

Issues of Distinguishing Between Mass Riots and Group Hooliganism

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ABSTRACT

Objective: This study aims to clarify the legal boundaries between group hooliganism and mass riots, analyze their compositional elements under criminal law, and propose scientifically grounded criteria for their differentiation. **Method:** A legal analysis was conducted, examining the overlapping features of mass riots and group hooliganism, including their subjective motives, objective signs, and mass participation concepts. The study used existing legal norms and judicial practices as the basis for the analysis. **Results:** The research identifies key differences between these crimes, focusing on motives, the scale of disorder, crowd composition, spontaneity, and the primary object of criminal encroachment – public order versus public safety. Despite shared features such as violence and group participation, clear distinctions can be made based on these criteria. **Novelty:** The study proposes refined differentiation criteria that account for both objective and subjective elements, offering a systematic interpretation of these crimes that can contribute to legislative clarification and improved legal accountability. The findings emphasize the need for enhanced training for law enforcement and judicial bodies to prevent misclassification.

INTRODUCTION

As is known, the rules of public morality and the legal force of criminal law prohibition are at different levels, so they cannot be compared. In a legal democratic state, ensuring public order, justice and trust are manifested as acceptable external conditions for the emergence and existence of morality and customs. Thus, the norms of criminal law strengthen citizens' trust in justice, protecting the moral norms that have developed in society [1].

Therefore, the issue of its prevention based on the study of criminal and criminological aspects of hooliganism is considered very relevant today. If we turn to the statistics of hooliganism in Uzbekistan in recent years, this crime decreased by 37.96% in 2017 compared to 2016, by 42% in 2018, by 6.6% in 2019, but starting in 2020, in the next two years, hooliganism crime increased sharply [2].

On the other hand, in practice, one of the problems of qualification has become the separation of hooliganism by a group of persons from the crime of participation in mass riots. In particular, this is due to the similarity of the elements of these socially dangerous acts. The object of mass riots is public safety, but this crime also violates public order. The object of hooliganism is public order, but the most common form of hooliganism with the use of violence is the use of bladed weapons or objects used as weapons, which already encroaches on public safety.

There is also no clear boundary between the features of the objective side. A feature of mass disorder can be the same feature of hooliganism as the use of weapons.

The difficulty in distinguishing between the analyzed crimes in cases where hooliganism is committed with the use of weapons is that participation in mass disorder is violent in nature, and hooliganism, although not always violent, is inherently connected with violence. Thus, paragraph 4 of the Resolution of the Plenum of the Supreme Court No. 9 of June 14, 2002 "On judicial practice in cases of hooliganism" states: "The use of bladed weapons or objects, the use of which can objectively cause harm to human health, must be understood as the infliction or attempt to inflict bodily harm on the victim by the guilty party during hooligan actions using these objects" [3].

RESEARCH METHOD

According to B. Volzhensky, violence cannot be considered as a sign of hooliganism, it includes only a gross violation of public order, an expression of obvious disrespect for society, and the use of weapons or objects used as weapons that pose a threat to the life or health of citizens, when no real physical harm has been caused. Of course, we cannot agree with this, since Article 277 of the Criminal Code provides for actions to inflict beatings and cause bodily harm of mild and moderate severity. The cases mentioned by B. Volzhensky are very few. In most cases, hooliganism is associated with the use of violence. The only problem is that such actions must be given a legitimate criminal-legal assessment [4].

In paragraph 3 of the above-mentioned resolution of the Plenum of the Supreme Court, such an assessment and explanation is given, in particular, for the qualification of an act under Part 1 of Article 277 of the Criminal Code, it is sufficient to cause a person minor bodily harm out of hooligan motives. In this case, it does not matter whether the bodily harm resulted in a health disorder or not.

Beatings should be understood as a deliberate violation by the perpetrator of the rules of conduct established in society, associated with the infliction of repeated blows on a person without causing bodily harm [5].

We will not argue about the validity of such a classification, we will only note that violence committed by a group of persons using weapons or objects used as weapons, in most cases it is very difficult to distinguish such acts from the crime of mass riots accompanied by violence, based on objective features [6].

