

Theoretical Foundations of The Rehabilitation Institute in Criminal Proceedings

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Abstract: This article examines the theoretical foundations of the rehabilitation institution in criminal proceedings and its legal aspects. The concept of rehabilitation in criminal procedure law, its process and mechanisms are also analyzed. In accordance with the Criminal Procedure Code of the Republic of Uzbekistan, the implementation of rehabilitation ensures the restoration of a person's rights, compensation for harm, and social reintegration. Although it is generally recognized that the main feature of legal rehabilitation is acknowledging the return of a person to their previous state before they were unlawfully, unreasonably, or unjustly subjected to (disciplinary, civil, administrative, or criminal) liability by the state and on its behalf, rehabilitation in criminal proceedings remains one of the most controversial issues among procedural scholars and practicing specialists. There are various views and approaches regarding legal rehabilitation and its constituent elements. Based on the analysis results, recommendations are provided on addressing existing problems in interpreting the essence of acquittal and the concept of rehabilitation using modern scientific approaches.

Keywords: Rehabilitation, acquittal, innocence, compensation, legal protection, damages recovery, social reintegration, standards.

Introduction: Studying the theoretical aspects of rehabilitation as a legal concept is crucial for achieving several goals: elevating ideas and opinions about it to the level of social understanding, correctly interpreting the norms that regulate the rehabilitation process and ensure the rights of rehabilitated individuals, and adapting these norms to modern human rights standards. This theoretical task begins by exploring the essence of legal rehabilitation within the system of its physical, political, medical, professional, and other types, based on the areas where the term "rehabilitation" is applied, and highlighting its distinctive features.

Rehabilitation in legal science, specifically the rehabilitation of human rights, is a broad concept. Although it is more commonly used in the branches of procedural law or international humanitarian law, in scientific terminology, it is qualified as "legal," indicating that legal rehabilitation manifests as an independent and complex legal institution. This legal

institution, from the perspective of national legislation, comprises norms from the Constitution of the Republic of Uzbekistan and normative legal acts specific to various branches of national law (such as criminal, criminal procedural, civil, civil procedural, labor, budget, and others).

METHODS

In the study, comparative legal methods, as well as methods of analysis, synthesis, observation, generalization, induction, and deduction, were used to analyze the essence of the institution of rehabilitation in criminal proceedings. Additionally, the laws of the Republic of Uzbekistan and international standards were analyzed from a comparative legal perspective. Furthermore, the scientific and theoretical views of domestic and foreign legal scholars (Dal V.I., Gross G., Grishko A.Ya., Richard S., Sakhaddinov S., Murodov B.B.) were studied, and conclusions were drawn from them using the method of generalization.

RESULTS

Rehabilitation of a person in criminal proceedings is a part of legal rehabilitation and, as a socio-legal phenomenon and a form of establishing justice, reflects the need to restore the limited or deprived legal status of a person. This necessity arises from errors, illegal actions (or inactions) of state bodies and officials responsible for criminal proceedings, decisions based on inadmissible evidence, or those not founded on the results of full and comprehensive proof. Based on current national legal norms and their interpretation, it involves restoring the violated rights and legitimate interests of a person who has been unlawfully, unreasonably, and unfairly prosecuted, as well as compensating for the damages caused to them.

It is crucial to regulate rehabilitation as a legal institution on the basis of legislative acts.

If a criminal case against an individual in criminal proceedings has been terminated on the grounds of rehabilitation as established by law, or if a person has been found innocent and acquitted, their rights that were restricted or deprived as a result of actions (inaction) and decisions of bodies and officials authorized to conduct criminal proceedings shall be restored. Additionally, grounds for compensation for damages and losses incurred by the individual shall arise.

From this perspective, these legal foundations can be classified as follows:

- 1) Guiding principle establishing general rules (Constitution of the Republic of Uzbekistan);
- 2) Laws directly regulating the institution of rehabilitation (Criminal Procedure Code, Civil Code, Civil Procedure Code, Labor Code, and others);
- 3) Subsidiary legislation regulating the institution of rehabilitation.

