



## Concept, nature and history of arbitrary crime

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### ABSTRACT

This scientific article describes the history and understanding of the origin of arbitrary crime not only in ancient times, but also in the Middle Ages and modern times. In addition, the analysis of criminal legal norms related to arbitrariness in the Republic of Uzbekistan is briefly presented. Qadimgi jamiyatlarda dastlabki huquqiy tizimlar.

### Keywords:

Hammurabi, Lex Talionis, Proportional punishments, social hierarchy, Feudal societies, Napoleonic code, Cesare Beccaria.

### Early legal systems in ancient societies

In ancient civilizations, legal systems were often based on customary laws and religious codes. Violations of social norms are dealt with through religious or community-based sanctions.

The Code of Hammurabi, begun in 1754 BC, is one of the earliest known collections of written laws. It originated in ancient Mesopotamia, specifically in the Babylonian city of Babylon during the reign of King Hammurabi. The codex consists of 282 laws inscribed on stele and covers a wide range of subjects, including criminal law, civil law, and family law. The code reflected the social norms and legal principles of its time. In the Code of Hammurabi, legal principles were generally based on a system of lex talionis, or "law of retribution," where punishments were often proportionate to the offense committed. Although the code aimed to establish justice, it also reflected the idea of social hierarchy and revenge. Some of the key points related to liability in the Code of Hammurabi are:

**Lex Talionis:** An eye for an eye and a tooth for a tooth is a central feature of the code. This principle reflects the concept of proportionate retribution for wrongdoing.

**Proportionate Punishments:** The severity of punishments in the Code of Hammurabi often depended on the nature of the offense. This attempt to ensure that the punishment was proportionate to the harm caused reduced the possibility of arbitrary or excessive punishment. The code covers criminal and civil cases. Offenses such as theft, assault, or adultery are dealt with and punished. It also includes rules related to contracts, property and family matters.

**Liability for Injustice:** The Code did not specifically address liability for arbitrary laws or injustice. However, it contained provisions that held judges accountable for making unfair decisions. If the judge was found to have erred in the case, they could also be punished, underscoring the importance of fair and accurate verdicts.

**Social Hierarchy:** The Code reflected the social hierarchy of Babylonian society. Punishments for crimes differed depending on the social status of the victim and the perpetrator, showing a certain degree of inequality. It is important to interpret the Code of Hammurabi in the light of its time and cultural environment. The legal principles reflected in the Codex were important in the historical development of legal

systems, but they also had limitations and were shaped by the social norms and values of ancient Mesopotamia. The Code represents the first attempt to establish a sense of justice in the laws<sup>1</sup>.

### Medieval and early modern periods

**Feudal Societies:** Feudal systems had localized legal norms and justice was often administered by local authorities. Punishments for arbitrary actions are usually determined by local customs.

**Rise of Common Law and Civil Law Traditions:** Common law and civil law traditions began to take shape in Europe. Common law, developed through judicial decisions, and civil law, based on written codes, both helped develop legal principles against arbitrary actions.

**Emergence of Legal Codes:** Various legal codes such as the Napoleonic Code in France (1804) aimed to provide a systematic and comprehensive approach to criminal law by emphasizing the principles of legality and proportionality in punishment.

**The Age of Enlightenment in Modern Times:** Enlightenment thinker Cesare Beccaria advocated legal reforms based on rationality, proportionality, and prevention of arbitrary punishment. Beccaria's work influenced the development of criminal law norms in Europe and beyond.

**Human Rights Declarations:** The Universal Declaration of Human Rights (1948) and subsequent international instruments emphasize the protection of individuals against arbitrary treatment, including arbitrary arrest and punishment.

**Modern Legal Codification:** Many legal systems have codified criminal laws to ensure clarity and consistency. Such codification often includes provisions for dealing with arbitrary actions, ensuring that penalties are proportionate and based on established legal principles.

**International Criminal Law:** Developments in international criminal law, including the creation of international criminal tribunals, help bring individuals to justice for crimes against

humanity, genocide, and other arbitrary crimes. Legal systems increasingly operate within the framework of human rights, aimed at protecting individuals from arbitrary treatment and ensuring due process. Adaptation to ongoing legal reforms and social changes helps the development of criminal law norms. Legal systems are constantly evolving to address new challenges and perspectives on justice<sup>2</sup>.

The historical development of arbitrariness-related criminal law norms reflects broader societal trends toward justice, proportionality, and the protection of individual rights. To understand the subtle development of these norms, it is important to examine the specific legal codes and historical contexts in individual jurisdictions.

The criminal law of Uzbekistan defines criminal liability for arbitrariness within the framework of certain criminal legal norms. The term "arbitrary" can be understood in the context of various crimes, but one important category is related to offenses against the rights, dignity or property of individuals.

