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# SOME ISSUES OF THE QUALIFICATION OF HOOLIGANISM

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# ABSTRACT

The article explores the criminal law and criminological aspects of hooliganism, develops relevant proposals, recommendations and conclusions in this direction.

# **K**EYWORDS

Hooliganism, public order, social relations, motive of hooliganism, qualification, criminal-law and criminological measures.

# NTRODUCTION

In the world, the fight against crimes against public order and public safety is gaining global importance, since hooliganism accounts for 22% of the total number of crimes, increasing by 9% annually[1]. According to statistics presented in the UN Global Study on Children Deprived of Liberty report by the end of 2019, crimes committed from hooligan motives amounted to 37%. In international acts, special attention is paid to the revision of legislation in order to establish proper responsibility for crimes, to facilitate law enforcement practice in every

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possible way. The above indicates that the reform of criminal legislation, ensuring the correct application of the norms of the Criminal Code defining responsibility for hooliganism, the correct qualification of the act and the appointment of a fair punishment are priorities.

In the international arena, the study from the scientific and practical point of view of criminallegal and criminological measures to counter crimes committed from hooligan motives; the concepts, meanings and essence of the system of delineation public order protection: of administrative criminal hooliganism; and qualification of hooliganism, causing grievous bodily harm from hooligan motives; criminallegal protection of public relations acquires urgent importance, protecting public order; criminological aspects of hooliganism and crimes committed from hooligan motives.

In our country, special attention is paid to the protection of public order, the reform of criminal legislation, improving the practice of applying the norms of the Criminal Code that protect public order, crime prevention, improving the activities of law enforcement agencies and courts, strengthening compliance with the principles of justice and humanism, a number of targeted

measures are being implemented. Thus, the definition of "improving and liberalizing the norms of criminal and criminal procedure legislation, decriminalization of certain criminal acts, humanization of criminal penalties and the procedure for their execution" as priority areas for the development of the country's criminal legislation, indicate the need for research in this area[2].

Public order is the basis for the functioning of democratic institutions, a necessary condition for the realization of the rights and legitimate freedoms of citizens, as well as a guarantee of the stability of the daily life of the state and society.

Encroachment on public order as a specific feature of the object of hooliganism is expressed in causing damage to various social relations (personality, her health, property rights) covered by one rule of law - Article 277 of the Criminal Code.

Public order is defined as a system of public relations arising on the basis of voluntary or mandatory compliance by members of society with the norms of law, morality and other generally recognized rules of conduct that serve to ensure the normal functioning of enterprises,

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institutions and organizations, the preservation of all forms of ownership, respect for the honor and dignity of citizens [3].

Although hooliganism is considered a multiobject crime, a violation of public order is a mandatory feature of this act, it is public relations related to ensuring public order that is the main direct object, and health, physical integrity, property rights of persons, public safety, management order is an additional direct object of this crime.

It is necessary to divide simple and complex signs of hooliganism into the following forms:

- 1) deliberate disregard for the rules of behavior in society, coupled with beatings;
- 2) deliberate disregard for the rules of behavior in society, involving the infliction of minor bodily injuries;
- 3) deliberate disregard for the rules of behavior in society, coupled with the destruction of someone else's property;
- 4) deliberate disregard for the rules of behavior in society, involving the destruction of other people's property and causing bodily injury;

5) deliberate disregard for the rules of behavior in society, involving the destruction of other people's property, beatings and causing bodily harm.

Actions not covered by the above circumstances should not be assessed as criminal hooliganism.

A mandatory sign of the subjective side of hooliganism is intent, that is, a violation of public order by the guilty or a clear manifestation of disrespect for him through the use of violence against a person, damage or destruction of his property; the motive of the act is a mandatory sign of the subjective side of hooliganism, a feeling that encourages the guilty without any external reason or for a minor reason to demonstrate disregard for generally recognized rules of morality, rights and interests of others; the purpose of this crime is the internal need of the perpetrator to commit a hooligan act unrelated to the external situation[4].