The primary legal framework governing the institution of rehabilitation is the "Criminal Procedure Code of the Republic of Uzbekistan." Specifically, Article 2 of the Code (Tasks of Criminal Procedure Legislation) stipulates that the tasks of criminal procedure legislation are to swiftly and thoroughly solve crimes, ensure just punishment for every person who has committed a crime, and guarantee that no innocent person is held accountable or convicted, to expose the guilty and ensure the correct application of the law. Article 11 (Legality) mandates that judges, prosecutors, investigators, inquiry officers, defense counsels, and all persons participating in criminal proceedings must strictly adhere to and comply with the Constitution of the Republic of Uzbekistan, this Code, and other laws of the Republic of Uzbekistan. Article 17 (Respect for the honor and dignity of the individual) requires that

judges, prosecutors, investigators, and inquiry officers must respect the honor and dignity of persons participating in the case. It prohibits actions or decisions that demean human honor and dignity, lead to the dissemination of information related to their private life, endanger their health, or inflict unjustified physical and moral suffering. Article 18 (Protection of citizens' rights and freedoms) stipulates that all state bodies and officials responsible for criminal proceedings must safeguard the rights and freedoms of citizens participating in the criminal process. Any damage caused to a person due to violation of their rights and freedoms during the proceedings must be compensated according to the grounds and procedures established in this Code. Article 22 (Establishing the truth) requires that all circumstances to be proven in the case must be thoroughly, comprehensively, fully, and objectively examined. In resolving any issue arising in the case, circumstances that both incriminate and exonerate the accused or defendant, as well as those that mitigate or aggravate their liability, must be identified and taken into account. Article 23 (Presumption of innocence) states that a suspect, accused, or defendant is presumed innocent until their guilt in committing a crime is proven in accordance with the procedure provided by law and established by a court verdict that has entered into legal force. All doubts about guilt, if the possibilities for their elimination have been exhausted, must be resolved in favor of the suspect, accused, or defendant. Doubts arising from the application of the law should also be resolved in favor of the suspect, accused, or defendant. Article 27 (Right to appeal procedural actions and decisions) grants process participants and other persons, as well as representatives of enterprises, institutions, and organizations interested in criminal proceedings, the right to appeal against procedural actions or decisions of the inquiry officer, investigator, prosecutor, judge, and court in the manner and within the time limits established by this Code. Article 83 (Grounds for rehabilitation) states that a suspect, accused, or defendant shall be found innocent and subject to rehabilitation in the following cases:

- 1) a criminal event has not occurred in the case in which a case has been initiated and investigative actions or a court hearing have been conducted;
- 2) there is no corpus delicti in their act;
- 3) they are not involved in the committed crime.

Article 84 (Grounds for termination of a criminal case without resolving the issue of guilt), Article 235 (Recovery of damages caused by detention), Article 248 (Compensation for damage caused by unlawful detention and house arrest), Article 260

(Compensation for damage caused by unlawful removal of a person from office), Section Seven, Chapters 37 and 38, Articles 301-313 directly regulate the institution of rehabilitation. Additionally, Articles 373-374 address the decision on termination of a criminal case by preliminary investigation bodies and the termination of a criminal case, while Article 38111 covers the decision on termination of a criminal case by inquiry bodies and the termination of a criminal case.

The content of Article 2 of the Criminal Procedure Code allows us to conclude that, along with exposing individuals who have committed socially dangerous acts during criminal proceedings and bringing the guilty to justice, ensuring that no innocent person becomes a victim of unlawful, unfounded, and unjust accusations of committing a crime is one of the tasks of criminal proceedings. The harmonious implementation of tasks such as prosecution and protection from unfounded accusations in criminal proceedings, as well as the procedure for restoring the violated rights of acquitted persons, requires a scientific understanding and improvement from the perspective of modern science of concepts such as the essence of rehabilitation, its application mechanism, the status of the rehabilitated person, and the grounds and mechanisms for compensating harm and damage caused to the individual.

Focusing on the lexical meaning of the term, "rehabilitation" is derived from the Latin word "rehabilitatio," which means restoration of ability or opportunity,[1] while in German, "rehabilitation" means returning to a previous state or recovery.[2]

Although it is generally recognized that the main feature of legal rehabilitation is the acknowledgment of a person's return to their previous state before they were unlawfully, unjustifiably, unfairly (disciplinary, civil, administrative, or criminal) prosecuted by the state and on its behalf, rehabilitation in criminal proceedings remains one of the most controversial issues among procedural scholars and practicing specialists, with various views and approaches to legal rehabilitation and its constituent elements.

