



HISTORY OF THE DEVELOPMENT OF LEGISLATION ON RESPONSIBILITY FOR CRIMES AGAINST MORALITY

Submission Date: July 20, 2023, **Accepted Date:** July 25, 2023,

Published Date: July 30, 2023

Crossref doi: <https://doi.org/10.37547/history-crjh-04-07-06>

Journal Website:
<https://masterjournals.com/index.php/crjh>

Copyright: Original content from this work may be used under the terms of the creative commons attributes 4.0 licence.

Tosheva Maftuna

Teacher of Academy Labor and social relations, PhD student of TDYU, Uzbekistan

ABSTRACT

The article presents the history of the development of criminal law on responsibility for crimes against morality. A comparative analysis of responsibility and punishment in relation to the types of crimes against morality and crimes committed in Ancient Egypt, Ancient Mesopotamia, Ancient India, as well as states of the ancient period, among them: the criminal legislation of the countries of Athens, Rome, in addition, on the basis of codified provisions of the criminal law of medieval states. In addition, one of the historical monuments existing on the territory of our country is the Avesta, and with the spread of Islam that penetrated into the territory of our country, according to Muslim law, the issues of crimes against morality and responsibility were considered. Crimes such as prostitution, cohabitation, debauchery, polygamy, wife cheating, grave desecration are common types of crimes against morality from ancient times to the present day. In addition, as social relations develop, the types of crimes against morality are also expanding, from which we can distinguish such crimes as the destruction of historical and cultural monuments, the distribution of pornographic products, and animal cruelty.

KEYWORDS

Crimes against morality, prostitution, brothel maintenance, debauchery, treason, pornographic products, historical and cultural monuments, grave desecration, animal cruelty.

INTRODUCTION

Morality - we know that the set of behaviors, manners, and manners that are manifested in the mutual relations of people, as well as in their relations with the family and society is understood. Morality plays an important role in human development. The role of religion in the formation of morality and its

development is huge. It is important for a person to understand two opposites - evil and goodness, good and bad - in the moral development of a person. Morality can change, develop, and disappear in a certain society and era. That's why in each era, the attitude towards morality was different, crimes against



morality were caused by violating the standards set for morality. Since the moral standards (norms) were different in different periods, crimes against morality and the responsibility and punishment measures applied to them were also different.

In recent years, We can find many news such as through the mass media, it was reported that "in Khorezm it was revealed that state officials had sex with children of the orphanage ", "A woman who set up a brothel in her home in Nukus was prosecuted", "In Urganch, an obscene video was shown on the advertising monitor "Cruel treatment of dogs: Animals are being destroyed by starving in Olot". The President of Uzbekistan signed the Law No. O'RQ-829 dated 11.04.2023 "On amendments and additions to certain legal documents of the Republic of Uzbekistan in connection with the further improvement of the system of reliable protection of the rights, freedoms and legal interests of women and children". This document is aimed at preventing such negative situations, as well as establishing strict punishments for various cases of violence against women and minors .

Also, humanitarian acts such as early parole or commutation of punishment for persons who have committed sexual violence, including sexual violence against minors, will no longer be applied, and punishments for such crimes will be made more severe. In addition, responsibility for sexual acts and harassment against women is established. So when did these crimes appear? In the history of our country, what responsibility and punishment measures were established for such crimes? This article analyzes the types of crimes against morals in the history of the world and the issues of responsibility for such crimes with the help of relevant criminal laws.

MATERIAL AND METHODS

Historical, systematic, logical (analysis, synthesis), comparative-legal methods of scientific knowledge were used in the analysis of the development of criminal law, which determines the issues of responsibility and punishment for crimes against morality. Also, historical documents such as Hammurabi's Laws, Manu's Laws, Roman Law, Sali's Truths, Avesta were relied upon for an objective analysis of the article.

RESEARCH RESULTS

The formation of the first states in the world is explained by the emergence of the ancient Egyptian state. According to the criminal law of the ancient Egyptian state, crimes against the dignity of the person, such as treason and touching honor, were considered. A wife's betrayal of her husband was considered a serious crime. In this case, the treacherous woman's nose was cut off, and her partner was castrated. Among the crimes of a religious nature - killing sacred animals was considered a serious crime, for which a person was severely punished [1, p. 23]. Also, digging a grave where a corpse is buried, burying a corpse in a prohibited place are also considered serious crimes. The ears and nose of the person who broke the grave and committed theft were cut off and put on the stake [2, b-60].