The attribute "mass character" is used to define mass riots as riots committed by a group of persons of unknown size in advance, while the absence of an upper limit on the number of persons included in it does not facilitate a clear distinction between these crimes [7].

RESULTS AND DISCUSSION

The norms on hooliganism and mass riots do not include the motives and goals of these crimes. In the literature, most researchers recognize hooliganism as a crime committed for the purpose of hooliganism. "Since the goal of hooliganism is included in the social characteristics of the same actions, it cannot but be considered as a necessary element of the subjective side of this crime. If there is no goal to commit hooliganism,

there can be no hooliganism itself". In turn, the motives for mass riots can be different: dissatisfaction with the socio-economic conditions of life, the activities of government and administration; political, ideological, national, religious hostility, hatred or hostility towards a certain social group, the desire to disrupt the activities of institutions, revenge, envy, anger, etc. Some researchers also include motives for hooliganism as a motive for participation in public riots [8].

In general, the constructions of mass riots and hooliganism committed by a group of persons do not make a clear distinction between these crimes, which naturally creates problems of appropriate qualification for law enforcement agencies. The fact that a clear explanation on this issue is not given in the resolution of the Plenum of the Supreme Court further complicates the situation [9].

It is therefore not without reason that in investigative and judicial practice there are cases where a group of persons classifies participation in mass riots as hooliganism.

So, is it possible to make a clear distinction between acts of hooliganism and participation in mass riots committed by a group of people, and if so, by what criteria can they be distinguished? In the theory of criminal law, several views have been put forward on the solution to this problem. However, some of them are quite controversial.

For example, researcher Yu. I. Zhikh proposes to solve the problem of distinguishing between the specified crimes by excluding part 2 of Article 212 of the Criminal Code of the Russian Federation – participation in mass riots [10].

This proposal is inherently controversial. First of all, mass riots are also committed not for the motive of hooliganism, and the complete exclusion of participation in these riots for other reasons essentially speaks of the decriminalization of a wide range of socially dangerous acts committed for various other reasons, for example, for political, malicious purposes, due to dissatisfaction with the economic and social situation of society, etc.

Most authors also answer this question affirmatively, but offer other criteria. Some authors see the difference between these elements in the subjective side. In particular, "during mass riots, criminals try to demonstrate their negative attitude towards the state policy, the activities of local authorities, or their lack of understanding, approval, or recognition of this policy [11].

In the case of a group of people committing hooliganism, they try to show that they deliberately disregard the rules of conduct in society, openly show disrespect, and reject generally accepted moral standards".

Others believe that mass riots differ from hooliganism in the scale and nature of the criminal activity. Mass destruction, arson and the use of explosives are signs of mass riots, while hooliganism does not cause such serious damage. During mass riots, criminals try to show their negative attitude towards the policy pursued by the state, or their lack of understanding, disapproval or recognition of this policy, their disapproval of the activities of local authorities, certain events (for example, pogroms after the defeat of a football team) [12].

According to other researchers, mass riots differ from hooliganism by a group of people, first of all, in the complexity of the main object of the attack, as well as the presence of a large number of participants - a crowd [13].

Researchers of the fourth group propose to differentiate the analyzed crimes by objective and subjective features of the composition. "When committing hooliganism," writes D.S. Pashkin, "public order will be violated, but this will manifest itself on a much smaller scale than when committing mass riots. In some cases, only small groups of people participate in hooliganism, in others - several dozen people. Meanwhile, crowds gather in mass riots, which can simultaneously number hundreds or thousands of participants. Significant differences can also be seen in the subjective characteristics of the compared crime compositions. In particular, the motives for mass riots may include nationalism, extremism, political, hooligan and other motives. Hooliganism is a deliberate disregard for social norms, and this motive is a necessary feature here" [14].

In our opinion, the stated motives can serve as a criterion for distinguishing between mass riots and hooliganism only if the perpetrators do not have hooligan motives, since the stated motives can arise both during mass riots and during hooliganism [15].