In the Explanatory Dictionary of the Uzbek Language[3] and the National Encyclopedia of Uzbekistan[4], the term rehabilitation is defined as the restoration by law enforcement agencies of the good name, honor, and dignity of a person unjustly suspected or accused of committing a crime. This, in turn, is a terminological definition, reflecting the general and well-known features of rehabilitation.

Initially, rehabilitation emerged as a method of pardoning, and gradually, as a result of evolutionary changes in the socio-economic life of European

countries and changes in attitudes towards punishment as part of these changes, rehabilitation became a method of restoring the lost legal capacity and social status of convicted persons[5]. The fact that rehabilitation was used in ancient times as an institution of pardoning, which was later understood as recognition of the illegality of accusations and sentences, was also noted by scholars who contributed to the theory of criminal procedure at the beginning of the last century[6].

It should be noted that in criminal procedure law, in addition to the rehabilitation method of releasing a person from criminal liability and punishment, there are also such types as amnesty and pardon, the distinction of which serves to understand the essence of rehabilitation.

Amnesty is derived from the Greek word "amnestia," meaning "to forget" or "to forgive." In original sources, it is defined as a document prohibiting the initiation or continuation of prosecution against specially designated persons, or the execution of convictions against them.[7] Since amnesty provides for the cancellation of legal norms regarding the inevitability of liability under certain circumstances, the authority to grant it is usually vested in the legislature. In Uzbekistan, amnesty is defined as a decree by the supreme authority that mitigates the punishment of certain categories of convicted persons or releases them from punishment; a special act of the highest state body deciding to release individuals from criminal punishment, terminate criminal cases, or mitigate sentences; an order demonstrating humanity by fully or partially releasing persons who have committed crimes and other offenses from punishment, or replacing the assigned punishment with a milder one.[8] According to Article 109, paragraph 23 of the Constitution of the Republic of Uzbekistan, the President of the Republic of Uzbekistan submits a proposal to the Senate of the Oliy Majlis of the Republic of Uzbekistan on the adoption of amnesty acts. The adoption of amnesty acts for persons convicted by the courts of the Republic of Uzbekistan falls under the exclusive competence of the Senate. Amnesty is also known as a "general pardon" among the people.[9]

The next institution that excludes criminal liability of a person is pardon. The literal meaning of the word "afv" in Arabic is "to forgive a sin," "forgiveness," "pardon," or "excuse"[10], implying the release from punishment of a person (convict) who has been sentenced by a court. In Uzbekistan, pardoning is carried out by the President of the Republic of Uzbekistan. According to paragraph 2 of the Regulation on the Procedure for Implementing Pardons in the Republic of Uzbekistan, approved by the Decree of the President of the

Republic of Uzbekistan dated May 8, 2018 No. UP-5439, pardon is a humanitarian act that fully or partially releases the convicted person from punishment, replaces the court-imposed punishment with a milder one, or removes the conviction.

In current national legal norms and practice, applying amnesty during pre-trial proceedings without proving the presence or absence of guilt in the presumed crime, and applying amnesty or pardon at the sentencing or subsequent stages, implies an unofficial assessment of "committed a crime, but pardoned by the state" for the person found guilty. In contrast, when a person is rehabilitated, it is officially recognized that the person has not committed a crime. Even situations where it is impossible to prove whether a person has committed a crime or whether they were involved in the committed crime lead to rehabilitation. The theoretical and ideological basis for this is the principle that "unproven guilt is equal to proven innocence"[11].

Rehabilitation is distinct from amnesty and pardon in that it fully restores rights, freedoms, and lost opportunities, as well as compensates for damages caused to a person who was deprived or restricted due to unlawful or unjustified initiation of criminal proceedings, criminal prosecution, indictment, or conviction. In amnesty and pardon, based on the individual and the socially dangerous act they committed, as well as for certain categories of convicted persons, the punishment may be reduced or they may be released from punishment or liability by decision of the authorized bodies.

In our national criminal procedure legislation, rehabilitation rules are applied to restore the violated rights of persons affected by actions (inactions) and decisions of officials authorized to conduct criminal proceedings. It is recognized that compensation for damage caused by illegal or antisocial actions of persons not authorized to conduct criminal proceedings against another person, such as unlawful detention or arbitrary punishment, or the restoration of rights of victims of crimes committed by unauthorized persons, is not considered rehabilitation. Instead, these instances are referred to as restoration of victim's rights or compensation for damages resulting from a crime.

