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**INCENTIVE NORMS IN MILITARY CRIMES: AREAS FOR IMPROVING
THEORY, PRACTICE, AND LEGISLATION**

Abdullaev Abdugaffor Abdullaevich

Independent applicant of the University of Public Safety of the Republic of
Uzbekistan

Abstract: This article analyzes the theoretical and practical aspects of liberalizing liability for crimes against the established order of military service and introducing incentive-based legal norms. Drawing on international experience, the article substantiates mechanisms for exempting military personnel who have sincerely repented of their actions from punishment. The study focuses on strengthening the social and legal protections for military personnel by amending the Criminal Code of the Republic of Uzbekistan, retaining qualified personnel within the armed forces, and improving the moral and psychological climate in military units.

Keywords: military crimes, incentive-based norms, military discipline, criminal liability, liberalization, sincere repentance, defense capability, Armed Forces, rights of military personnel, mitigation of punishment, legal reforms, judicial and legal system, prevention, military jurisprudence, social rehabilitation.

Introducing incentive-based norms for crimes against the established order of military service is crucial for strengthening national security and humanizing the criminal justice system. Based on international experience, applying incentive mechanisms to rehabilitate and reintegrate a service member who has committed a crime plays a vital role in social rehabilitation and the retention of military personnel.

In the current, rapidly changing geopolitical landscape, the combat readiness and military discipline of the Armed Forces are of decisive importance in protecting the independence and sovereignty of any state. Crimes against the established order of military service are not merely individual offenses but socially dangerous acts that directly threaten the state's defense capability. However, the liberalization of the concepts of crime and punishment in global legal systems, along with new standards for human rights protection, necessitates a shift away from purely repressive (punitive) methods towards the use of incentive-based norms in combating military crime. In global practice, harmonizing the principle of the inevitability of punishment with the principle of humanism by providing positive incentives and the opportunity to atone for one's guilt has become a pressing issue in fostering a spirit of law-abidingness among military personnel. The experience of developed countries shows that excessively harsh punishments for military crimes do not always yield the expected results; on the contrary, they often hinder the service member's social rehabilitation and their ability to fulfill their future duty to the Motherland.

Understanding the essence of crimes against the procedure for performing military service and introducing incentive-based norms in this sphere remains one of the most



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complex and contentious issues not only in national legislation but also in international military-legal doctrine.

When analyzing the views of scholars in this field, it is first necessary to note the diversity in the definitions given to the very concept of a military crime.

For example, Kh.M. Akhmetshin, one of the leading theorists in the field of military law, characterizes military crimes as socially dangerous acts directed against the state's defense capability and the combat readiness of the Armed Forces, committed by military personnel or individuals called up for military training. In his opinion, "the primary object of such crimes is the legally established procedure for performing military service, the violation of which causes irreparable damage to the command and control system and discipline of the troops"[6].

However, modern legal scholars, including A.A. Ter-Akopov, propose evaluating military crimes not merely as technical or administrative violations, but as a betrayal of a person's moral and legal duty to the state. According to Ter-Akopov, "when analyzing the subjective aspect of a military crime, it is crucial to consider the individual's psychological state and the influence of service conditions, as an act committed under extreme circumstances is fundamentally different from crimes in ordinary civilian life. For this reason, emphasizing that the use of purely repressive methods in punishing military crimes morally weakens the system, he advocates for the need to encourage the individual to correct their mistake by introducing incentive elements"[7].

Our national scholars, particularly M.Kh. Rustambayev, assess crimes against the procedure for performing military service as a factor that threatens national security in their research. According to M.Kh. Rustambayev, "the acts stipulated in Chapter 31 of the Criminal Code directly strike at the system for protecting the state's sovereignty. At the same time, during the period of humanizing criminal legislation, he notes the need to enrich the principle of the 'inevitability of punishment' with the principle of 'just punishment' in the fight against military criminality"[8]. This, in turn, creates a scientific basis for applying incentive-based norms to a service member who has admitted their guilt and sincerely repented of their actions.

