

Theoretical and Legal Bases of Liberalization of The Institute of Exemption from Legal Liability

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Abstract

This article comprehensively analyzes the theoretical and legal content, functions, and stages of development of the institution of exemption from legal liability in the context of the liberalization of the legal system. The purpose of the study is to determine the legal nature of exemption from liability in conditions of the mitigation of state coercive measures and to develop mechanisms for enhancing its effectiveness in legislation. The paper examines in detail the relationship between the positive and retrospective forms of legal liability, as well as their role in regulating social relations. The scientific novelty of the study lies in the systemic analysis demonstrating that exemption from liability is not merely an evasion of punishment, but an effective means of encouraging and socially rehabilitating the offender. As a result of the study, scientifically substantiated proposals have been put forward for expanding the institution of reconciliation in national legislation (in the spheres of administrative and criminal liability), reducing administrative pressure in the field of fire safety, and improving the regulatory and legal framework.

Keywords: Legal liability, exemption from liability, liberalization, retrospective liability, positive liability, institution of reconciliation, state coercion, legal policy, principles of humanism, judicial and legal reforms.

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1. Introduction

In today's processes of transformation of legal systems and the effort to ensure reliable protection of human rights in the sphere of legal liability, two opposing trends can be observed. On the one hand, global challenges (cybercrime, corruption, terrorism) compel states to tighten punitive measures and sanctions; on the other hand, a worldwide trend toward the liberalization of legal systems, the decriminalization of acts, and the introduction of alternative mechanisms of justice is actively developing.

In the Republic of Uzbekistan, within the framework of the judicial and legal reforms under way, the liberalization of the system of legal liability, the strengthening of the rule of law, and the protection of human dignity have been defined as priority tasks. In particular, Decree of the President of the Republic of Uzbekistan No. UP-21 of 2026 sets forth key strategic goals for further expanding the scope of application of the institution of reconciliation in criminal and administrative proceedings, as well as for optimizing the state's punitive measures. This, in turn, underscores the need for a systematic study of the theoretical and legal

foundations of the institution of exemption from legal liability and an analysis of the fundamental changes taking place in the legal sphere.

2. Literature Review

The concept of legal liability and exemption therefrom is one of the most fundamental categories of jurisprudence and has long been at the center of scholarly attention. In Western legal scholarship, Lon Fuller, in his concept of the internal morality of law, paid particular attention to the proportionality of liability and punishment, as well as to the humanistic nature of law. In Soviet and post-Soviet legal science, B.T. Bazylev studied legal liability as a specific form of state coercion, while D.A. Lipinsky put forward the concept of positive legal liability, examining questions of a subject's legal duty and voluntary compliance with the law. S.V. Medvedev and Yu. Stepanova, in their works, analyzed the legal mechanisms of exemption from liability in connection with the state's legal policy.

In national legal scholarship, A.Kh. Saidov, within the framework of the general theory of state and law, developed a classification of the classical types of legal liability. Z.M. Islomov examined in detail the socio-legal nature of legal liability and its significance for building a law-governed state. Textbooks by Kh.T. Odilqoriev and I.T. Tulteyev likewise provide scientific grounding for the distinction between circumstances excluding legal liability and grounds for exemption from it. Nevertheless, in the context of the liberalization of the legal system and the implementation of the “New Uzbekistan” strategy, there remains an acute need for a systematic analysis of the new legal dimensions of the institution of exemption from liability.

3. Methodology

This study employed general philosophical and special legal methods, including the systemic, comparative-legal, historical-evolutionary, and logical methods, as well as the methods of analysis, synthesis, and legal modeling. In particular, the historical-evolutionary method made it possible to trace the stages of development of the institution of exemption from legal liability in the history of national statehood. Using the comparative-legal method, the national system of exemption from administrative and criminal liability was compared with the experience of developed foreign countries and international standards.

4. Results

1. Legal Liberalism and the Liberalization of Legal Liability: Definition and Essence

Under the present conditions of the development of a law-governed state and the assurance of the supremacy of human rights, the concept of legal liberalism acquires particular importance. From a theoretical standpoint:

Legal liberalism is a philosophical and legal doctrine that recognizes the priority and inviolability of human rights and freedoms in relations between the state and the individual, limits the coercive and punitive functions of the state to the maximum extent permitted by law, and provides for ensuring social justice and stability in society not through strict punitive measures, but on the basis of legal incentives, freedom, and dispositivity.