One of the main features of rehabilitation is that it serves as a method for correcting errors made by state bodies and officials responsible for criminal proceedings regarding guilt or for rectifying lawful actions taken. According to the interpretation of rehabilitation laws, the fundamental essence of rehabilitation in legislation is reflected in the legal regulation of the following issues: not charging (or

suspecting) a person who is not guilty of committing a crime in criminal proceedings; acquitting such a person or performing other procedural actions of an exculpatory nature if they were mistakenly involved as a suspect or accused (subjected to criminal prosecution); eliminating existing doubts, suspicions, and accusations against them; restoring their violated rights and legitimate interests; and compensating for the damage caused.

In criminal proceedings, there is always a possibility of professional errors in the activities of officials authorized to conduct criminal cases. Since legal relations in criminal proceedings typically involve persons suspected, accused, or on trial for committing socially dangerous acts, numerous legal means and measures have been developed to prevent errors in determining guilt, which can have serious legal consequences. Examples include oversight mechanisms, complaint procedures, rules of transparency and admissibility of evidence, and other procedural legal phenomena. Moreover, to ensure that state bodies and officials responsible for criminal proceedings perform their duties correctly and without deviation, and to prevent errors in the process of ensuring criminal liability, the Criminal Code includes Articles 230, 230², 231, 234, and 235, which define crimes alongside official misconduct. The risk of these crimes occurring serves as a safeguard against illegal prosecution and guarantees the possibility of rehabilitation for persons wrongfully prosecuted.

Not all errors made by state bodies and officials responsible for criminal proceedings regarding guilt during the investigation and trial of crimes are considered as the aforementioned crimes and do not necessarily entail liability. Such errors can occur due to abuse of office, bias, and other subjective factors, as well as objective factors including the complexity of the situation, skillful falsification of evidence, lack of information (evidence) to prove circumstances, and others. Even the expiration of the statute of limitations for prosecution can preclude punishment for crimes against justice. Therefore, in cases that would otherwise lead to rehabilitation, the perpetrator may be exempt from liability.

The opinion of the renowned criminologist Hans Gross regarding procedural errors is praiseworthy. In his view, no uncorrected mistakes are as harmful and difficult to rectify as those made in the investigation of crimes and the identification of perpetrators. According to the scholar, it is impossible to demand that no one make mistakes, but every person authorized who makes a mistake should immediately admit it, and the injured party should have the right to demand its correction.[12] Indeed, in criminal

proceedings, none of the subjects authorized to prove are guaranteed to be error-free, and it is natural that they may make mistakes while carrying out evidentiary activities based on subjective knowledge.

In modern legal literature, there are various approaches and perspectives regarding the definition, understanding, and content of rehabilitation. Notably, in the titles of Article 301 (Grounds for Rehabilitation) and Article 302 (Property and Other Consequences of Rehabilitation) of the Criminal Procedure Code, as well as in some sources, rehabilitation is understood as the court's act of acquitting a person or terminating a criminal case on rehabilitative grounds. In our view, the main reason for this is likely the Soviet-era understanding of rehabilitation. For instance, during the former Soviet period, B.T. Bezlepkin and V.V. Zin'kovich advanced precisely this opinion[13]. T.T. Tadjiyev, who conducted a monographic study on this topic, also supported this approach, defining rehabilitation as a decision by a competent law enforcement agency, expressed in a criminal procedural document, that records the conclusion of the absence or non-determination of a criminal event or *corpus delicti*, or the non-determination of the person's involvement in committing a crime[14].

A.P. Gulyayev, expanding on T.T. Tadjiyev's views, notes that "rehabilitation" encompasses the process of restoring a person's restricted rights and freedoms, with its main, essential feature being the conclusion about the innocence of the suspect, accused, and defendant[15]. Alternatively, according to A.A. Orlova, rehabilitation is the official recognition of a person's innocence, provided by state bodies or officials authorized to conduct criminal proceedings, with a system of guarantees for compensating harm caused to the individual in criminal proceedings, as prescribed by law[16].

We will elaborate further below on why rehabilitation is a broader concept than mere acquittal.