One of the unique monuments of ancient Eastern law is the Laws of Hammurabi, which existed in the state of Mesopotamia. Like other ancient codifications, the laws of Hammurabi do not have a complete definition of the concept of crime (forms of guilt, aggravating and mitigating circumstances) and a list of cases recognized as crimes. However, according to the general content of Hammurabi's Laws, crimes can be divided into four groups: crimes against the person, against property, against the family, and against the court. The composition of crimes against the family includes immorality (it should be said that in most



cases the crime was considered a crime only if it was committed by women), sex between close relatives (for example, intimacy between a father and a daughter or a mother and her son or other close relatives) was considered a crime. Misbehavior of wives, elopement of a woman from her husband, kidnapping of a married woman was considered a theft crime and was severely punished [3, p-66]. If a man's wife is caught cheating with another man, it is established that they should be tied and thrown into the water[4, Article 129]

The laws of Manu of ancient India contain many articles on crimes and punishments. This shows the existence of acute social conflicts in the ancient Indian society: people suffered from robbery, violence, lawlessness, theft. The Laws of Manu are filled with articles on theft, robbery, kidnapping, murder, grievous bodily harm, slander, adultery, prostitution, lewdness, drunkenness, etc. Such a "variety" of crimes provided for by the law indicates the existence of a large number of poor people, people deprived of their livelihood [5, p-120]. According to the Laws of Manu, giving gifts to a stranger (Woman), fondling (her), touching her ornaments and clothes, sitting in bed with her, all (these actions) are adultery (samgrahana) and punishable by death (Chapter VIII, Article 357). This rule does not apply to the wives of actors and singers, nor to those who live on their own (wives' instigation); for such men send their wives (to others), or hide themselves, and allow them to commit crimes (Chapter VIII, Article 362). It should be said that men were not punished [5]. In addition, according to the laws of Manu, adultery and harming living beings were included among the serious crimes [6, p-77]. In addition, killing any living creature was considered a serious crime.

If we look at the criminal law of the states of ancient antiquity, despite the fact that these states made a

great contribution to the development of private law, the legal norms regulating the relationship between crime and punishment are limited. Nevertheless, in Ancient Athens any depravity and treason was considered as the subject of legal proceedings [7, p-76]. Also, treason, abduction of girls are considered serious crimes, and the death penalty is provided for such crimes. Stealing things from synagogues was considered as crime against the state [8, p-150].

In the ancient Roman state, there were crimes against family and morality: polygamy, homosexuality [9, p-228]. Also (especially under the influence of Christianity) the range of crimes related to the family and moral sphere has expanded. These include marriage between relatives, adultery, polygamy, sexual intercourse with an unmarried woman, adultery [10, p-240].

Crimes against morals constitute a separate group of crimes provided for in the Law of the Barbarians (leges barbarorum), which is the first source of German law. "if someone rapes a free girl and touches her honor, he is fined 62.5 solids" (Title XXV, Article 1), "if someone has sex with a free girl based on her consent and mutual agreement, he is fined 45 solids punishment is set (Title XXV, Article 2)" [11, p-53].

With the establishment of the Frankish empire, they created a set of laws aimed at regulating relations in society. The first codifications of Frankish law incorporated customary law writings. One of the most famous of them is the "Truth of Sali" compiled in 507-511. In "Sali's truth", a number of crimes are distinguished, which show the concept of crime. In general, according to Sali's truth, crimes are divided into 4 types. we can cite crimes against property (theft, stealing property from a grave). According to Sali's truth, Frankish criminal law also included "innocent liability", and if a group of men assaulted and raped a free woman, each of them paid a fine of 200 solid.



However, being in this group and not knowing that force was used, the persons who participated in it must also pay a fine of 45 solids. We can see these in detail in Title XIII. This section regulates defamation crimes committed by free persons [12].

Aggravating circumstances are also mentioned in Sali's truth, such as violating a number of values, that is, opening a grave and stealing something from it, attacking a woman, a young child. If someone digs up a buried corpse and robs it, and it is proved to him, it is considered illegal until he agrees with the relatives of the deceased and asks him to do so (Title LV) [13, p-239].

It should be said that the punishments applied to the crime in the Alamann reality were lighter than in the Sali's truth, for example, adultery with an unmarried girl was punishable with a smaller fine (sol 40) than that of a married woman (sol 80) [14, p-393].