As a result of the study of theoretical, legal and criminal practical aspects and criminological aspects of hooliganism, the following proposals, recommendations and conclusions have been developed:

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- 1. At each stage of the development of the norms of the law defining responsibility for hooliganism. public danger was assessed its an encroachment of the criminal on public order, the norms of morality established in society. With the development of criminal legislation, responsibility for certain crimes committed from hooligan motives has been strengthened, introduced into the law as a separate qualifying circumstance.
- 2. The author's definition of hooliganism is given: "Hooliganism is a deliberate violation of public order, a threat of murder or violence, beatings, causing minor bodily injuries that caused a health disorder or destruction or damage to someone else's property, causing significant damage."
- 3. The "motive of hooliganism" can be defined as a feeling (desire) that prompts the guilty person to demonstrate disregard for the generally recognized rules of morality, the rights and interests of others without any external reason or for a minor reason.
- 4. Based on the comparative legal analysis of crimes against public order in the Criminal Code of a number of European states, it is justified:

- 1) hooliganism is not provided in any of them as an independent corpus delicti:
- 2) the main direct object of crimes against public order is public relations that ensure public order and peace;
- 3) the norms protecting public order provide for:
- a) violence or the threat of violence (Criminal Code of Spain, Switzerland, Germany, the Netherlands);
- b) destruction or damage to property (Criminal Code of Spain, Switzerland, Germany, Austria, Holland);
- c) commission by a group of persons (Spain, Switzerland, Germany, Austria, France);
- d) has a public character (the Criminal Code of Spain, Switzerland, Germany, France);
- e) the use of weapons (the Criminal Code of Germany, France).
- 5. It is proved that security means the protection of interests important for the life of the state, society and the individual from internal and external threats, public security, expressing the

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security of the individual and society, is a separate part of the integral security of the state.

- 6. Considering the correct application in the criminal legislation of a number of foreign countries, such as Belarus (Article 339 of the Criminal Code), Kazakhstan (Article 275 of the Criminal Code), Ukraine (Article 296 of the Criminal Code), Tajikistan (Article 237 of the Criminal Code), Russia (Article 213 of the Criminal Code), Georgia (Article 239 of the Criminal Code), namely the term "public the expediency from the point of view of the correct definition of the main direct object of the crime and the correct solution of the issue of responsibility, in article 277 of the Criminal Code of the Republic of Uzbekistan, the introduction of the words "public order" instead of the words "rules of conduct in society" is justified.
- 7. Since hooliganism is a multi-object crime, when it is committed, a violation of public order is a mandatory feature, public relations related to ensuring public order are the main direct object; health, physical integrity, property rights of persons, public safety, management procedure are an additional direct object of hooliganism.

- 8. Hooliganism is among the crimes with an alternative composition. When committing intentional disregard for the rules of behavior in society, coupled with beatings, the onset of criminal consequences is not required. Deliberate disregard for the rules of behavior in society, which has entailed such consequences as causing minor bodily injury or destruction or damage to someone else's considered property, is hooliganism, which has a material composition.
- 9. In part 1 of Article 277 of the Criminal Code in the Uzbek version, it is advisable to leave "beatings" instead of the words "beatingbeatings". Russian Russian has proved that this, first of all, will ensure a uniform presentation of the text of the Criminal Code in Uzbek and Russian (in the Russian text of the Criminal Code is indicated not as "beating-beatings", but only "beatings"); secondly, the inclusion of "beatings that did not cause bodily injury" in the framework of petty hooliganism is the basis to determine responsibility for this form of hooliganism under Article 183 of the Administrative Code.
- 10. It is advisable in Article 277 of the Criminal Code, after the words "causing slight bodily injury", the words "entailing health disorders", to

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supplement part 1 with the words "threat of murder or use of violence".

11. Analysis of the disposition of Article 277 of the Criminal Code allowed us to identify the following signs of the object of hooliganism: a simple mandatory sign (deliberate disregard for the rules of behavior in society), a complex mandatory sign (beating-beatings, causing bodily injury, destruction or damage to property). It is proved that in the second case, signs of hooliganism may simultaneously have one or more circumstances specified in the law.