A.G. Elkind, based on the former Soviet criminal procedure legislation of the 1970s, defined rehabilitation as a decision made by an authorized law enforcement agency, reflected in a criminal procedure document provided for by law. This decision confirms the absence (or uncertainty) of a criminal event or its composition, or the lack of evidence of the convicted person's participation in committing the crime. However, Elkind overlooked the fact that rehabilitation can be applied to individuals other than convicts. Such a one-sided approach is also found in other sources. For instance, in the commentary on Article 301 of the Criminal Procedure Code of the Republic of Uzbekistan, there are remarks about "rehabilitation, recognition of

a person's acquittal."[17] This should be the case in a state governed by the rule of law where judicial control is fully established at the pre-trial stage. However, considering the specifics of states, particularly our national criminal procedure legislation, it should be noted that rehabilitation can be applied not only to convicts but also to those who had the status of a participant in criminal proceedings before conviction.

Among the definitions given to rehabilitation, it is noteworthy that Z.F. Inogomjonova's approach, although not detailing the main features of rehabilitation comprehensively, describes it as the restoration of a person's previous rights, good name, and reputation through judicial or administrative means. Similarly, U.A. Tukhtasheva's definition of rehabilitation as the restoration of an innocent person's rights violated due to unlawful criminal prosecution, imprisonment, and other restrictions, and the elimination of all factors hindering their future activities, also provides a more complete conclusion about the essence of rehabilitation and who can be rehabilitated.

In our view, the definitions of rehabilitation provided above confuse its content with its foundations, specifically its procedural foundations. According to numerous sources, the acquittal of a person, initiation of a criminal case, termination of charges, or dismissal of a criminal case[20] based on grounds for rehabilitation do not fully reflect rehabilitation itself. Rather, these serve as procedural bases for rehabilitation or initiate the rehabilitation process. The decision made by the subjects proving a person's innocence and restoring their limited rights and freedoms does not fully encompass the person's rehabilitation. It also includes, if requested by the individual, ensuring measures to recover damages and losses incurred during criminal proceedings.

Legal rehabilitation of a person is a state activity that cannot be carried out by any other social structure or individual. The rehabilitation process begins with the adoption of a specific decision by state bodies, which can be termed as the recognition of the right to rehabilitation.

Article 134 of the Criminal Procedure Code of the Russian Federation, titled "Recognition of the Right to Rehabilitation," states that the court recognizes the right to rehabilitation in a verdict, ruling, or decision, while the investigator or inquiry officer does so in a decision for a person who has been acquitted or whose criminal prosecution has been terminated[21]. A similar provision is found in Article 133 of the Criminal Procedure Code of the Kyrgyz Republic[22], with related provisions in Article 35 of the Criminal

Procedure Code of Turkmenistan[23]. It can also be found in Article 463 of the Criminal Procedure Code of the Republic of Tajikistan[24].

Although there is no direct rule in the national Criminal Procedure Code, it is necessary to correctly understand the scope of procedural documents that recognize the right to rehabilitation. In our opinion, they are:

- 1) a decision to refuse to initiate criminal proceedings against a person detained on suspicion of committing a crime before the initiation of a criminal case, based on Article 83 of the Criminal Procedure Code;
- 2) a decision on the termination of a criminal case, issued on the basis of Article 83 of the Criminal Procedure Code;
- 3) a ruling on the termination of a criminal case, issued by the court on the basis of Article 83 of the Criminal Procedure Code;
- 4) an acquittal;
- 5) rulings and decisions of higher instance courts equivalent to an acquittal.[25]

It should be noted that foreign countries have a high percentage of acquittals in criminal cases. It is reported that in the USA and some European countries, every third court decision is an acquittal, while in England their share reaches 40%.[26] One of the reasons for this is related to the fact that the authority to "conclude" a criminal case belongs to the courts. These impressive figures appear extremely high compared to the fact that the number of acquittals issued in Uzbekistan does not reach 1%. However, if we consider the decisions on refusing to initiate criminal cases and terminating criminal cases based on Article 83 of the Criminal Procedure Code in investigative and judicial practice, it becomes apparent that the statistical indicators of rehabilitation in Uzbekistan are actually different, "better than those of foreign countries." In reality, the main goal of combating crime is not the number of sentences or their ratio, but the prevention of crimes, ensuring the inevitability of bringing persons who have committed crimes to justice, and protecting against unjustified criminal prosecution.