By the Middle Ages, the composition of crimes, the bases of responsibility were established by judicial practice. One of the oldest sources that provides detailed answers to questions about medieval criminal law and procedure is the Carolina Statutes, adopted in 1532. According to the All-German Criminal Code, crimes such as sexual relations between close relatives, defamation, polygamy, treason, and immorality are included among crimes against morals [15].

In medieval Germany, crimes against morality and the family were considered serious crimes. "If a man commits adultery with animals, or a man commits adultery with a man, or a woman commits adultery with a woman, then they shall be put to death by burning," , if he touches the honor of a widow or a daughter, he is like a robber and must be put to death with the sword. In addition, according to the Carolina Criminal Code, crimes against morals, such as polygamy, adultery, prostitution, cohabitation, and

lewd and lascivious acts against minors, are included as theft crimes [16, b- 341].

If we talk about the sources that regulate the criminal relations of the states existing in the territory of Central Asia, Avesta is the oldest unique ancient source. In "Avesta" crimes against morality are defined as unforgivable crimes. For example, we can see that the person who committed the crime of adultery and fornication was sentenced to death without any evidence or witness and without the judgment of the priests-judges. It should be said that in "Avesta" we see that it is not forbidden to drink intoxicating drink. According to Zoroastrianism, while drinking "haom" to live happily in life strengthens friendly relations between people, sometimes by drinking "haom", is believed that impurity could be exposed the language of miscreants who become infamous for bad deeds [17, b-23]. According to the Avesta, beating, harming, and killing animals were crimes against property, and those who committed crimes against animals were punished with 400-800 lashes, torture with iron weapons heated in fire, and slavery. The death penalty was also used for such serious crimes [18, p-128]. In addition, in "Avesta" the elements of nature - earth, water, air, fire - were considered sacred. Therefore, burying human corpses, dumping them in water, and burning them in fire are among grave sins, and those who commit such crimes are punished with 400-800 lashes [19, p-130].

When the Arabs conquered the territories of Central Asia, they paid special attention to the spread of Islam in this region. With the spread of Islam, Sharia rules became the main means of regulating social relations. From the beginning of the 7th century, Islam became the dominant religion in Transoxiana and controlled all aspects of community life, but in practice it also adapted to the conditions of Turan. "Sharia is not only practiced as a religious-legal system, but it consists of a set of institutions covering social and spiritual life,



having a deep impact on people's historical, cultural, national and legal traditions, moral views and life."- writes academic A.X.Saidov [20, p-442]. In Transoxiana, citizenship, land, family- marriage, inheritance and other issues of private law are regulated by the norms of the Hanafi school of Islamic law. Criminal cases were considered and resolved based on these criteria [21, p-204]. According to Islamic criminal law, any offense is a sin. Islamic criminal law divides crimes into three main groups: a) crimes that violate the rights of God and the entire Muslim community, such crimes are punishable by specific punishment (sanction) - hadd; b) crimes that violate the rights of individual persons and are punishable on the basis of exact revenge, kavad and diya - blood price rules; c) crimes of other categories - tazir [22, b-78].

In the Qur'an and hadiths, specific punishments are defined - a group of hadd crimes: theft, robbery (gasb), crimes against morals and dignity; drinking alcohol, keeping a brothel, violation of trade rules, gambling in cases of aggravated guilt, fraud. In such crimes, it was not possible for the parties to be forgiven, pardoned or reconciled. The punishment given to them is called "hadd" and is given only by court verdict, often execution, stoning, hanging, dismemberment and other forms, or whipping, caning 40-100 punished by flogging. After that, he had to repent and wash away his sins. Apart from these, punishments such as deprivation of liberty, confiscation of property, imprisonment, exile and banishment were imposed. Hadd was often performed in public places, markets or arcades [23, p-280].

It should be said that with the adoption of the Criminal Code of the Uzbekistan SSR in 1926, a new era in the field of criminal law began in Uzbekistan. In this code, the types of crimes that are part of crimes against morality are listed in scattered articles, including in article 211 of chapter 4, which is called crimes in the

