The social necessity and history of the establishment of criminal liability for hooliganism
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Abstract: The article deals with the social necessity of criminal liability for hooliganism, history of development, the nature of hooliganism, responsibility for hooliganism, moral and customary norms, public order, the sign of “social danger” of crime, analysis of administrative cases on petty hooliganism, judicial practice of petty hooliganism, social danger, signs, peculiarities of hooliganism, the emergence of the concepts of “hooliganism”, “hooligan”, the development of laws establishing liability for hooliganism, the concept of hooliganism under the Sharia law, the specific features of the concept of “hooliganism” comments have been reported.

Key words: criminal law, hooliganism, petty hooliganism, hooliganism, responsibility, public order, norms of morality and custom, social danger, intention for hooliganism.

Introduction: Hooliganism and the fight against it have always been one of the most pressing issues. If we look at the essence of bullying as a phenomenon, it is based on the use of violence against an individual, the implementation of this violence in disregard of the rules of conduct established in society.

The fact that in each state the rules of conduct of citizens and the observance of established norms is a priority, the inclusion of these rules in the law allows us to assess the attitude of the state to it.

Scientists believe that when studying socially dangerous phenomena in society, it is necessary to seriously study the nature of hooliganism as the most aggressive phenomenon in society, to determine what aggressive actions underlie it. “The crime of hooliganism is arrogant and disregardful of relations based on universally recognized rights and morals in society, which in turn undermines vital human rights and freedoms.”

V.I. Zarubin notes that “in different periods of historical development, aggression, which is now considered a hooliganism, was considered a common occurrence, group fights, violence, shameless acts were common among the villagers and did not need to be regulated by law.” It therefore appeared that such customary norms and rules of conduct could not be clearly defined by the state. The norms of morality and customs embedded in the norms of law form the basis of the concept of “public order”, which is legally strengthened in all spheres of life, protected at the state level. It is through the content of this concept that legal norms of morality and custom are given a legal character, and then they are considered as a new concept of law.

“As real social relations develop, the need to protect them will become the legal content of criminal law,” he said. This process shows that the norms of criminal law are directly related to the will of the members of society. The above
rules are considered to be important for the state and are included in the criminal law. Article 277 of the Criminal Code provides for liability for hooliganism. Hooliganism as a type of crime harms the “public order” that forms the basis of public life. Therefore, in order to protect the interests of society and citizens through the adoption of laws, the state introduces rules of conduct that everyone must follow. In our country, too, the legal framework for maintaining public order has been created, and special regulations have been adopted in this regard. In particular, Article 4 of the Law of the Republic of Uzbekistan “On Internal Affairs” states that “maintenance of public order and public safety” is one of the main activities of law enforcement agencies.5

Hooliganism is a violation of public order, a denial of the norms of criminal law, a violation of the law expressed in protesting against them. Violation of the rights and interests of a person who is a part of society is prohibited by criminal law. Therefore, it is necessary to take into account the above points in the general definition of hooliganism as a phenomenon contrary to society.

Hooliganism is the aggressive behavior of an individual or a group of individuals in relation to another person, committed in an immoral manner, which denies and violates the norms of morality recognized by society, representing the concept of public order, prohibited by the threat of punishment by the state, society and is an act harmful to the person.

Hooliganism as an offense is primarily against the interests of the state and society and is not aimed at a specific person. The reason is that a person's honor and dignity, health and life are protected by other norms of criminal law. The specificity of bullying is expressed in its threat to public order. Therefore, we believe that some clarification should be made in the concept of hooliganism.

It is well known that the “social danger” sign of a crime means that the act causes serious, often irreversible, damage to social relations. AV Kudelich rightly states that “it is impossible to determine the content of the social danger of crimes in the field of public order and safety, protection of the rights and interests of citizens, without clarifying the mechanism of negative impact of these crimes on these concepts, without determining the nature of damage to legally protected interests.” emphasizes.6

They cannot be compared because the rules of ethics and the legal force of criminal prohibitions are at different levels. It should be noted that the legal regulation of public order is determined by the trust of society (members) in the state. In a democratic state governed by the rule of law, public order, justice, and the provision of trust are manifested as acceptable external conditions for the emergence and existence of moral, customary norms. Thus, criminal norms strengthen citizens' confidence in justice by protecting the moral norms established in society.