Documents recognizing the right to rehabilitation adopted by the court, particularly acquittal verdicts, are of special importance. By issuing an acquittal, the court acknowledges the person's innocence and exonerates them before the law and the public. The presumption of the validity of court decisions (i.e., accepting them as truth and regarding them as free from doubt) and their prejudicial reinforcement through a complex mechanism for modification[27] is characterized by the high regard for acquittals in practice - among the people. Furthermore, the

adversarial and reliable adoption of court decisions by an independent branch of state power instills greater confidence in an acquittal compared to other documents recognizing the right to rehabilitation.

The correct identification of documents recognizing the right to rehabilitation is also significant for properly understanding rehabilitation, as it allows for assessing the legality of claims made by rehabilitated persons and the restoration of their property and other rights (as specified in Article 302 of the Criminal Procedure Code).

According to several scholars, rehabilitation should have legal consequences, meaning it is necessary to directly implement compensatory measures aimed at restoring the violated rights and legitimate interests of a person who has been unjustly prosecuted.[28] Supporters of this approach have long been present, with I.Ya. Foynitsky and V.P. Shiryayev defining rehabilitation as an institution for compensating material damage and moral harm to persons whose guilt has not been proven[29].

Some Western scholars also emphasize that the institution of rehabilitation comprises measures aimed at "healing" the damage inflicted on the spiritual world of a person who has been unjustly prosecuted, in restoring their violated rights and legitimate interests.[30]

G.V. Gavriluk and N.E. Shalumov define rehabilitation as a set of actions carried out in a specific sequence.[31] In the views of these scholars, it is necessary to clarify the exact sequence of actions in rehabilitation. For example, if the rehabilitated person does not demand compensation for damage caused as a result of criminal prosecution, then there is no need to compensate for the damage inflicted.

S.S. Sakhatdinov, commenting on Article 301 of the Criminal Procedure Code, supported the opinion of scholar B. Murodov, and, in our view, found an answer to this issue. According to the scholar, the concept of rehabilitation in criminal proceedings encompasses three main elements: 1) recognition of the accused (suspect), defendant, or convict as innocent in the manner prescribed by law; 2) restoring the rehabilitated person's ability to exercise previously restricted rights and fulfill obligations through their own actions; 3) guaranteeing real compensation for damages caused by unlawful or unjustified criminal prosecution, provided that the rehabilitated person expresses the intention to exercise their right to compensation.[32] We agree with this approach, with our objection to the part regarding the circle of persons subject to rehabilitation, which we will substantiate below (later). It is commendable that in this approach,

compensation for material and moral damage caused to a person signifies their rehabilitation. In our opinion, to consider a person rehabilitated, along with compensation for material damage and moral harm, it is first necessary to terminate criminal prosecution against them and restore their deprived or limited rights and freedoms.

This approach has many aspects, and according to A.Ya. Sattorov, rehabilitation in criminal proceedings is a procedure that involves officially acknowledging the unlawful criminal prosecution or conviction of a person, the application of unjustified procedural coercion or compulsory medical measures, as well as compensating for property damage caused as a result of unlawful criminal prosecution and conviction, and restoring other rights and legitimate interests[33]. A.A. Podoprigora defines the concept of "rehabilitation" as the restoration of rights and freedoms of a person brought to criminal responsibility but found not guilty of committing a crime in the manner prescribed by law, and ensuring actual compensation for damages caused to the rehabilitated person[34].

D.V. Tatyatin defines rehabilitation in criminal proceedings as follows: "rehabilitation is the process of restoring the rights and legitimate interests of a person who has been illegally or unjustifiably prosecuted or convicted, or who has been subjected to compulsory medical measures or placement in closed special educational institutions, but who has been found not guilty of committing a crime in the manner prescribed by law or has the right to rehabilitation for other reasons." [35]

In this definition, D.V. Tatyatin emphasized that rehabilitation is the process of restoring violated rights, freedoms, and legitimate interests of a person. Along with the above-mentioned circumstances, it would have been appropriate to pay attention to compensation for damage and harm caused to a person by state bodies and officials authorized to conduct criminal proceedings during the process of criminal proceedings.

G.G. Amirbekova defines rehabilitation in criminal proceedings as the process of restoring the temporarily lost rights and freedoms of a person brought to criminal responsibility or convicted, but found innocent of committing a crime in the manner prescribed by law, as well as ensuring actual compensation for material, moral, and other damages[36].