Below is an analysis of criminal law norms related to arbitrariness in Uzbekistan:

**1. Crimes against personal freedom and dignity:**  
Articles of the Criminal Code: The Criminal Code of Uzbekistan contains provisions dealing with violations of personal freedom and dignity, including illegal actions that may be considered arbitrary.

Example: Article 139 ("defamation") and Article 140 ("insult") criminalize insults and slanders that are arbitrary and may harm the dignity of a person.

**2. Offenses Against Property:**

Articles of the Criminal Code: some property crimes may include arbitrary actions that damage the property or economic interests of another person.

Example: Article 167 ("Theft by misappropriation or theft") and Article 169 ("Theft") deal with offenses against property where arbitrariness may be a factor.

**3. Offenses against public order and safety:**

<sup>1</sup> <https://study.com/academy/lesson/history-law-overview-origins.html#:~:text=One%20of%20the%20earliest%20surviving,system%20for%20centuries%20to%20follow.>

<sup>2</sup> <https://www.britannica.com/topic/manorial-court>

Articles of the Criminal Code: actions that violate public order and security, including arbitrary actions that lead to disorder, may be prosecuted.

Example: Article 277 ("hooliganism") deals with actions that grossly disturb public order, which may include arbitrary elements.

4. Offenses against the administration of justice: Articles of the Criminal Code: Actions that violate justice, especially arbitrary actions, can lead to criminal liability.

Example: Article 236. Interference with investigations or litigation. Arbitrarily interfering with the investigation or settlement of court cases, i.e. to prevent the investigation, investigator or prosecutor from conducting a comprehensive, complete and impartial investigation, or to issue an unfair verdict, settlement decision, ruling or decision in order to achieve arbitrary influence on the judge in various forms against the law.

5. Violations against Human Rights:

Articles of the Criminal Code: Uzbekistan recognizes the importance of protecting human rights, and violations of these rights may be prosecuted.

Example: different articles may deal with arbitrary actions that violate human rights, depending on the circumstances, for example, articles 141 ("Violation of equal rights of citizens") or article 148 ("Violation of the right to work").

6. General provisions on intentional crimes:

Articles of the Criminal Code: the general provisions of the Criminal Code indicate crimes committed intentionally, and some actions can be considered arbitrary depending on their nature and lack of reasonable grounds.

Example: Article 16 ("Responsibility for a crime and its grounds") is the legal consequence of committing a crime, which is expressed by the court's sentencing, punishment or other legal impact measure against the person guilty of the crime. It states that crimes are committed intentionally and unreasonable actions can fall under this provision.

It should be noted that the specific circumstances of each case, as well as the legal interpretations of the court system, play a decisive role in determining whether this action

is considered arbitrary and whether it will be prosecuted according to the criminal law of Uzbekistan.

The concept and nature of the crime of arbitrariness, also known as hooliganism or disorder in some legal systems, includes actions that violate public order, violate the rights and dignity of individuals, or disregard legal and social norms. Specific legal definitions and consequences may vary across jurisdictions, but the general gist of the crime remains consistent. Arbitrariness often involves acts that disturb public peace and order. This may include engaging in rowdy behavior, creating a disturbance in public places, or participating in activities that endanger the safety and well-being of others.

Offenses against human dignity: Arbitrary acts may include insulting, harassing or humiliating others, violating their personal freedom or dignity. This includes verbal or physical actions that go beyond the boundaries of acceptable behavior.

Violation of legal norms: Engaging in activities that violate legal norms and rules contributes to the nature of arbitrariness. This may include disobeying lawful orders, disregarding the rules governing public places or interfering with the administration of justice.

Intent or Recklessness: In most legal systems, the crime of willfulness requires intent or recklessness on the part of the offender. This means that a person has knowingly engaged in conduct that causes a breach of public order or a violation of personal rights.

Community and Social Impact: Abuse is often criminalized not only because of its impact on victims, but also because of the potential for disruption of community order. The maintenance of public order and harmony is a key aspect of the criminalization of arbitrary acts.

Different forms and manifestations: Bullying can take many forms, from physical violence and property damage to verbal abuse and disruptive behavior in public. The essence of the crime lies in the anti-social and unjustified nature of these actions.

From the above, it can be concluded that legal definitions and consequences of arbitrariness

can vary significantly between jurisdictions. The interpretation and application of these laws depends on the specific legal framework of each country or region. Understanding the local legal context is essential to a comprehensive understanding of the concept and nature of the crime of arbitrariness.

**References:**

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2. <https://www.britannica.com/topic/manorial-court>