The need to take into account many aspects in determining liability for bullying requires a different approach to its study. The purpose of such a study is to develop a clear framework for the application of the law in the field of public order.

In a survey we conducted among law enforcement officers, 96% of respondents said that the establishment of criminal liability for hooliganism is important in
maintaining public order. Also, 4% of respondents said that administrative liability for hooliganism is sufficient, and that the consequences of hooliganism should be assessed as a crime against a person or property, which will serve to properly qualify crimes in the activities of judicial authorities.\(^7\).

Minor hooliganism and criminal hooliganism, which are administrative offenses, will also be aimed at disrupting public order, which is necessary for people's peace, normal rest, and the implementation of socially useful activities. Damage to public order, that is, the degree of expression of objective signs, is the main criterion for their differentiation. The distinction between administrative and criminal offenders is made on the basis of an analysis of the signs of hooliganism in the law, the identification of cases of its occurrence.

When we studied the administrative cases of petty hooliganism, we saw that some of them (4%) could also be considered as crimes. Such acts were classified as administrative harassment if the harassment did not result in personal injury or damage to property. We believe that the reason for such qualification of the practice was the explanation given in the decision of the Plenum of the Supreme Court of the Republic of Uzbekistan dated 14.06.2002 “On judicial practice in cases of hooliganism” №-9. If the decision does not result in the use of obscene language or swearing in public, obscene acts or insulting people, as well as disturbing public order and public order, the act is considered a petty hooliganism under Article 183 of the Criminal Code. shown to be evaluated by the article\(^8\).

However, acts related to the violation of public order in connection with beatings are part of criminal hooliganism. But in practice, such actions are assessed as petty hooliganism.

This requires an in-depth study of the social dangers, symptoms, and specifics of bullying. In conclusion, the social danger of bullying is characterized by a violation of the system of regulated social relations, the socio-psychological and individual-psychological order in society; such an act arouses panic, anxiety, fear of citizens, serves as a “model” for those whose behavior is unstable due to its openness; it can be said that the bully openly reveals that he poses a threat to society through his actions.

The social danger of bullying and its specific aspects cannot be clearly assessed without studying the history of the development of the norms of criminal law for which the responsibility for this act is established.

The emergence of the concepts of “hooliganism” in the literature is associated with the English-speaking countries - England, the United States. In England, the word “hooligan” was coined around the middle of the 19th century to refer to very rude quarrelsome people in south-east London who were included in a legal document called the Prevention of Crime Act. According to scholars in the United States, Europeans who immigrated to North America used to call the Hindus who fought against them “hooligan.”

The issue of crime and punishment in the history of statehood of Uzbekistan can be divided into four periods: pre-Islamic period (until the end of VII century), the period of Islamic rule (late VII to early XX century), the former Soviet period (1920s
to 1991). period) and the present, i.e. the period of independence (post-1991 period). It would also be appropriate to study the development of laws establishing liability for hooliganism in connection with these periods.

In the pre-Islamic period, the book of the Zoroastrian religion “Avesto” contained certain criminal prohibitions in the territory of our country. According to this book, Zoroastrianism cannot tolerate evil, but urges to fight against the violation of human rights with all its might: “Let man strive for truth and justice, man has the right to live happily, no one has the right to deprive man of life and rights.”.

According to Zoroastrianism, good understanding, good intentions, eloquence, and knowledge of good deeds are used to show kindness to the poor and strangers. Human qualities such as abstaining from pain, torturing and killing animals, keeping one's word, staying true to one's faith, paying one's debts on time, and being free from deception and betrayal are understood. So, since those times, the individual, society and its interests, the maintenance of order in society have played an important role, and the actions against these social relations have been strongly condemned.