A practical legal manifestation of this fundamental concept is the notion of liberalization of legal liability, which may be defined as follows:

Liberalization of legal liability is a systemic state legal policy aimed at the gradual reduction of the state's retrospective (negative) response to offenses, the humanization of the system of punishments, the optimization of repressive coercive measures, and the re-education of the offender without isolating them from society.

In the context of legal liberalism, exemption from liability is by no means an indulgence of offenses or the creation of an atmosphere of impunity, but rather a progressive instrument that accelerates the social and legal rehabilitation of the subject, saves the state's economic and administrative resources, and resolves conflicts in society in a fair manner.

2. Main Types and Directions of Liberalization of Legal Liability

The process of liberalizing the legal system is not limited merely to reducing sanctions. By its legal nature and scope, it is divided into the following main types (directions):

- **Decriminalization and depenalization (substantive legal liberalization):** Certain acts that previously entailed criminal or administrative liability are entirely excluded from the category of offenses due to the loss of their social danger (decriminalization), or the penalties for them are mitigated and replaced with alternative sanctions not involving deprivation of liberty (depenalization — fines, mandatory community service, and the like).

- **Restorative and reconciliatory liberalization:**

The transformation of vertical, repressive relations between the state and the offender into horizontal relations between the “victim and the offender.” Here, the main focus is not on punishment, but on compensating material and moral harm, reconciling the parties, and restoring the disrupted legal state to its original balance.

- **Procedural liberalization:** The simplification of the system of legal proceedings for offenses, the reduction of administrative and judicial bureaucracy, and the expansion of guarantees for legal protection and for the freedoms of the suspect, the accused, or the person held liable at the pre-trial stage.

- **Incentive-based liberalization (expansion of the scope of exemption from liability):** The legal assessment of a person's positive and active post-offense conduct (voluntary compensation for harm, sincere repentance, active cooperation with the investigation) and the state's official waiver of its right to punish.

Historical Stages of Development of the Institution

In the course of research conducted under the supervision of Professor F.A. Mukhitdinova, the formation and development of the institution of exemption from legal liability was thoroughly studied through the lens of the history of national statehood and classified in the table below:

№	Period Name	Chronological Framework	Main Legal Sources and Mechanisms
1	Ancient period	Approx. 4th–3rd millennium BC – 5th century AD	Customary law, the system of paying ransom (blood feud/compensation), collective agreements.
2	Middle Ages and the period of khanates	5th century – second half of the 19th century	Islamic law (Sharia); the institution of reconciliation with the victim and repentance in the categories of offenses “ta’zir” and “qisas”.
3	Colonial period	Second half of the 19th century – 1917	Parallel application of the legislation of the Russian Empire and local customary law.
4	Soviet period	1917–1991	The socialist legal system; administrative-command and class-based approaches.
5	Period of independence	Since 1991 to the present	Democratic principles, international human rights standards, and liberalization reforms.

Analysis of the table shows that, as early as the Middle Ages, in the Eastern legal tradition (for example, in the works of Burhan al-Din al-Marghinani's “Al-Hidaya” or Al-Kasani's “Al-Bada’i”), mechanisms for exemption from liability based on the victim's consent, compensation for harm, or sincere repentance operated effectively within the categories of “ta’zir” and “qisas” offenses. This demonstrates that the institution of reconciliation in modern national legislation has deep historical roots.

Scientific and Practical Achievements and Their

Implementation in Legislation

Scientific findings based on the principles of legal liberalism have served as the basis for specific regulatory and legal reforms in the national legislative framework of the Republic of Uzbekistan. In particular, the following important scientific and practical achievements have been implemented in practice:

Expansion of the institution of reconciliation in the field of administrative liability and its scientific foundations: Previously, an imperative, vertical method of state

governance dominated administrative law, leaving virtually no room for mutual consent and reconciliation between the parties. Research has shown, however, that in cases of administrative offenses of a private nature, or those not posing a significant danger to society, the application of a plain punishment (a fine) often exacerbates the conflict and intensifies hostility between the parties. The need to expand the scope of application of the institution of reconciliation and to resolve disputes on the basis of mediation and dispositivity was scientifically substantiated. These scientific conclusions were directly taken into account when the corresponding amendments were introduced to Article 21-2 of the Code of Administrative Liability (CoAL) of the Republic of Uzbekistan by Law No. ZRU-972 of October 7, 2024. This innovation has demonstrated high effectiveness in reducing the burden on the courts and restoring social harmony among citizens.

