting legal language.

REFERENCES

1. Criminal Law of 2015 The primary criminal code of Mongolia enacted in 2015, establishing the foundation of criminal justice in the country.
2. Revised Criminal Law of 2017 A comprehensive revision and updated version of Mongolia's criminal legislation, reflecting modern approaches to criminal justice and enforcement.
3. Law on Criminal Procedure The procedural framework governing the investigation, prosecution, and adjudication of criminal cases in Mongolia's legal system.
4. Law on Misdemeanors Legislation addressing minor offenses and violations that do not rise to the level of criminal conduct but require legal regulation.
5. White Paper on Crime in Mongolia 2021 An official comprehensive report documenting crime statistics, trends, and analysis for Mongolia in 2021.
6. White Paper on Crime in Mongolia 2020 The annual crime report presenting statistical data and analytical overview of criminal activities in Mongolia during 2020.
7. Current State of Criminal Statistics Activities in Mongolia 2017 A research publication examining the methodologies, systems, and practices of criminal data collection and analysis in Mongolia.
8. Issues of Improving Criminal Statistics in Mongolia 2017 A scholarly work addressing challenges and proposing enhancements to Mongolia's criminal statistical systems and reporting mechanisms.
9. Law on Assets of Mongolia 2010 Legislation governing property rights, asset management, and related legal frameworks in the Mongolian context.
10. Criminal Victimology (2005) Author: Ch. Nyamsuren A seminal academic work exploring the study of crime victims, their relationships with offenders, and the role of victims in the criminal justice system of Mongolia.