In the work, simple and complex signs of hooliganism are divided into the following forms:

- 1) deliberate disregard for the rules of behavior in society, coupled with beatings;
- 2) deliberate disregard for the rules of behavior in society, involving the infliction of minor bodily injuries;
- 3) deliberate disregard for the rules of behavior in society, coupled with the destruction of someone else's property;

- 4) deliberate disregard for the rules of behavior in society, involving the destruction of other people's property and causing bodily injury;
- 5) deliberate disregard for the rules of behavior in society, involving the destruction of other people's property, beatings and causing bodily harm.
- 12. It is proved that hooliganism from the subjective side is committed with direct and indirect intent, hooliganism from the subjective side is committed with direct and indirect intent, since the person committing hooligan acts in most cases is indifferent to the consequences that arise (55% of respondents), there is an indefinite type of intent.
- 13. The motive of hooliganism is defined as a feeling (desire) that prompts the guilty person, without any external reason or for a minor reason, to demonstrate disregard for the generally recognized rules of morality, the rights and interests of others.
- 14. Due to the fact that the national legislation does not define the concept of "juvenile", while the Civil Code establishes that persons under the age of 14 are understood as "minors", it is

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proposed to replace the term "juvenile" in Article 277 of the Criminal Code with the words "a person under the age of 14-summer age".

15. In order to prevent mistakes made by investigative and judicial authorities, it is recommended to exclude from Article 277 of the Criminal Code the concepts of "bullying", "elderly" and "disabled" ("elderly" and "disabled" are persons in a helpless state, the expediency of their expression in a single concept is justified).

16. In practice, there are also cases of hooliganism against two or more persons, since this act is often qualified as repeated hooliganism, which contradicts the rule provided for in article 32 of the Criminal Code, it was proposed to include in part 3 of article 277 the paragraph "against two or more persons".

17. It is advisable to exclude from paragraph "d" of Part 3 of Article 277 of the Criminal Code the words "to a representative of the public", since the concept of "other citizens suppressing hooligan behavior" also includes a representative of the public.

18. The establishment of responsibility separately for hooliganism committed with the use of cold weapons in part 2, firearms – in part 3 of Article 277 of the Criminal Code is incorrect. A number of norms of the Criminal Code define responsibility for crimes committed "with the use of weapons or objects that can be used as weapons", all crimes committed with the use of firearms, cold weapons and other objects that can be used as weapons are qualified on this basis. Proceeding from the above, the expediency of determining responsibility for hooliganism committed "with the use of weapons or objects that can be used as weapons" in paragraph "b" of part 3 of Article 277 of the Criminal Code is proved.

19. Taking into account the impossibility of expressing the concept of "exceptional cynicism" on the basis of clear criteria, admitting serious shortcomings in investigative and judicial practice in assessing such circumstances, the possibility of committing petty hooliganism provided for in article 183 of the Administrative Code, obscene language in public places, insulting harassment of citizens and other similar acts, and also considering that hooliganism itself expresses cynicism, it is proposed to exclude this feature from Article 277 of the Criminal Code.

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- 20. Criminological characteristics of a bully's personality include socio-demographic, criminallegal and moral-psychological characteristics of a person. These criteria not only reveal the essence of the bully's personality, but also make it possible to identify existing problems and shortcomings in this area. This, in turn, serves as the basis for the development of effective preventive measures against persons who have committed hooliganism.
- 21. Persons who have committed hooliganism, according to the depth and stability of the antisocial orientation, are divided into random, unstable. situational. malicious. especially malicious criminals[5].
- 22. In order to eliminate the problem of regulating the organizational and legal foundations of the prevention of hooliganism, the need to clarify and consolidate the following three main issues in the law is justified: firstly, the rights and obligations of subjects engaged in prevention; secondly, the rights and obligations of persons in respect of whom preventive measures are being implemented; thirdly, the rights and obligations of persons, victims of crimes (victim status).

- 23. It is proved that the growth of hooliganism implementation of requires the special prevention, while special prevention requires the possession of special, professional knowledge by the subjects of prevention, including the constant use of special tools and methods at the professional level.
- 24. The main elements of individual prevention of hooliganism are:
- a thorough study of the persons against whom individual prevention is carried out;

development of an effective system of preventive measures based on the individual characteristics of individuals;

planning, organization of preventive maintenance and implementation of individual supervision.

25. It is proved that the system of measures of victimological prevention of hooliganism should be carried out in the following directions:

carrying out preventive measures against persons who have a high probability of suffering from hooliganism, taking into account individual

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and socio-psychological characteristics of the person;

teaching the population, including those who have a high probability of suffering from hooliganism (high level of victimization), ways to resolve conflict situations:

development and implementation of special comprehensive measures aimed at ensuring the physical and psychological safety of persons who may suffer from hooliganism; informing them about the methods and means of self-defense provided by law;

regular monitoring of places (territories) where hooliganism is relatively common;

legal education and education of the population through the wide dissemination of information about the necessary defense and extreme necessity in cases of attack by hooligans.

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