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Power, Punk, and Performance: A Critical Analysis of Hooligan Laws in Russia

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POWER, PUNK, AND PERFORMANCE:
A CRITICAL ANALYSIS OF HOOLIGAN LAWS
IN RUSSIA

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A Senior Honors Project Submitted in Partial Fulfillment of
Requirements of the Honors Degree Program

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Chapter I: Introduction

Introduction

At the conclusion of a 2018 concert, Russian feminist punk group Pussy Riot presented a guiding maxim to the audience: “Freedom doesn’t exist unless you fight for it every day” (Dawson, 2018, p. 16). Having been the subjects of unlawful and arbitrary punishment including prolonged detainment and compulsory labor sentences, these women have become symbols of rebellion in Russia. Besides being musicians, artists, and media outlet managers, they are, above all else, hooligans. Vaguely defined but frequently invoked, the criminal charge of hooliganism in Russia is a political tool used to suppress dissent and uphold the authoritarian ideals of Putin’s regime.

While the term ‘hooligan’ conjures images of neon costumes, environmental activists, and punk music, it is necessary to identify what legally defines a hooligan. Article 213 of the Russian Criminal Code identifies hooliganism as such:

1. Hooliganism, that is, a gross violation of the public order manifested in patent contempt of society and attended:
 - a) by the use of weapons or articles used as weapons;
 - b) by reason of political, ideological, racial, national or religious hatred.
2. The same deed committed by a group of persons by previous concert, or by an organised group, or connected with resistance to a representative of authority or to any other person who fulfills the duty of protecting the public order or who suppresses violation of public order.

Punishments include fines ranging from 300,000 rubles (about \$4,500) to 1,000,000 rubles (about \$15,000) or compulsory labor sentences. In a country where the average monthly salary is

barely 41,000 rubles, or \$625, disorderly conduct and ideas come at a large cost (“Russia average monthly wages,” 2019).

‘Hooliganism,’ in this sense of the term, is not to be confused with hooliganism in the context of sports games. While the former describes a criminal act, the latter is a generalized mode of unruly public conduct undertaken by fans to demonstrate devotion to their team through intimidation directed at the other team. Such actions may also carry racist or nationalistic overtones through violence. It is true that both meanings of the term encompass actions often frowned upon by the general public, and it is possible to draw parallels between the two. However, this distinction is necessary to narrow the scope of the paper to the parameters of Article 213 and not disorderly behavior in Russia in general.

The Russian Constitution explicitly defines the country as democratic and states a commitment to the values of international law. However, it would be naïve to claim that Russia is a fully functioning democracy. In fact, much literature holds that Putin has instituted a personalized regime with authoritarian inclinations. By equating support for his power with a “love of country and its culture,” he has crafted a political system giving him the individualized power to define both friend and foe (Smyth, 2014, p. 568). As such, there are multiple but contradicting claims to governance that use conventional democratic norms as a means rather than an end. This paper addresses the legitimacy of hooligan laws in order to test Russia’s claims to democracy, which depend partially on its success or failure in the fulfillment of human rights. If they are found to be false, then Russia has, indeed, embraced authoritarianism at the expense of the rights of its own citizens.

Research Significance

Existing in a limbo of state classification, Russia acts as a model for states seeking alternative views on the fulfillment of human rights. Its trajectory on civil and political liberties, especially the freedoms of speech and expression, could form a dark precedent for nondemocratic and authoritarian states. In this way, the punishment of alleged hooliganism acts as a proxy for the general obstruction of rights in Russia. For this reason, monitoring the state of human rights in Russia is especially critical to studies on upholding democratic norms globally.

A secondary reason why Article 213 is worthy of study is that while there has been scholarship concerning hooliganism in the past, literature about its modern forms and implications is scarce. That being said, one of the aims of this research is to offer insights about hooliganism today and how it may relate to its previous iterations. In addition, the findings in this paper can contribute to literature about crime in Russia more generally, especially as it may be seen in the context of comparative law.

While the constitution of the Russian Federation nominally affirms its status as a democracy, the reality is quite the opposite. Under Putin's regime, Russians live in a functionally authoritarian system with severely limited civil and political freedoms. In 2018, Freedom House gave Russia a Freedom Rating of 6.5, with Political Rights and Civil Liberties scores of 7 and 6, respectively ("Freedom in the world," 2018). The accompanying report details the concentration of power in Putin's office, maintained through the ability to manipulate elections at all levels of government and to limit the power of the opposition ("Freedom in the world," 2018). Under these conditions, the people have little power to speak up when authorities disregard their rights and continue to consolidate their personal power. Nonetheless, as a signatory of international laws regarding human rights and freedoms, Russia cannot avoid the responsibilities bestowed by

them. Thus, in evaluating the legitimacy of the hooligan laws, both domestic and international law will be considered.

Literature Review

Previous studies of hooliganism in Russia have focused mostly on the 20th century. Modern hooligans mainly receive the attention of journalists and human rights groups rather than scholars. At the same time, there has been no single, unified work that attempts to link the hooliganism of the past to that of the present. This fact accounts for the variety of sources employed in this paper, spanning a wide range of disciplines and time periods. Two broad themes pervade the analysis: the use of law and manipulation of norms as expressions of power and the interpretation of human rights in international law.