In this regard, another scholar, N.A. Petukhov, while analyzing the activities of military courts, points out that for maintaining military discipline, not only imprisonment but also penalties such as service restrictions or assignment to a disciplinary unit can have an incentive-based character. In his view, if an individual demonstrates positive behavior while serving a sentence, a mechanism for reducing the term of service or commuting the sentence serves the service member's reintegration into society (rehabilitation) [9].

George Fletcher, in his concept of "Rethinking Criminal Law," interprets military crimes as a "violation of specific obligations." In his opinion, "a service member is bound to the state by a greater chain of obligations than an ordinary citizen. However, the state, in turn, also undertakes the obligation to protect the service member's rights"[10]. Fletcher considers the introduction of incentive-based norms as a restoration of the "social contract" between the state and the individual. That is, if a service member makes a mistake but takes active steps to correct this mistake (for example, by compensating for damages or



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demonstrating courage), the state must take into account their past service and future potential.

This approach is also supported by the English lawyer Andrew Ashworth. Speaking about the principle of proportionality of criminal law, Esworth emphasizes that punishment should be proportional not only to the harm caused by the person, but also to the probability of his correction. In his opinion, "the absence of incentive norms in the military sphere turns the system into a "fear machine," which in real combat conditions can stifle the initiative of servicemen"[11].

Russian scientist A.V. Naumov interprets the object of war crimes more broadly, connecting it not only with the order of service, but also with the "sacredness of military duty." Nevertheless, he advocates for the direct transfer of incentive norms from the general part of criminal law (for example, repentance, compensation for damage caused) to military crimes of the Special Part. According to A. Naumov's position, "a war criminal is not always a hardened criminal, but often a victim of circumstances or a person who made a mistake due to inexperience. Therefore, the application of special types of exemption from criminal liability to him contributes to the preservation of the state's defense resources[12].

This idea was continued by L.V. Inogamova-Khegay, who scientifically substantiated that the strictness of sanctions in military legislation encourages servicemen to conceal crimes, while incentive norms, on the contrary, increase the level of confession (appearance with guilt) and assistance to the investigation[13].

CIS lawyers, such as I.I. Rogov, pay special attention to the distinction between "combat situation" and "peacetime" when characterizing war crimes. In their opinion, "incentive norms for war crimes committed in peacetime (for example, the loss of military property or short-term departure from a unit) should be very broad. This prevents the mass prosecution of personnel. But in a combat situation, they believe that encouragement should be associated only with the presentation of heroic or extremely important information. In our opinion, it is also necessary to apply these views to national legislation, since this proposal is based on the above-mentioned scientists' concept of compensation for economic damage not by criminal punishment, but by economic incentives.

In conclusion, although crimes against the order of military service have a specific object representing the military power of the state, the measures applied to the persons who committed these acts should not have only a punitive function. Encouraging norms are a means of restoring the honor and dignity of military personnel, creating opportunities for them to continue their professional activities, and thereby ensuring the moral integrity of the Armed Forces. Analysis of scientists shows that the more accurately and fairly the incentive mechanism is developed, the higher the level of military discipline and law-abidingness. This serves as a theoretical basis for reforming military legislation in the legal policy of New Uzbekistan.

Leading legal scholars of the world advocate for the use of incentive norms, not limited to repressive measures, in the prevention of crimes against the order of military service.



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In particular, theorists such as A.I. Boysov emphasize that incentive norms in criminal law are a means of achieving not only humane, but also socially beneficial results for the state and society [14].

Representatives of world military jurisprudence, including such scholars as V.G. Strekozov and I.I. Kotlyarov, consider the provision of the opportunity to atone for the guilt of a serviceman in accordance with international humanitarian law standards, taking into account the specifics of military service [15].

Furthermore, representatives of the Western legal school, A. Ashworth and J. Fletcher, note that by reviewing the principles of criminal law, harmonizing the principles of the inevitability of punishment and justice, and encouraging sincere repentance by the guilty party, increases the effectiveness of the system [10,11].