We believe it is incorrect to indicate in this definition the temporary nature of the loss of rights and freedoms of a person subject to criminal liability. During criminal prosecution, a person's rights are not considered temporarily lost. Furthermore, through lawful actions

of authorized bodies or officials, a person is rehabilitated, but this does not mean the full restoration of their rights, as we believe that their will is also necessary to compensate for the harm and damage caused to the person.

Uzbek scholar B.B. Murodov also advocates for a broad interpretation of rehabilitation, defining it as a procedural activity aimed at declaring a suspect (including a person detained before the initiation of a criminal case), accused, defendant, and convicted person innocent by an acquittal (or refusing to initiate or terminate a criminal case against them under Article 83 of the Criminal Procedure Code) in accordance with the procedure established by law. This includes compensating for all types of damages caused as a result of unlawful involvement in investigative actions, application of procedural coercion measures, prosecution, and other illegal actions at the state's expense, as well as fully restoring the violated rights of the person, that is, their former status.

Since the adoption of one of the above procedural acts in favor of (or in relation to) a person does not mean that the person has fully eliminated the negative consequences of legal pressure or accusation, it is advisable to refer to this person in the law not as a rehabilitated person, but as a person whose right to rehabilitation is recognized.

DISCUSSION

The essence of rehabilitation in criminal proceedings is a complex process, starting from recognizing a person's right to rehabilitation and encompassing the full restoration of their violated rights and legitimate interests to the extent possible. It is a set of methods for correcting mistakes or illegal actions committed by state bodies and officials responsible for criminal proceedings regarding guilt. However, it can be observed that in recent years, research has not paid attention to the actual circumstances of cases involving persons subject to rehabilitation.

It is considered expedient to find an answer to the question of who can be rehabilitated based on the norms of the national Criminal Procedure Code.

Due to errors in the text of Article 83 of the Criminal Procedure Code, persons granted the status of "suspect, accused, defendant," and according to the meaning of Article 46 of the Criminal Procedure Code and other norms, "defendant," "convict," or "acquitted person" may be rehabilitated.

Article 302 of the Criminal Procedure Code states: "A rehabilitated person has the right to demand compensation for property damage caused to them as a result of unlawful detention, unlawful detention as a

preventive measure or placement under house arrest, unlawful suspension of their passport (travel document), unlawful removal from office due to involvement in the case as an accused, or unlawful placement in a medical institution, as well as elimination of the consequences of moral damage." This raises the question: are persons detained without the official initiation of a criminal case or those detained after the initiation of a criminal case but without being granted the status of any participant in the criminal process (suspect, accused, etc.) also subject to rehabilitation?

Further actions aimed at initiating a criminal case and accusing a person of committing a crime, that is, involving them as a suspect or accused and discussing their guilt in court, are essentially a formal procedure, that is, a procedural form.

In all cases where coercive measures are unjustifiably applied to individuals in the fight against crime, it is not always possible to restore their rights. One reason for this is the formal approach to the issue, meaning that when a criminal case is initiated but the status of suspect, accused, or convicted person is not granted, it becomes impossible or very limited to officially restore rights violated by the application of unjustified coercive measures.

By the verdict of the Chilanzar District Criminal Court on March 30, 2021, in criminal case No. 1-1006-2101/36, a group of law enforcement officers were found guilty of conducting a criminal case against citizen I. Tursunov under part 1 of Article 276 of the Criminal Code, unjustifiably accusing him of multiple crimes and restricting his freedom through the coercive measure of "detention." Although not detailed in this verdict, the rehabilitation rights of citizen I. Tursunov were recognized through this verdict and other court decisions.

By the verdict of the same court in criminal case No. 1-1006-2203/5 dated March 16, 2022, a group of law enforcement officers were brought to criminal responsibility for exceeding their official powers. In several instances, they illegally drew up protocols to bring citizens to administrative responsibility, managed to obtain court orders for administrative arrest for some, illegally detained them for several days, and even inflicted moderate bodily harm on one person using illegal force (they were also charged with a combination of crimes under Article 104, part two, clause "i" of the Criminal Code). Additionally, according to the verdict of the Samarkand City Criminal Court in criminal case No. 1-1401-2101/909 dated January 14, 2022, an internal affairs officer T.A. was accused of transporting citizen B. Biktimirov from Tashkent to

Samarkand in handcuffs and detaining him for more than 15 hours without granting him any procedural status.