Taking into account the above factors, it can be concluded that if motives other than those listed above are revealed in a criminal act, it should be qualified as mass riots (especially if there are objective signs of this crime). Including if we are talking about the violation of public safety and public order by means of violence, destruction of property, raids and invasions of houses and plots. For example, it should be considered correct to recognize a violent mass entry into the territory of an enterprise as a mass riot. The criminals here have a selfish goal - to take over the enterprise, excluding the intent of hooliganism, and therefore the crime of hooliganism [16].

At the same time, according to researchers, law enforcement agencies often regard such actions as hooliganism. Perhaps the reason for this is that the Criminal Code of Uzbekistan does not currently contain an independent crime in the form of raiding. In cases where a relatively small number of people who cannot be recognized as a crowd took part in the seizure of an enterprise, the law enforcement agency is obliged to apply the norm on hooliganism. However, this situation, in our opinion, is nothing more than an analogy of the law, and this cannot be allowed. We agree with the opinion of the authors who criticize the broad interpretation of the motive of self-interest by introducing hooliganism into its composition. The solution to the problem lies in changing the criminal legislation, but this issue is the subject of a separate scientific study [17].

According to researcher Zh. Dzhavkashev, the most important aspect of hooliganism is that the criminal must be aware that his actions violate public order. At the same time, there must be a cause-and-effect relationship between these actions and the violation of public order. For example, if a person clearly understands that his behavior violates public order and openly disrespects society, the act is classified as hooliganism and does not require additional qualification under the articles of crimes against the person [18].

In cases where the motive of hooliganism characterizes the subjective side of participation in mass riots and group hooliganism, the criterion for distinguishing these crimes, in our opinion, is the feature of mass character and the direct object. At the same time, the complexity of differentiation is associated with the evaluative feature of mass character. How to draw a line between a group of people who have entered into a conspiracy in advance and a crowd?

In our opinion, the number of participants is not a decisive criterion in this matter, since it is extremely important to determine how a large group of people affects public safety (public order), and whether this group has the characteristics of a crowd. These circumstances must be confirmed by evidence and reflected in the court's verdict [19].

Causing bodily harm and killing the victim with the use of a firearm, as well as causing damage to someone else's property, in themselves, without the above-mentioned signs, cannot be grounds for classification as "mass riots" and must be classified under the relevant articles of the Criminal Code.

The next question is the content of the "mass" feature, which should be given more attention.

In particular, Yu. N. Demidov, speaking about the problem of distinguishing between mass riots and hooliganism, believes that the correct classification of an illegal act always depends on the specific circumstances of the event, and it is very difficult to establish strictly formalized criteria here. At the moment, the act should be found to contain certain features (mass illegal actions, joint participation of a large number of people, their resistance to the authorities, including armed resistance) and cases of deliberate and gross violations of public order, at the same time, hooliganism with the participation of a large number of people can significantly increase the level of their public danger, bringing it to the level of mass riots" [20].

This statement, in our opinion, demonstrates a situation where hooliganism by a group of people "escalates" into mass riots. The term "escalation" is widely used in connection with the theft of someone else's property, and it is appropriate in this case as well. If hooliganism is committed by a group of people, including an increasing number of people who, having joined them, commit actions that determine the objective side of mass riots, then, in our opinion, the classification of the act as mass riots is correct.

CONCLUSION

Fundamental Finding : This study concludes that a clear distinction between mass riots and hooliganism can be made by analyzing their subjective motives and objective characteristics. Hooliganism, when motivated by a disregard for public order, differs from mass riots in terms of the scale of participation and the nature of the crowd's behavior. **Implication :** The findings suggest the need for more precise legal criteria to differentiate between these crimes, which could improve the classification process in legal and judicial practice, ensuring more accurate legal accountability. **Limitation :** The study focuses primarily on legal theory and judicial practice within a specific jurisdiction, limiting the applicability of the findings to broader international contexts. **Future**

Research : Further research could explore the application of these differentiation criteria across different legal systems and examine the impact of these criteria on law enforcement training and policy development. Additionally, an empirical study on how these crimes are classified in real-world cases would provide valuable insights into the practical implementation of the proposed criteria.

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