In the resolutions of the Plenum of the Supreme Court of the Republic of Uzbekistan on crimes against the order of military service, it is noted that military property is subject to return as state property in any case or recovery of its value. Thus, the main goal of the law is the return of property and compensation for losses. From this point of view, if the guilty person voluntarily compensates for the damage within a short period after the discovery of the crime, their release from criminal liability or non-application of imprisonment does not contradict the interests of the state and society, but, on the contrary, serves them [12].

Analysis of the criminal legislation of advanced foreign countries shows that incentive norms for crimes against the order of military service are widely used not only as a means of mitigating punishment, but also as a means of restoring military discipline and preserving professional personnel.

In the US military justice system (UCMJ), the incentive mechanism is implemented through the institution of "Non-judicial punishment" (Article 15), where the command has the right to resolve minor offenses without a court hearing, without labeling a person as a criminal, which serves to encourage positive behavior of the serviceman and preserve his service career [30].

In German military criminal law (Wehrstrafgesetz), the concept of a citizen in military uniform is prioritized, in which liability for military crimes is considered in close connection with general criminal law, and the mechanism of personality rehabilitation is widely used by applying disciplinary measures instead of criminal punishment for acts that do not pose a great public danger [31].

In the French system, the Military Justice Code (Code de Justice Militaire) is aimed at ensuring a balance between human rights and military necessity, and the military serviceman's admission of guilt and voluntary compensation for damages serve as grounds for significantly reducing punishment or exemption from liability [33].

The Criminal Code of the Russian Federation and a number of other CIS countries (for example, in the commentaries on Articles 337 and 338 of the Criminal Code of the Russian Federation) strictly stipulates that military personnel who have committed such crimes as unauthorized abandonment of a military unit or desertion for the first time, and



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which were caused by difficult life circumstances, may be released from criminal liability if they voluntarily return[34].

Foreign experience of recent years, in particular, in the legislation of states participating in military operations, new types of incentive norms are being introduced, such as the successful performance of combat missions by military personnel or the awarding of state awards, which serve as a basis for the complete release of a person from liability for previously committed crimes or the removal of a criminal record. These international trends in the fight against war crimes are based not only on punishment, but also on the principle of restorative justice (restorable justice), which contributes to the social and military rehabilitation of the individual[35].

In accordance with Article 66 of the Criminal Code of the Republic of Uzbekistan, in the cases specifically specified in the relevant article of the Special Part of the Criminal Code, a person who has committed a crime must be released from liability in the event of actual remorse for their actions. For the practical application of this exemption from liability, the relevant article of the Special Part of the Criminal Code stipulates that a person's actual remorse for their actions, refusal to proceed with the case, and termination of proceedings are resolved in accordance with paragraph 8 of part 1 of Article 84 of the Criminal Procedure Code[13].

Such crimes include special norms provided for exemption of a person from criminal liability in Articles 122, 123, 155, 155², 157, 160, 177, 178, 180, 181, 181¹, 184, 185², 188, 189, 190, 192⁹, 197¹, 211, 212, 213, 223, 244², 244⁴ and 248 of the Special Part of the Criminal Code[3].

When detecting crimes provided for in the special part of this Criminal Code during a pre-investigation check or in the process of resolving a criminal case by terminating a part of the criminal case, refusal or termination of proceedings under this clause creates difficulties for officials.

Thus, according to the results of a survey conducted among respondents, based on the results of this type of pre-investigation check, it was noted by many that within 30 days after the discovery of the fact, the application of the person who committed the crime of giving a bribe should be attached to the case file or, if it is submitted in a registered form, the case file against this person should be resolved according to paragraph 2 of Article 83 of the Criminal Procedure Code[6].

We, also agreeing with the opinion of the majority of the above-mentioned respondents, must acknowledge that paragraph 8 of part one of Article 84 of the Criminal Procedure Code was introduced in accordance with the Law of the Republic of Uzbekistan "On Amendments and Additions to the Criminal and Criminal Procedure Codes of the Republic of Uzbekistan" of December 27, 2010, and the purpose of adopting this law is to quickly expose committed grave and especially grave crimes, fully compensate victims for damages caused by crimes, and ensure the release of citizens from liability by maintaining an active position in identifying these types of crimes.