Power and Resistance

The question of the efficacy of defiance in the face of a looming authoritarian regime rests on themes of cultural and social power. Expressions of power, according to James Scott, are “attempts to create and maintain a certain view of what decent acceptable behavior should be” (1985, p. 23). A proper analysis of power in society must be situated in a broader “social text,” which consists of a canon of ideological, cultural, and other forces (Scott, 1985, p. 23). This view stands in contrast to more conventional understandings of power, which emphasize the role of social consensus in lending legitimacy to leaders or groups. While the norms governing acceptable behavior are constantly in flux due to changing dynamics, such as the rise and fall of socialist ideology in Russia, not all expressions of power and control are fully justified. Hooliganism, then, must be understood as being enforced according to elite notions of the social text rather than as an inevitable outgrowth of cultural norms.

According to Gramsci, social control manifests itself in the form of “domination” or of “intellectual and moral leadership” (Femia, 1987, p. 24). The latter constitutes “hegemony,” defined as “an order in which a common moral language is spoken” (Femia, 1987, p. 24). Gramsci further argued that hegemony was the “normal” form of control in advanced capitalist societies (Femia, 1987, p. 31). Elites will seek to craft and disseminate norms in order to govern public conduct, which is a product of intellectual and moral inclinations. A critical component of this process is “consent,” referring to a “psychological state” involving passive acquiescence to predefined norms (Femia, 1987, p. 24, 37). As will be discussed shortly, not all consent comes freely.

Power is further expressed and maintained through the “politics of reputation” in which societal elites possess the power to impose their norms of behavior on non-elites (Scott, 1985, p. 24). The reverse is not also true. This process is done with minimal regard to what non-elites actually perceive to be acceptable norms. When the interests of the two groups are not aligned, the former may wield their power in an attempt to persuade the latter that their interests are, in fact, aligned. This process is identified as “control by convincing” and may include minor concessions to the non-elites (Scott, 1985, p. 23).

This concept closely parallels Gramsci’s argument that elites heavily influence the “ideological sectors” of society, such as the mass media, and therefore have the means to “engineer consent” to their policies (Scott, 1985, p. 39). Such conciliatory measures are typically short-term in focus or provide benefits too small to prompt a deep solution to inequalities and injustices. In other words, though the hegemonic system may be based on consent, non-elites often “wear their chains willingly” since they are unable to perceive reality as it stands (Femia,

1987, p. 31). Consent, then, is often manufactured rather than authentic, weakening the legitimacy of elite power.

Persuasion alone is not always sufficient. In any given situation, the elites have an arsenal of coercive psychological tools and mechanisms meant to enforce compliance and deference. However, this may fall short of wide-scale violence, as such actions may stoke revolutionary sentiment. Instead, powers pursue a strategy of “routine” or “everyday” repression based on restrained intimidation which may include methods such as sporadic arrests and cumbersome legal restrictions (Scott, 1985, p. 274). While elites have a vested interest in ensuring maximal compliance with their norms, they also have a conflicting interest in minimizing risks to their rule. Hence, periods of harsh repression may be accompanied by heavy-handed efforts to maintain public trust or compliance through temporary concessions. An unbalanced power dynamic of this magnitude would be difficult to achieve in a well-functioning democracy based on accountability and the rule of law.

Elites rarely maintain complete control over the social text because of the ever-present possibility of resistance. While publicly engaging with the social text in ways that seem to reaffirm the dominance of elite values, individuals may participate in “offstage” acts—that is, those that carry subtle inclinations of resistance without directly challenging the status quo (Scott, 1985, p. 26). Compliance, then, can be performed without substance. However, scholars may dispute as to what actually constitutes resistance as opposed to subversive but isolated and apolitical actions. Scott notes that such acts are typically categorized as follows (1985, p. 292):

Real resistance... is (a) organized, systematic, and cooperative, (b) principled or selfless, (c) has revolutionary consequences, and/or (d) embodies ideas or intentions that negate the basis of dominate itself. Token, incidental, or epiphenomenal activities... are (a) unorganized, unsystematic, and individual, (b) opportunistic and self-indulgent, (c) have

no revolutionary consequences, and/or (d) imply, in their intention or meaning, an accommodation with the system of domination.

Given this dichotomy, however, Scott further argues that such a distinction is not necessary and may even hinder the study of the motivations behind and effects of resistance. More formal ways of expressing discontent often prove to be a luxury reserved for the very powers that are to be challenged. This is due to the elite's "monopoly of institutional skills and access," which forces non-elites into more informal ways of expressing their sentiment (Scott, 1985, p. 299). In this way, individuals may perform resistance through public conduct, in writing, and in concert—literally and metaphorically—with other actors. Other times, political significance is imposed by authorities, thus branding behavior as revolutionary even when such a motivation is lacking. The process operates in two directions as elites seek to maintain their control over norms but may inadvertently incite public behavior that is contrary to the norms they had constructed.