field of sexual relations, engaging in sexual relations with a minor is punishable by imprisonment for a period of not less than 3 years, referring to article 212 in case, it is envisaged to be deprived of freedom for a period of not less than 5 years for satisfying sexual desire with a minor in a corrupt form. In Article 213, committing indecent actions against a minor is punishable by imprisonment for up to 5 years, and in Article 216, forcing to engage in prostitution under physical or mental pressure is punishable by imprisonment for a period of not less than 3 years and strict social isolation. If we look at article 217, deprivation of liberty for a period of not less than 3 years and deprivation of all or part of property is provided for cohabiting or keeping a brothel. It should be said that the initially adopted Criminal Code did not include the crimes of preparation, distribution, import of pornographic products. Criminal code edited in 1935, in Article 941, the preparation, distribution and advertising of pornographic essays, as well as for the purpose of selling and selling them The offense of possession is punishable by imprisonment for up to 5 years with confiscation of such products. In addition, in Article 166 5 of the Criminal Code of 1932, it is a criminal offense to treat horses and camels (especially pregnant camels) in collective farms, car and horse stations, such actions lead to the death of the horse or its incapacitation - imprisonment for up to 6 months is imposed. As for the specificity of this article, the Soviet government did not intend to protect animals, the labor force of animals was more important for this country. The proof of our statement is confirmed by article 166 6 of this criminal code, we can see that criminal liability was established for the death or incapacitation working bulls, oxen and camels. The thing that unites the Criminal Codes of the Uzbekistan SSR in general is that crimes against morals, such as destruction and damage of objects of cultural heritage,



as well as grave desecration, cruel treatment of animals, are not included.

After the independence of Uzbekistan, a new Criminal Code was adopted on September 22, 1994, and among the types of crimes against morals, Article 128 included sex with a person under the age of sixteen, Article 129 - sexual intercourse with a person under the age of sixteen Crimes such as committing obscene acts against an absent person and desecration of a grave were established in Article 134. In the following years, the articles of the Criminal Code continued to improve, and among the crimes against morals, they were enriched with articles such as preparation and distribution of pornographic products, maintaining and conspiring in a brothel, destroying and damaging historical and cultural monuments, and cruel treatment of animals.

CONCLUSION

In conclusion, it should be said that criminal law, which establishes responsibility for crimes against morality, has developed as a result of various reasons and factors.

1. It is necessary to distinguish the historical traditions of the law in force within Uzbekistan from the sources of Muslim law. Because, from the earliest times to the 21st century, various religions have been dominant here, and various historical states have been established and practiced. Therefore, when it comes to the criminal law in practice in the current territory of Uzbekistan, the importance of the Zoroastrian holy book "Avesta" as a source of law, the customary rights of the Turks, as well as Muslim law, the largest secular legislation code - "Temur Laws", as well as legal or written decrees in the Uzbek khanate regarding criminal punishment issues, penal rights not provided for in the Sharia, Criminal Code which were

implemented in our country after the Soviet occupation.

2. Issues of responsibility for crimes against morality have developed with the emergence of different religions in society. In particular, with the advent of Buddhism, cruelty to animals and killing them was considered a serious crime, animals were considered sacred. With the advent of Christianity, the range of crimes against the family and morals expanded in Ancient Rome. With the widespread spread of Islam, crimes such as adultery, treason, keeping a brothel were considered serious crimes.

3. The Criminal Code of the Uzbek SSR, which defines responsibility and punishment for crimes against morality, is not perfect, because: 1) these crimes are given in scattered articles; 2) some types of crimes are not included in the scope of crimes against morality. For example, grave desecration, destruction of cultural heritage objects.

4. The articles of the first Criminal Code of the Republic of Uzbekistan during the period of independence, which regulate immoral criminal issues, were not complete, certain acts were not included in the crime list, changes and additions were made in the following years, some acts were criminalized, for example: creation and distribution of pornographic products; keeping a brothel; cruelty to animals.

REFERENCES

1. Istoriya gosudarstva i prava zarubezhnix stran: [History of the state and law of foreign countries] ucheb. / KIBatir, IAlsayev, GSKnopov [i dr]; pod ed. KIBatira. - 5 izd., perepab. i dop. - M.: Prospekt, 2009
2. Muhamedov H. History of the state and law of foreign countries