However, the pre-investigation check or preliminary investigation of persons who have applied for the detection of bribery crimes, or a person who has voluntarily reported



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the presence of illegal weapons and ammunition, in accordance with this paragraph of the Criminal Procedure Code, may lead to the fact that in the future they will remain silent in such cases, and ultimately, the intolerance of society towards crime will disappear.

Several factors contribute to this. Firstly, according to the Regulation approved in accordance with the Resolution of the Ministry of Internal Affairs, the Prosecutor General's Office, the State Security Service, the State Customs Committee, the National Guard, and the Supreme Court of the Republic of Uzbekistan dated November 15, 2021, No. 70, 71-qq, 30, 01-02/22-56, 34, 16/1020-21, in cases of refusal to initiate or termination of a criminal case on the basis of paragraphs 1, 2, 3, 6, 8 of part 1 and part 5 of Article 84 of the Criminal Procedure Code, all types of statistical cards are filled out in relation to this person with the assignment of a criminal case number, and the recording in the information center of information equivalent to a convicted person infringes upon the interests of such persons[14].

Secondly, as a result of the fact that such accounts remain in the information center as a convicted person, the exact registration of these accounts in the database received by citizens through the Unified Portal of Public Services harms the interests of these persons in employment and other similar relations.

Taking into account the above circumstances, we consider it expedient to exclude the obligation to fill out any statistical cards when recording cases related to paragraph 8 of part 1 of Article 84 of the Criminal Procedure Code in this Regulation on the Procedure for Maintaining the Unified Information System "Electronic Criminal-Legal Statistics"[15].

The implementation of this change in practice, that is, preventing the registration of information about such persons among convicted persons in the Center for Legal Statistics and Operational Records of the Ministry of Internal Affairs, will increase the activity of persons assisting in the detection of crimes, and on the other hand, will lead to an increase in citizens' confidence in the state's policy in the criminal-legal sphere.

At the same time, it is unclear why war crimes are left out in terms of exemption from this type of liability. For example, the absence of an incentive or exemption from criminal liability for crimes provided for in Articles 295-296 of the Criminal Code, in our opinion, is unacceptable. Because military property and material assets are valued not only as a material reserve of the state, but also as the country's defense capability, and it is important to replenish it in a short time[16].

In paragraph 5.4 of the Resolution of the Plenum of the Supreme Court of the Republic of Uzbekistan dated September 15, 2000 No. 23 "On Judicial Practice in Cases of Crimes Against the Procedure for Performing Military Service," it is stated that "Wasteful spending is expressed in the sale, pledge, or transfer of clothing and equipment for use to another person. An inevitable sign of wasteful spending is the transfer of clothing or equipment provided for personal use from the possession of a serviceman to the illegal possession of another person. Since wasted military property always remains state property, in any case, it is seized from illegal possession, and if it is impossible to return it, its value is recovered from the guilty party in multiples"[17].



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Therefore, we believe that exempting military personnel from liability, and thereby ensuring the prompt replacement and replenishment of military property, serves the interests of the state and society. For this reason, we consider it appropriate to amend certain articles of the Criminal Code.

In conclusion, the issue of introducing incentive norms for crimes against the order of military service is extremely relevant from the point of view of improving criminal law policy based on the principles of humanism, justice, and effectiveness, ensuring the interests of state defense, and raising the legal awareness of military personnel. The principle of "for human dignity," put forward by the President of our country, should be reflected in all areas of criminal legislation, including in the sphere of war crimes. The changes proposed in this article serve precisely these strategic goals and are assessed as a scientific and practical step aimed at harmonizing incentive mechanisms along with punishment in the fight against crime.