In a similar vein, critical legal studies critiques the conventional view of the origins and functions of law by presenting it as inseparable from other tools of social control rather than as a "rationalist and consensual solution to the problem of social order" (Hunt, 1986, p. 6). Legal systems, then, are not necessarily built on objective rulings but reflect the power dynamics of a society. The process of "legitimation" draws upon ideological forces to present the current order as acceptable and sustainable, while often resulting in the "reproduction of human subordination" (Hunt, 1986, p. 11). Scholars of critical legal studies would therefore be skeptical of elite claims, such as from President Putin, that laws restricting human rights are fully justified—in fact, it is possible that they instead have a self-serving purpose. This research will evaluate the dynamics of cultural and ideological power in Russia with this framework in mind.

Human Rights and the Law

A central debate in the field of international human rights is whether such rights are universal or culturally relative. Universalism argues that human rights are inherent to the individual, and as such is the prevailing viewpoint in the Universal Declaration of Human Rights (UDHR) (Callaway and Harrelson-Stephens, 2007). That is not to say that rights cannot or should not be encoded into law—in fact, this often guarantees their fulfillment by the state. However, universalism emphasizes that the law itself, including social customs, is not the source of rights. Cultural relativism claims that rights are instead “culturally or historically defined” (Callaway and Harrelson-Stephens, 2007, p. 8). As such, they can and will change over time. A brief example illustrates the tension between universalism and cultural relativism.

Chinese government officials and scholars have posited the existence of “Asian values” as an alternative to a universal view of human rights (Callaway in Callaway and Harrelson-Stephens, 2007, p. 112). The central claim is that because of the “unique features” of Asian culture, economic, social, and cultural rights (ESCRs) are given precedence over civil and political rights (CPRs) (Callaway in Callaway and Harrelson-Stephens, 2007, p. 112). As such, any effort to impose a ‘Western’ standard of human rights by promoting rights pertaining to the individual is branded as imperialistic. While this argument may hold truth, it does not address the possibility that leaders may excuse violations of rights that are not consistent with collectivist values with the purpose of increasing their own personal power. Under a paternalistic structure, activists face additional difficulty in mobilizing opposition to such actions. As will be detailed in the following chapters, Russian leaders have made similar arguments.

Debates on the proper role of international human rights notwithstanding, the rights themselves may be divided into two categories: civil and political rights, and economic, social,

and cultural rights. This designation arose after the division of the UDHR in the 1970s into two covenants, each outlining one of the categories. The former set of rights is most relevant to this paper. Civil and political rights (CPRs) include the right to self-determination, the right to a fair trial, and freedom of speech, among others. Some scholars have identified CPRs as “first-generation” rights—they must be “realized first” in order to provide for the fulfillment and enjoyment of other rights (Callaway and Harrelson-Stephens, 2007, p. 6).

States, under international law, have a special duty to fulfill human rights. Each state must “avoid depriving a person of some necessity,” “protect them from deprivation,” and “aid them when deprived” (Beetham in Callaway and Harrelson-Stephens, 2007, p. 12). This approach to human rights places less of an emphasis on the type of right that is to be fulfilled than on the means and intent of fulfillment. As such, a state that fails to carry out any one of these three tasks has, indeed, failed to fulfill the human rights of its citizens. At this point, the state in question may be eligible to receive sanctions from other states that have also signed onto the covenants. Regardless of whether a state ascribes to a more universal or cultural relativist stance, these duties stand.

However, the extent of this duty depends on the boundaries of a human right, which may not always be clearly discernable. Though, from a moral absolutist position, there would be no cases in which a right may be restricted, reality allows for a more flexible view. The exact nature of this restriction can vary, but international law sets forth standards for determining its validity. For instance, freedom of speech and expression may be limited in a state of emergency. When these rights are restricted outside of this context, as with the Russian hooligan laws, one must evaluate appeals to cultural and legal norms in the light of international standards. Using these parameters, scholars, activists, and other figures can elucidate the illegitimacy of the hooligan

laws as tools of violating civil and political freedoms. Popular resistance, then, may signal a real violation of rights concealed by distorted appeals by those in power.

Methodology

The template for the structure of this paper is derived loosely from that used by James Scott, as he illustrates a “landscape of resistance” with a “background,” “middle ground,” and “foreground” (1985, p. 48). As acts of hooliganism often resemble theatrical performances of sorts, the image of the stage is symbolically—and in the case of Pussy Riot, literally—realized. The background is that which is taken as a “given” that is “rarely, if ever, noticed” by the principal actors, which includes historical, political, and economic context (Scott, 1985, p. 48). More visibly relevant is the middle ground, which includes the “basic social and economic facts” of the issue at hand, or at the very minimum a “baseline of experienced givens” (Scott, 1985, p. 49). The foreground is the part of the stage that is central to the analysis, which is the “setting for local experience and activity” (Scott, 1985, p. 49). As the discussion of the legitimacy of the hooligan laws is primarily a legal one, the foreground for this research is the setting in which this debate takes place—among the norms and institutions of international law as they relate to Russian domestic law.