At the end of the 7th century, with the spread of Islam in the country, Islam began to play an important role in public administration. Criminal and punitive issues are resolved on the basis of Sharia law. Islamic criminal law recognizes three categories of offenses based on the penalties imposed for crimes:
- Crimes punishable by retaliation or diya;
- Crimes punishable by a fine;
- Correctional punishments" - minor crimes.

Hooliganism is not considered a separate crime in Islamic criminal law. However, it is necessary to strictly follow all the rules of conduct established in society. Those who did not follow these rules were severely punished. At that time, it was the violation of public order (now disobedience to the authorities, hooliganism, pickpocketing, petty fraud) was punished. These offenses could range from 5 to 39 lashes or up to six months in prison or a fine. In addition, crimes related to the violation of public order could be subject to public humiliation, warning of a judge or ruler, disciplinary conversation and other measures of influence, depending on their severity.

Socially dangerous acts such as intentional homicide as a result of harassment were assessed as homicide or bodily injury.

By the beginning of the 20th century, the Bukhara, Khiva and Kokand khanates were abolished and replaced by the former Soviet republics of Uzbekistan, Kyrgyzstan, Kazakhstan, Tajikistan and Turkmenistan. Since then, the legal system of the Uzbek SSR, including criminal law, has been regulated on the basis of separate regulations.

During this period, the need to combat those who violated public order, treated it with disrespect, and interfered with the peaceful life, work and leisure of citizens, created the need to establish liability for hooliganism in the criminal law of the former Soviet Union.

As a result, hooliganism was originally enshrined in Article 176 of the 1922 Criminal Code of the RSFSR as an independent criminal component. The disposition
of this article defines hooliganism as “an act of arbitrariness, aimlessness, manifested in obvious disrespect for an individual or for society as a whole”. This offense is punishable by forced labor or up to one year in prison. Hooliganism was included in the so-called “other aggressions against a person and his honor” section of the criminal law, along with crimes such as insult, slander, and false reporting.

The above definition of harassment has raised some questions. First, there were questions about the futility of actions in hooliganism. According to psychology, any human behavior is the result of complex voluntary activity and has a specific motive and direction. The fact that bullying is expressed not only in relation to society, but also in disrespect for individuals has also caused some controversy. The representation of this sign in the concept of bullying has drastically changed its content, drawing attention away from individual relations between individuals as well as away from social relations that ensure public order.

Later (in 1924) the concept of crime was changed to remove the sign of “aimlessness” and “disrespect for the individual” from hooliganism. Hooliganism committed for the first time was assessed as an administrative offense and was punishable by forced labor or a fine.

In 1926, Article 176 Part 2 of the Criminal Code, which provides for liability for hooliganism, was supplemented. According to him, the failure of the police or the person responsible for stopping the crime or the person responsible for stopping the crime to stop such actions was assessed as an aggravating circumstance. Hooliganism was so widespread in those days that in 1926 a special resolution “On measures to combat hooliganism” was adopted. It basically recommended that the courts impose a sentence of imprisonment of at least three months for hooliganism, prohibiting exemption from liability and parole.

In 1926, the criminal laws of all the member states of the Union were adopted. The first Criminal Code of the USSR was adopted in 1926, which did not provide for liability for hooliganism. Hooliganism was first included in the 1959 Criminal Code of the USSR as a socially dangerous act in the section “Crimes against public order and public safety” and remained in force until April 1, 1995. This chapter provided for liability for crimes committed against public relations aimed at ensuring public order and public safety at the same time.

Hooliganism is provided for in Article 204 of the Criminal Code of the USSR, and consisted of three parts, which were amended several times before the law was repealed. Aggravating circumstances of hooliganism (Article CC204, parts 2, 3) were included in the category of serious crimes.