REFERENCES:

1. Constitution of the Republic of Uzbekistan [Text]: April 30, 2023. - Tashkent: Uzbekistan, 2023. - 80 p.
2. Criminal Code of the Republic of Uzbekistan [Text]: September 22, 1994 (with amendments and additions). - Tashkent: Adolat, 2024. - 420 p.
3. Law of the Republic of Uzbekistan "On Defense" [Text]: May 11, 2001. - Tashkent: Uzbekistan, 2023. - 32 p.
4. Mirziyoev Sh.M. Ensuring the Rule of Law and Human Interests - a Guarantee of the Country's Development and People's Well-being [Text]. - Тошкент: Ўзбекистон, 2017. - 48 p.
5. Resolution of the Plenum of the Supreme Court of the Republic of Uzbekistan No. 23 "On Judicial Practice in Cases of Crimes Against the Procedure for Performing Military Service" [Text]: September 15, 2000. - Тошкент, 2020.
6. Joint Resolution of the Ministry of Internal Affairs, the Prosecutor General's Office, the State Security Service, the State Customs Committee, the National Guard, and the Supreme Court of the Republic of Uzbekistan "On the Procedure for Maintaining the Unified Information System "Electronic Criminal-Legal Statistics" [Text]: November 15, 2021. - Тошкент, 2021.
7. Ashworth A. Principles of Criminal Law [Text]. - Oxford: Oxford University Press, 2022. - 618 p.
8. Fletcher, G.P. *Rethinking Criminal Law*. - Oxford: Oxford University Press, 2000. - 920 p.
9. Rustambayev M.H. Course of Criminal Law of the Republic of Uzbekistan. Volume 5. Special episode. Crimes against the procedure for military service. - Tashkent, 2018. - 456 p.
10. Akhmetshin Kh.M. Military Criminal Law: Textbook. - Тошкент, 2020. - 412 p.
11. Ter-Akopov A.A. Crime and Responsibility. Moscow: MNEPU, 2003. - 400 p.



Date: 3rd March-2026

12. Boysov A.I. Incentive norms in criminal law. - St. Petersburg: Legal Center Press, 2018. - 240 p.
13. Naumov A.V. Russian Criminal Law. General Part: Course of Lectures. - Тошкент, 2020. - 784 p.
14. Petukhov N.A. Social and Legal Foundations for the Prevention of Crimes by Military Personnel. - M.: Military University, 2003. - 210 p.
15. Inogamova-Khegay L.V. Criminal Law. General and Special Part: Textbook. - Тошкент, 2021. - 528 p.
16. Oleh Shkuta, Maksym Korniienko, Mykola Yankovyi Foreign experience in preventing military and economic crimes // November 2022 Baltic Journal of Economic Studies 8(4):185-190
17. Security of Ukraine Vol. 37, N° 65 (julio-diciembre) 2020, 136–155 Cuestiones Políticas Esta revista fue editada en formato digital y publicada en julio de 2020, por el Fondo Editorial Serbiluz,
18. Universidad del Zulia. Maracaibo-Venezuela. DOI: <https://doi.org/10.46398/cuestpol.3865.11>Iacono, W. G. (2001). Forensic ‘lie detection: Procedures without scientific basis. Journal of Forensic Psychology Practice, vol. 1, no. 1, pp. 75–86.
19. Saldziūnas, Vitas, Kovalenka, Aleksandras (2013). Legal Régulation and Practice of Psychophysiological Polygraph Examinations in the Republic of Lithuania. Polygraph, vol. 42(3), pp. 137–145. Shkuta, O. (2020).
20. Crimes in the Military Sphere: Reasons and Conditions. European Reforms Bulletin, vol. 2, pp. 74–77.
21. Law of USA (1951). Uniform Code of Military Justice. Available at: <https://www.law.cornell.edu/uscode/text/10/subtitle-A/part-II/chapter-47>
22. Law of Germany (1957). Wehrstrafgesetz. Available at: <http://www.gesetze-im-internet.de/wstrg>Dmytrenko, N., & Shkuta, O. (2022). Crime in the Armed Forces of Ukraine: criminological characteristics and prevention: monograph. Kherson, Ukraine. Armed Forces Act, 2006
23. FOREIGN EXPERIENCE IN PREVENTING MILITARY
24. AND ECONOMIC CRIMES