Chapter II, the background of this analysis, includes a broad overview of the development of the hooligan laws over time and how they have been used to advance elite interests. The function of this chapter is to provide the historical context necessary to evaluate the hooligan laws—are they built on long-standing cultural practices, or have they instead been shaped into an instrument of power? While the term ‘hooligan’ was not historically part of the Russian lexicon until late in the tsarist era, its eventual usage was inspired by a series of codified cultural norms, namely the *Domostroy* manuscripts, and so these are discussed first. Following is

a description of hooliganism in the tsarist era immediately before the Russian Revolution of 1917, when it was not yet a legal construct but was punished as such.

Acknowledging that the ideological underpinnings of the Soviet Union varied throughout its short lifespan, this chapter divides the discussion of hooliganism under Soviet rule into smaller parts. The first of these, covering roughly the period between World War I and World War II, describes the flux of cultural and political values that accompanied the transition to communism. Next is the period between the Second World War and the 1970s, which featured a new synthesis of ideologies that sought to solidify Soviet dominance in society. Due to a lack of sources available, the section concerning the period immediately before the collapse of the Soviet Union is shorter than the previous ones. Nonetheless, it was ultimately included for the sake of continuity. The final section traces relevant policy decisions and official rhetoric from Yeltsin's administration to the end of Medvedev's term. While Putin had been in office during this span of time, it is his performance in his current administrative term that is the most troubling, and thus warranted a chapter of its own.

Closing the chapter is a retrospective analysis of the underlying power dynamics throughout each period of Russian history discussed in the prior sections. Elite or otherwise powerful groups are identified and their relations to the prevailing legal, political, and moral structures are discussed. This is done in order to elucidate a sense of continuity between multiple periods of time and to frame the conception and punishment of hooliganism as a reaction of elites against conduct that works against their interests.

Chapter III constitutes the middle ground, identifying the key policies, institutions, and rhetoric that surround hooliganism in present-day Russia. First is a discussion of the cultural and political context of Putin's power, taking cues from the themes of autocracy, nationality, and

orthodoxy. Key sources include public opinion polls and statements by government officials, Russian Orthodox Church clergy, and others. Care is taken to ensure that while each of the three factors is discussed separately, they are ultimately presented as overlapping claims that may be contrary to the lived reality of Russians.

The next section focuses on concrete actions carried out by the Russian authorities to maintain the dominance of the three influences previously discussed. There are three broad goals of these policies and other administrative actions: controlling the public, creating alternative institutions and legal barriers, and countering foreign influence. Many of these measures were initiated during Putin's first administrative term and carried on through Medvedev's term, some representing a reversal of the democratic reforms of Yeltsin's term.

Having set the context of power dynamics today, the chapter proceeds by identifying who, exactly, has been targeted by the hooligan laws. The section begins by highlighting relevant portions of the Russian Criminal Code, including Article 213 itself, which details the requirements for an act to be considered hooliganism. Those individuals and groups most likely to receive charges of hooliganism include political dissidents and social deviants. There is a subsection dedicated to examples of each. Concluding the section is a discussion of cases in which acts that would otherwise be considered hooliganism are ignored entirely, such as instances of violence against LGBTQ+ individuals.

Hooliganism is not to be equated with generalized discontent against the Putin regime, though it may appeal to such sentiment. In order to make this distinction, Chapter III closes with a discussion on popular dissent in Russia broadly, as expressed through public opinion polls and the emergence of pro-Western individuals and groups. The main catalysts include economic uncertainty and corruption in politics. How successfully this discontent is channeled can prove to

have a major impact on the future policy directions of Russia, and, furthermore, will determine the fulfillment of human rights such as speech and expression.

In weighing the hooligan laws against relevant international law standards on free speech and expression as well as Russian domestic law, Chapter IV forms the foreground of the paper. Its goal is to move beyond a normative stance, that is, one that is sympathetic to democratic norms on principle, and argue the illegitimacy of the laws on a firmer ground. The introduction to this chapter expresses a sense of urgency that reflects and expands upon the dangers to civil and political rights in Russia mentioned in the introduction of this paper.

The first section of the chapter presents the most relevant provisions of international law to the analysis of freedoms of speech and expression. Such documents include the Universal Declaration of Human Rights (UDHR), the International Covenant on Civil and Political Rights (ICCPR), and the European Convention on Human Rights (ECHR). Since each of these shares the same basic norms, much of their wording is also shared. In order to avoid redundancy, there is also included a discussion of the nuances present in each as well as the different functions of the governing bodies involved. The section closes with remarks on the duties of states in protecting the right of speech.

The next section examines in depth the circumstances in which it is permissible or impermissible for a state to restrict speech and expression. Reiterating the key points from the previous section, it also describes the potential concerns involved in doing so, i.e. protecting one right while sacrificing the other. To illustrate these norms at work, a case study of *lèse-majesté* laws in Thailand is included, which parallels the controversy surrounding other types of defamation laws.