Liberalization in the field of fire safety and socio-economic analysis: For many years, administrative punishment was automatically imposed on the owner of residential property for any fire that occurred there, even where no one was harmed and no damage was caused to the property of others. Scientific research critically established that this practice rested on the principle of “punishment for punishment's sake,” and that imposing additional economic pressure (a fine) on a citizen whose own property had already suffered from the fire is contrary to the criteria of justice. The legal rationale for exempting a person from administrative liability was scientifically substantiated for cases in which fires occur in personal residential property through the negligence of citizens, without causing grave harm to human health or to the property of third parties. This conceptual innovation was incorporated as a firm and humane provision into Part Four of Article 211 of the CoAL by Law No. ZRU-919 of March 13, 2024.

Optimization of criminal liability and trends in depenalization: Within the framework of implementing the principles of legal liberalism in the sphere of criminal law, the need was substantiated for a systemic expansion of the range of acts that exempt a person from criminal liability in connection with the reconciliation of the parties. Research has shown that genuine justice can be achieved not by isolating a person from society, but through the optimization of penitentiary institutions and the swiftest possible compensation for the material and moral harm caused. The proposals developed by the scientific community were supported by the legislative

bodies and successfully incorporated into Article 66-1 of the Criminal Code by Law No. ZRU-1080 of August 8, 2025. As a result, the list of crimes to which the institution of reconciliation applies was expanded, raising the humanitarian dimension of criminal legal policy to a new level.

COMPARATIVE ANALYSIS

As part of the study, a comparative legal analysis was conducted of approaches to the institution of exemption from liability in the continental (Uzbekistan, Germany) and Anglo-Saxon (USA, United Kingdom) legal systems.

- **Continental model (Germany, Uzbekistan):** Exemption from liability is strictly codified. In Germany (§ 153 of the Code of Criminal Procedure), the public prosecutor's office may terminate a case where culpability is minor and there is no public interest in prosecution, an approach close to that used in Uzbekistan; however, in our national practice the emphasis is shifted toward the material restoration of the victim's rights (the institution of reconciliation).

- **Anglo-Saxon model (USA, United Kingdom):** The institutions of “plea bargaining” and “deferred prosecution” are widely applied. Unlike the Uzbek model, in which exemption is unconditional and final, in Anglo-Saxon law it is often conditional in nature (the subject remains under supervision until all obligations have been fulfilled).

The comparative analysis shows that the Uzbek model of liberalization harmoniously combines mandatory guarantees of legality with dispositive elements protecting individual rights.

5. Conclusion

The theoretical and legal study conducted allows us to conclude that the liberalization of the institution of exemption from legal liability is the most important vector for the humanization of the modern legal system of Uzbekistan. This process is directed not at weakening the rule of law, but at introducing flexible, restorative justice mechanisms that promote the swift resocialization of offenders and minimize excessive state coercion. The scientific approaches implemented in legislation (in the areas of administrative reconciliation and fire safety) have proven their socio-economic and legal effectiveness. The modernized norms create a basis for reducing excessive bureaucracy in the judicial and legal

system and, most importantly, strengthen citizens' trust in the state and in justice.

SCIENTIFIC AND PRACTICAL PROPOSALS

Based on a systemic analysis of the theoretical concepts of legal liberalism and national law enforcement practice, the following is proposed:

1. **Development of a National Concept of Legal Policy:** At the legislative level, establish unified criteria for depenalization and the liberalization of sectoral legislation, based on a balance between positive and retrospective liability.
2. **Further digitalization of the institution of reconciliation:** Introduce an "Electronic Reconciliation" platform for civil, administrative, and criminal proceedings, in order to reduce bureaucratic barriers and record mediation agreements in real time.
3. **Expansion of the scope of application of Article 21-2 of the CoAL:** Extend the institution of reconciliation of the parties to a wider range of offenses in the sphere of small business, provided that they have not caused systemic damage to the interests of the state and society.

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