Intentional acts of gross violation of public order and open disrespect for society, as well as repeated petty hooliganism within a year by a person prosecuted for petty hooliganism, were assessed as criminal hooliganism. The perpetrator could be sentenced to one year in prison or the same term of correctional labor or a fine of up to two hundred soums. As we can see, the social relations that provide public order are seen as the object of bullying. Through his actions, the hooligan violated public order, the rules of conduct established in society. The “ordinary hooliganism”
specified in Part 1 of Article 204 of the Criminal Code of the USSR, in contrast to petty hooliganism, could harm not only public order, but also other values protected by law.

According to the structure of the objective side, hooliganism was considered a crime of a formal nature, ending from the time when the public order was grossly violated or openly disrespected to society.

The concept of public order refers to the system of relations established in society that ensures public peace, the exercise of their rights and obligations by citizens and organizations. Since this concept has a broad meaning, any crime violates this order. In addition, such acts that did not take place in a public place were classified as hooliganism because bullying in public was not indicated as a necessary sign. The fact that the practice staff at that time was disrespectful to the society could qualify any action under Article 204 of the Criminal Code of the USSR. In other words, the focus is on the subjective aspect of the crime, its motive and purpose, which is the basis of the concept of “intent to commit hooliganism”.

Part 2 of Article 204 of the Criminal Code of the USSR establishes liability for aggravated hooliganism. Acts of “ordinary hooliganism” are inherently arrogant or arrogant, or committed by a group of individuals, or in opposition to a government official or public figure in charge of maintaining public order, or to other citizens who have taken measures to prevent hooliganism, committing, as well as committing by a person previously convicted of hooliganism, constituted “extreme hooliganism”.

Liability for actions specified in part 1 or 2 of part 3 of Article 204 of the Criminal Code of the USSR was intended.

It was also considered a crime for persons who had previously committed petty hooliganism to commit such acts again before the expiration of the term of administrative liability. Subsequent amendments to the criminal law abolished the criminalization of petty hooliganism.

Article 204 of the Criminal Code of the USSR did not provide for criminal consequences. This norm was qualified only by the fact that Article 80, paragraph 2, of the Criminal Code of the Uzbek SSR established liability for intentional homicide as a result of hooliganism.

However, according to the decision of the Supreme Court of the former Soviet Union of October 16, 1972 “On Judicial Practice in Cases of Hooliganism”, bodily harm, violence or personal injury, long-lasting and persistent violations of public order, destruction of property, was considered a vicious act of hooliganism, manifested in a blatant disrespect for society, which led to the suspension of the activities of institutions, organizations and public transport. Therefore, any damage to the health of a person, destruction of property is qualified by Part 2 of Article 204 of the Criminal Code of the USSR.

Violent bullying, which is characterized by extreme arrogance, is characterized by open disobedience to generally accepted moral norms, shameless actions, laughter at the sick, the elderly, the weak, and disrespect.
Chapter 20 of the Criminal Code of the Republic of Uzbekistan, adopted on 22 September 1994, is entitled “Crimes against Public Order” and Article 277 provides for liability for hooliganism.

In contrast to the 1959 Criminal Code, Article 277 (1) and (2) of the current Criminal Code classify crimes as less serious and less serious. Deliberate acts of hooliganism, consisting of gross violations of public order and outright disrespect for society, have now been re-evaluated as petty hooliganism.

According to Article 277 (1) of the Criminal Code, in order to assess an act as hooliganism, intentional disregard of the rules of conduct in society, beatings, minor bodily injuries or damage or destruction of another's property must be committed in large quantities.

Crimes related to hooliganism have also been systematized, and hooliganism has included minor and moderate bodily injury, destruction of property or damage to property as a result of hooliganism. Article 97 (2) (l) of the Criminal Code provides for liability for intentional homicide as a result of hooliganism, and Article 104 (2) (e) for causing grievous bodily harm. In addition, circumstances aggravating liability for harassment have been clearly identified to prevent its extended interpretation.

Based on the study of the stages of development of criminal law for hooliganism, it can be said that the fight against hooliganism is based on the socio-political system of society and the criminal law policy of the state - assessed as a violation of moral norms. With the development of criminal law, the liability for certain crimes committed as a result of hooliganism has been aggravated and included in the law as a special qualifying circumstance.
References

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