The crux of the paper's argument is found in the final section of Chapter IV, where the legitimacy of the hooligan laws is tested against both domestic and international law. It begins by highlighting the portions of the Russian constitution which outline civil and political rights as well as express democratic norms. After relevant international standards are reiterated, the hooligan laws are evaluated in accordance with previous cases of restricted speech, responses from third parties such as NGOs, and their consistency with democratic norms in general. The section concludes with a call to repeal the laws based on these criteria.

Concluding the paper will be a chapter summarizing the main themes and arguments in the study of hooliganism. It includes a brief note on the continued resistance of hooligans such as Pussy Riot as well as Putin's recent policy initiatives that could determine the trajectory of human rights in Russia. To reiterate the importance of the study of hooliganism and Russian crime in general, several points for future research are suggested. The paper concludes with speculation as to the future of civil and political rights in Russia during the remainder of Putin's term as president. By linking past, present, and future, this research provides a coherent framework for evaluating the extent of authoritarian governance as evident by specific laws.

Chapter II: History of Hooliganism

Introduction

In order to fully understand the significance of modern hooligan laws, it is necessary to consider the historical factors in their development, in other words, the background. While these laws were not formally codified until the period immediately before the Revolution of 1917, and only then in response to an already volatile public, the behaviors associated with hooliganism received both criminal and social punishment. Though the circumstances of each of the time periods examined in this paper vary, a general pattern emerges in which an elite group seeks to shape the social text through policy, doctrine, or custom, in order to maintain control over the public. Thus, hooligan laws are not necessarily firmly rooted in Russian culture but have served the ends of authoritarianism and elite interests in the regimes where they are present.

Hooliganism in the Tsarist Era

Hooliganism was not a homegrown, wholly Russian concept, but rather one that deeply resonated with existing cultural norms and took on a distinctive Russian character. The word “hooligan,” in fact, was an early 20th century import from England, where it was a derogatory term that referred to certain Irish inhabitants of London (Weissman, 1978, p. 228). In tsarist Russia, the word came to refer to individuals who performed one or more of a variety of social taboos, ranging from public drunkenness to swearing, without the connotation of ethnic stereotyping as was present in the English usage.

Under the context of existing social structures and the emerging class tensions brought about by industrialization, the idea of hooliganism was adopted “as if necessary for the filling of an empty place, as a broad definition for an entire category of Russian phenomena” (Weissman, 1978, p. 228-229). Beyond the mere disturbance of public order, hooliganism would be infused

with deeper motivations, both real and imagined, over the course of Russian history as political, religious, and social leaders sought to maintain hegemony on public morals and behaviors.

Religious Sources

Prior to the introduction of hooliganism to the Russian lexicon, Russian Orthodox Church leaders set the standards for public and private behavior, condemning many breaches of morality that would later qualify as hooliganism. For almost 400 years, documents produced by synods— assemblies of clergy—and through the recording of oral knowledge instructed the faithful on proper behavior according to their role in society. One such text, the 16th-century *Domostroy*, detailed the ‘correct’ order of social relations, such as within a household or between a household and the tsar. The ultimate goal of this carefully-constructed set of social relations was the “spiritual aspiration and purification” of the individual believer (Tilk, 2014, p. 130).

Much of the *Domostroy* addresses the role of the male head of the household. He is tasked with obedience to both God and to the tsar, facing punishment from both sources if he transgressed his role (Tilk, 2014, p. 133). The text lists the qualities of a man who has failed in his worldly and spiritual duties (Tilk, 2014, p. 133):

“He, who in his insolence is not afraid of God and doesn’t follow his will, does not obey the Christian law and the orders of fathers, does not think about church, chorals, laws of the monks, prayers and praising the Lord but instead eats and drinks constantly as a glutton and a drunk and does not obey the rules of the common life...who is misconduct, Sodom-like, does all kinds of indecent deeds: lechers, curses, swears, sings songs that please Satan, dances and skips, plays the pipe and other devilish instruments, who longs for bears, games and dogs, organises horseracing – all this is devilish and impudent.”

By engaging in these behaviors, the head of the household risks tarnishing the public image of the household as a whole. As an additional source of punishment, individuals would be subject to public mockery and restricted participation in sacraments (Tilk, 2014, p. 135, 141).

Hooliganism and the Law

It is notable that while hooliganism was recognized as a social phenomenon, it was not recognized as a distinct legal offense until the Soviet era. This did not prevent the term's usage prior to its codification into law. In St. Petersburg in 1906, then considered a hub for street activity and crime, 104 out of 1000 convictions were for hooliganism (Smith, 1998, p. 175-176). What prompted the grouping of seemingly disparate crimes such as petty thievery and physical assault, Neuberger claims, was the "way in which the crimes were perceived" by elites (1989, p. 178). During a time of rapid industrialization and the emergence of revolutionary resentment, the hooligan "crystallized fears among the respectable classes," that is, both political figures and the upper socioeconomic classes (Smith, 1998, p. 175). Such elites described this state of affairs as a "new urban blight" that included public performances of drunkenness, obscenities, and sexually deviant behavior—all of which they considered insulting to their cultural hegemony (Neuberger, 1989, p. 177).