Upon analysis, in the last two cases, although events occurred in the lives of these individuals that do not constitute grounds for rehabilitation under our current legislation - as they were not unreasonably suspected or accused, i.e., not subjected to unfounded criminal liability, but only to administrative liability - they experienced no less suffering than those victimized by law enforcement agencies in the previously mentioned criminal case No. 1-1006-2101/36, who were illegally prosecuted. Moreover, according to the verdict in criminal case No. 1-1006-2101/36, citizen I. Tursunov's actions indicate a high degree of victimological culpability, as evidenced by his association with drug traffickers, joint consumption of alcoholic beverages, purchase of drugs, and subsequent abandonment of his criminal intent.

In investigative and judicial practice, a misconception has formed that persons legally suspected and accused, particularly those subjected to freedom-restricting coercive measures and criminal penalties, can be rehabilitated. However, those who have served illegal administrative detention or been detained without any official status cannot be rehabilitated. Analysis of Questionnaire No. 1 demonstrates this.

Therefore, in the verdict of the Gallaoral Criminal Court dated September 10, 2019, in criminal case No. 1-1305-1901/50, the judge addressed the rights of the victim - who was brought to the internal affairs building in handcuffs without any formal procedural documents, subjected to harsh treatment, detained for over 3 hours, suffered minor injuries at the hands of law enforcement officers, and whose relatives were informed about the illegal conduct and detention - by stating: "Explain the right to apply to the civil court for compensation of material and moral damages caused by the crime." In fact, it was not explicitly stated that this constitutes a right to rehabilitation.

The formation of such practice naturally depends, first and foremost, on the content of legal norms. In Resolution No. 18 of the Plenum of the Supreme Court of the Republic of Uzbekistan dated June 23, 2023, "On Certain Issues of Judicial Practice Regarding Compensation for Harm and Restoration of Other Rights of a Rehabilitated Person," a resonant definition was given: "Rehabilitation is the restoration of violated rights and freedoms of a person who has been subjected to unjustified criminal prosecution." However, since the term "criminal prosecution" is not used in the Criminal Procedure Code, it did not change the range of persons eligible for rehabilitation, and

individuals who were not officially granted the status of a suspect or accused remained ineligible for rehabilitation.

In fact, adhering to the external appearance of suspicion or accusation while making a mistake on factual grounds should lead to rehabilitation, just as non-compliance with procedural form should not preclude rehabilitation. The reason is that in both situations, a person experiences mental anguish, may suffer physical harm, their "reputation is tarnished," they feel humiliated, and in practice, they may lose their position, business opportunities, and property. It's no coincidence that half a century ago, albeit a relative opinion, A.F. Koni stated that an acquitted person would still be remembered as having done something disgraceful.[38]

The subsequent rehabilitation of a person who has not been involved in a criminal case as a suspect or accused, or who has been illegally detained under administrative arrest or in an administrative procedure without being assigned any status, or based on false information, raises questions about an unjustified expansion of the scope of rehabilitation, its procedural mechanism, and the emergence of excessive state expenses on the basis of rehabilitation. The main criteria for the rehabilitation of such persons should be the application of torture and other cruel, inhuman or degrading treatment or punishment by law enforcement bodies and their employees, or the restriction of their freedom of movement, as well as the recognition of the right to rehabilitation.

CONCLUSION

Based on the above definitions, views, opinions, and considerations regarding the concept of rehabilitation and the mechanisms for its implementation, we consider it necessary to define the rehabilitation of a person in criminal proceedings as follows:

Rehabilitation in criminal proceedings is a type of legal rehabilitation, a complex socio-legal phenomenon expressed through a set of legal measures. These measures are aimed at restoring the violated rights, legitimate interests, and good name of individuals who were suspected or accused of committing a crime due to errors in law enforcement agencies' crime-fighting activities. Additionally, it applies to persons who, even without being formally given such status, have had their freedom of movement restricted or have been subjected to torture and other cruel, inhuman, or degrading treatment or punishment by law enforcement agencies or their employees. The process includes compensating for material and moral damage caused to these individuals and ensuring their full reintegration into society.

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