3. (history of the states and law of the ancient world): textbook for students of higher educational institutions/ Responsible editor: AXSaidov. Part 1. - T.: TDYUI publishing house, 2005.
4. Iskakov IJ, Prokopenko VN, Starodubsev Yu.I., Shilova A.Ye., Istoriya
5. gosudarstva i prava zarubezhnix stran: [History of state and law of foreign countries] Uchebnik. V 2 t. T. 1 / Pod obsh. ed. IJ Iskakova. — SPb.: Izdvo Universiteta pri MPA YevrAzES, 2019.— 240 c.
6. Zakoni vabilonskogo sarya Hammurabi /<https://www.hist.msu.ru/ER/Etext/hammurap.htm> [The laws of the Babylonian king Hammurabi. Available at: /<https://www.hist.msu.ru/ER/Etext/hammurap.htm>]
7. The laws of Manu. (Manusmrti) Translated by George Bühler. The laws of Manu. Vol. 25 of Sacred books of the East. Oxford. Clarendon Press, 1886
8. Iskakov I. J., Prokopenko V. N., Starodubsev Yu. I., Shilova A. Ye., Istoriya gosudarstva i prava zarubezhnix stran: Uchebnik. [History of state and law of foreign countries: Textbook] V 2 t. T. 1 / Pod obsh. ed. I. J. Iskakova. — SPb.: Izdvo Universiteta pri MPA YevrAzES, 2019. — 240 c.
9. Chernilovsky ZM Vseobshaya istoriya gosudarstva i prava. [Universal History of State and Law] – M., Jurist, 1996, S-76.
10. Istoriya gosudarstva i prava zarubezhnix stran: Uchebnik dlya vuzov [History of the state and law of foreign countries: Textbook for universities]: V 2 ch. Ch. 1 / Pod obsh. ed. d. yu. n., prof. O. A. Zhidkova and d. yu. n., prof. N. A. Krasheninnikova. — 2nd ed., ster. — M.: Norma, 2004. — C
11. Kuchma VV Gosudarstvo i pravo drevnego mira. Course lecture [the State and law of the Ancient world. A course of lectures.]. Volgograd: Izdatelstvo "Offset", 1998. S-228
12. Istoriya gosudarstva i prava zarubezhnix stran: Uchebnik dlya vuzov [History of the state and law of foreign countries: Textbook for universities]: V 2 ch. Ch. 1 / Pod obsh. ed. d. yu. n., prof. O. A. Zhidkova and d. yu. n., prof. N. A. Krasheninnikova. — 2nd ed., ster. — M.: Norma, 2004. C-240
13. Muhamedov H. History of the state and law of foreign countries (history of the states and law of the ancient world): [History of the state and law of foreign countries (history of the states and law of the ancient world)] For students of higher educational institutions textbook/ Responsible editor: AXSaidov. Part 2. -T.: TDYUI publishing house, 2005. B-53.
14. The Salic Law. (Gengler, "Germanische Rechtsdenkmaeler," p. 267.) Henderson, Ernest F. Select Historical Documents of the Middle Ages London : George Bell and Sons, 1896.
15. Prudnikov. — 6ye izd., pererab. i dop. M.: Izdatelstvo Yurayt; ID Yurayt, 2013. — 811 p. — Series: Bachelor. Basic course.
16. Istoriya gosudarstva i prava zarubezhnix stran: Uchebnik dlya vuzov: [History of the state and law of foreign countries: Textbook for universities:]V 2 ch. Ch. 1 / Pod obsh. ed. d. yu. n., prof. O. A. Zhidkova and d. yu. n., prof. N. A. Krasheninnikova. — 2nd ed., ster. — M.: Norma, 2004. C-393
17. Istoriya gosudarstva i prava zarubezhnix stran: ucheb. / KIBatir, IAlsayev, GSKnopov [i dr]; pod ed. KIBatira. – 5 izd., pererab. i dop. – M.: Prospekt, 2009. – p-200. [History of the state and law of foreign countries:]
18. Gafsky V. G. Vseobshaya istoriya prava i gosudarstva [Universal History of Law and State]: Uchebnik dlya vuzov. - 2nd ed., pererab. i dop. — M.: Norma, 2007. — 752 p.
19. Boboyev H., Dostjonov T., Hasanov S. "Avesta" - a priceless monument of the peoples of the East.



["Avesto" is an invaluable monument of the peoples of the East.] TMI, T.:2004. B-23.

20. In that place. B-128

21. In that place. B-130

22. Saidov AX Sravnitelnoye pravovedeniye [Comparative Law: A textbook]: Uchebnoye posobiye / Otv. ed. VATumanov, - T: "Adolat", 1999. -p. 442.

23. Islamic law: [Islamlaw] Textbook for higher educational institutions. - T.: "TDYUI" publishing house, 2007. B-204

24. Musulmanskoye pravo. [Muslimlaw] (Institute of Structure and Basic Law). M., "Nauka", 1984, p. 78.

25. History of the state and law of Uzbekistan. [History of the state and law of Uzbekistan.] Textbook for students of higher educational institutions. - T.: "Adolat", 2003. - 280 pages. _ In the title, the Ministry of Higher and Postgraduate Special Education of the Republic of Uzbekistan named after Alisher Navoi Samarkand State University