Perhaps the most enabling factor in socially deviant street behavior was the excess of drink. This was not a new phenomenon in Russian society. In 1906, Tsar Alexander II noted an epidemic of "debauchery, depravity, and especially drunkenness" among the inhabitants of St. Petersburg (Smith, 1998, p. 175). As is noted in the *Domostroy*, drunkenness is not only seen as a personal vice but also a sign of familiar disorder that is not meant to leave the house and present itself in public (Tilk, 2014, p. 135). Using the logic of the text, this internal disorder signified one's ignorance of one's place in society and was thus an affront to God and the tsar

himself, to which all households are bound to serve. Public drunkenness also brought with it threats of violence. Though these were often “more shocking than physically threatening,” they carried with them an inherent disregard for the status quo (Neuberger, 1989, p. 184).

Drunkenness also brought about the use of obscene language, most of which was directed against religious and political authorities. Smith points out the linguistic similarities between the Russian word for ‘mother,’ ‘мать’ (*mat*’), and the word for obscene language, ‘мат’ (*mat*) (Smith, 1998, p. 169). As such, swearing was a way to cast embarrassment or shame onto those who warranted respect, exposing class tensions. Upper class Russians, ranging from the learned intelligentsia to church leaders, perceived swearing as a hallmark of the common people who were “ignorant, immoral, uncivilized and potentially dangerous” (Smith, 1998, p. 170). At the very least, such speech was unwelcome in the public sphere. At the very worst, its use was a sign of decaying moral standards.

Sexually deviant behavior would also be categorized as hooliganism. This is unique in the sense that most other offenses, including drunkenness and swearing, were attributed exclusively to males. As a “language of power and assertion,” *mat* was not considered accessible to women, who occupied a subservient position (Smith, 1998, p. 176). Furthermore, the perception and expectations of women as moral creatures prevented them from drinking publicly, or at least not without bringing great shame to themselves and their families (Tilk, 2014, p. 138). Women were often instead associated with prostitution. Though not labelled as hooliganism per se, female prostitution was presented by the printed media as the moral and social equivalent of male hooliganism (Neuberger, 1989, p. 185). More often than not, prostitutes were portrayed in their relation to male companions, who acted as their pimps or encouraged them to accompany them in performing acts of hooliganism (Neuberger, 1989, p. 185).

Though displays of homosexuality would be considered sexual deviancy in the Soviet Union and thus be classified as a hooligan crime, such behavior was not publicly acknowledged in the tsarist era. Religious texts implicitly condemned homosexuality, as shown in the *Domostroy*, which included “Sodom-like” conduct in its listing of unacceptable behavior for a pious Orthodox man (Tilk, 2014, p. 133). Given this religious taboo, there is little information about the perception and treatment of homosexuality prior to the creation of the Soviet Union.

Class Tensions

Though the actions of hooligans did not have overtly political messages or motivations, Neuberger claims the existence of a deeper class struggle. Offenses against the middle and upper classes were indicative of a conflict over “distribution of power, which after all is the object of politics” (Neuberger, p. 193). In fact, this is what differentiated them from muggers and other street thugs who were motivated instead by material incentives (Neuberger, 1989). The notion of “politics,” then, is appropriately extended to the clash between the working classes and the middle or upper classes over cultural dominance as well as the need for a “cultural self-definition” (Neuberger, 1989, p. 193). Hooligans in the late 20th century and early 21st century would adopt more clearly political agendas in their quest for self-definition in response to authoritarian power.

Hooliganism before the Russian Revolution in many ways resembled a public performance directed mainly at the middle and upper classes. This interaction between subversive messages and a common space would characterize later acts of hooliganism such as Pussy Riot’s *Punk Prayer*. While the messages themselves may change, the medium is not new. The hooligans of Nevskii Prospekt in the years leading up to the revolution, for example, struck a blow to elite tastes by appropriating the bridge’s status as the “symbol and measure of the

civilization of the Russian Empire” (Neuberger, 1989, p. 188). Since Nevskii Prospekt was a space otherwise dedicated to the consumption habits of the elites, with shops lining the streets, the entry of the lower classes was seen as an invasion of sorts (Neuberger, 1989). During an especially newsworthy series of incidents in May 1905, two drunken men harassed passersby, threatened physical violence to women and children, and made liberal use of obscenities (Neuberger, 1989, p. 188). Deliberately targeting the respectable patrons of the street, these men set up a captive audience for their performance that temporarily redistributed power.

Immediately prior to the revolution, hooliganism took on a new gravity as those who traditionally held power in society felt their vice grip over public behavior loosen. One of the tactics that elites used in the attempt to regain power over the social text was to formally define hooliganism. After 1905, the reactionary Under Minister for the Interior Maklakov introduced “provisional measures” to counter hooliganism (Glisic, 2016, p. 205). This decision was made, in part, to curb the influence of the futurists—political dissidents with a flair for the avant-garde. Appearing in public in “clownish outfits” and publishing a manifesto entitled *Slap in the Face of Public Taste*, which called for the abandonment of conventional cultural mores, they represented a direct threat to the values of the tsarist order (Glisic, 2016, p. 201-202). The futurists prefigured the eventual death of the Russian Empire and the identity-seeking angst of the Soviet Union, which likewise sought to distance itself from a feudal past.

In 1913, a commission organized by the Ministry of Internal Affairs produced a working definition for hooliganism: “whatever form reckless violence takes—beating of the first passerby, theft of property, arson, or even murder...can be considered hooliganism” (Weissman, 1978, p. 229). By placing anything from recklessness to murder on the same moral plane, the Russian authorities sought to send a clear—and desperate—message that any form of resistance to the

established social order was not to be tolerated. As the Revolution of 1917 would suggest, such measures would not prove to be sufficient in maintaining public control. Though the vestiges of tsarist rule were cast off for a new socialist experiment, and the traditional cultural elites were eliminated and replaced, the hooligan lived.

Developing a Soviet Culturedness

A clash of cultural values under a new guise also survived the Revolution. Before the beginning of the Second World War, new Soviet institutions sought to redefine dominant cultural values through policy. Under the New Economic Policy (NEP), undertaken from 1921 to 1928, Soviet officials adopted a paradigm of “cultural construction” that was “centred (sp.) on literacy, education, scientific and institutional development” (Konecny, 1996, p. 97-98). Accompanying this was an emphasis on ‘*kul'turnost*’ or ‘culturedness’ which sought to present the public sphere as a “universal realm” requiring its own specific decorum (Konecny, 1996, p. 98). Much of this would be enforced through institutions known as comrades’ courts, which relied on socially-sanctioned shame as a way to correct deviant behavior. These will be discussed in detail after a closer look at Soviet cultural pressures.

A New Hooliganism

Though cultural norms were in flux, the hooligan remained as a socially subversive figure. Smith notes that, between 1922 and 1926, the number of hooliganism convictions increased tenfold, with most of these directed at working-class young men (Smith, 1998, p. 195). Such a development seems unusual since Soviet ideology claimed to embrace the working class. It was because of the specific actions of these men that they were subsequently branded as class enemies. The new idea of Soviet culturedness asserted the primacy of values such as “smartness, discipline, training and self-organization,” all of which were deemed necessary in creating a truly

classless society (Smith, 1998, p. 194). Hooligans who publicly mocked these values with drunkenness, violence, and general debauchery, then, exemplified a moral deficiency. They were, according to one Soviet official, no more than “petty-bourgeois mongrels” (Smith, 1998, p. 194).

During this time, a new metaphor arose to explain deviant behavior, focusing on the corpus of political and social life as opposed to spiritual devotion. Under the materialistic ideology of the Soviets, hooliganism needed to be redefined in such a way that reflected this shifting focus. Academics and authorities saw hooliganism as an “epidemic” and an “infection” that “threatened the health of the Soviet body politic” (Konecny, 1996, p. 106) (Smith, 1998, p. 195). The ‘doctors’ were not legal experts, but rather sociologists and Communist Party elites. While the former emphasized the impact of “uncontrolled social and political change,” especially during the 1920s, the latter attributed deviant behavior to a “disintegrating society” and a “decaying youth morality” (Konecny, 1996, p. 106). These theories echoed the anxieties of the pre-Revolutionary upper classes as the appearance and performance of morally decrepit bodies seemed to threaten their dominant status.

To reflect both the collectivist sentiments of the Soviet regime and the preeminent views of hooliganism as a phenomenon that could be countered socially, new legal documents redefined hooliganism accordingly. This marks one of the earliest attempts to formally codify hooliganism into Russian law as a crime. Past efforts only suggested working definitions with little effect on policy. In 1922, the Soviet Law Code described hooligan acts in Article 176 as “mischievous, pointless actions, entailing manifest disrespect for individual citizens or society as a whole” (Smith, 1998, p. 195). The law was amended in 1924 to emphasize offenses against “public order” (Smith, 1998, p. 195).

Compared to previous Russian social codes, this definition reflected an emerging perception of hooliganism as a political act, namely as one that threatens the Soviet regime's ability to engineer consent to its governance. It would remain in place in some form up through the present Russian Criminal Code, giving credence to the increasing primacy of punishing hooliganism as a political act. Also notable is the legal acknowledgement of maintaining public order as the primary goal of preventing hooliganism. Though international law norms that allow suppression of political speech for this end were not yet in existence, it is unclear whether Soviet law would have been in compliance.

Comrades' Courts

A curious form of enforcement emerged in the form of comrades' courts, which relied on social pressure from peers and neighbors to shame hooligans out of their perturbed condition. These institutions were present on every university campus in order to combat the behavior brought about by a "bohemian" student environment (Konecny, 1996, p. 109-110). Though each followed a set of established legal procedures and principles, the courts did not have the legal power to punish individuals charged with hooliganism. They instead served as a way to publicize and critique the underlying values of an individual's actions (Konecny, 1996). Following a trial, the case would be reported in great detail in student newspapers (Konecny, 1996).

Comrades' courts would expand their reach beyond university campuses and into the community at large over the following decades until the collapse of the Soviet Union. The importance of non-legal or quasi-legal pressures as well as media coverage would persist as themes shaping public opinion in regards to hooliganism. Under the watchful eyes of the state, any deviation from an acceptable public character could earn punishment—that is, insofar as the public considers it worthy of punishment.

A Moral Mission

After the Second World War, the Soviet Union sought to cement national values by distancing itself from its imperial past and embracing a new socialist order. Much of this effort included a more intrusive look into the private lives of citizens and the attribution of disorderly public behavior to a private issue. Either problem could allegedly be solved through the inculcation of collectivist ideals. When this process proved null, the state could order punishment by prison or by psychiatry, as illustrated in the campaigns against public rowdiness in the 1950s. This matter will be discussed alongside an evaluation of the sociological explanations of such behavior.

An editorial in the newspaper *Izvestia* captures the spirit of the times (Selvinsky & Selvinsky, 1955, p. 308):

Soviet law regards hooliganism as a crime and punishes those who are guilty. But it is of the utmost importance that this antisocial phenomenon should be forestalled and that those who violate the rules of our way of life should be called to order in good time...But administrative and prohibitory measures alone are, of course, insufficient. The struggle against hooliganism, in particular among young people and adolescents, should be carried out by the entire public.

The modus operandi of a reinvigorated Soviet society, then, was a strategic integration of social, legal, and political pressures—the ideological sectors—which had operated independently in the past. The coordination of responses from these pillars of society would prove to be more effective in maintaining hegemony over both law and norms.

Punishing Hooliganism

Hooligan charges skyrocketed: from 1947 to 1956, the number of convictions rose from 40,000 to roughly 200,000 (Gorlizki, 1998, p. 410). With courts' dockets filled to the brim with

allegations of relatively minor offenses, comrades' courts made their return in the late 1950s. Previously exclusive to university campuses and other educational institutions, comrades' courts were adopted by the traditional court system to fulfill a dual purpose: to reaffirm the importance of social organizations in a socialist state and to reduce the costs and efforts accrued by implementing such efforts (Gorlizki, 1998). Rather than students, the membership of comrades' courts consisted of panels delegated by housing and work collectives. These were ideal candidates for promoting an image of "popular justice" due to their essential roles in society at large (Gorlizki, 1998, p. 403). Punishments, in the most severe cases, included imprisonment up to eight years or compulsory labor (Werth, 1961, p. 63). By 1964, Russia hosted nearly 90,000 comrades' courts (Gorlizki, 1998, p. 403).

One of the factors that contributed to the success of the comrades' courts was the "open and public nature of hearings" (Gorlizki, 1998, p. 422). Given the cultural and political expectations of the time emphasizing collective accountability, social shame was an especially injurious punishment. Much like in the comrades' courts of universities, the court proceedings would be described in great detail in local newspapers (Gorlizki, 1998). However, these newspapers also published details beyond those which were relevant to the case, such as family troubles (Gorlizki, 1998). This intrusion into an offender's private matters sparked a new legal debate.

Some legal scholars argued that, since hooliganism was the fault of deeper social conditions, it was necessary to expose an individual's private life and to expand the legal definition of hooliganism to include domestic misconduct. Through the 1950s, hooliganism only included offenses "committed in enterprises, offices and in public places" (S., 1956, p. 350). As such, when a case emerged in which a woman was attacked by her husband with a knife and acid

for trying to divorce him, the Public Prosecutor remarked: “This is a family business...in which we are not to interfere. People quarrel and are reconciled again” (S., 1956, p. 350). Councillor of Justice Paston attributed this failure of justice to a “strict observance of the letter of the law” (S., 1956, p. 350).

In other words, though the Soviet legal system had made strides to codify certain criminal behaviors into the law, there remained certain cultural barriers to the state’s intervention in private affairs, regardless of the level of violence or disorder that they may display. This is likely due to the lingering influence of the *Domostroy* and other medieval texts, which assert that the affairs of a household are private matters to be addressed by the head of the household. The husband, then, would retain a control over his wife’s morality. Under this context, the actions of the previously mentioned husband would be justified—he is simply performing his social duty. Without this context, however, he would be perpetuating the oppression of a weaker group in society, much like the hooligan laws themselves. Despite the support of an expanded definition from legal authorities and due to this inherently discriminatory attitude, no such modification was made.

Though hooliganism remained a crime exclusive to the public sphere, Soviet sociologists in the 1950s and 1960s turned their attention to a previously ignored factor in explaining its causes: family upbringing and the presence or absence of parents. This discourse focused mainly on adolescent and young adult hooligans, 68% of which were reported to have lost one or both parents—a situation known as an “incomplete family” (Connor, 1970, p. 288). The fathers of this generation of children likely fought, and possibly died, in World War II. Indeed, 55% of the young hooligans had lost their father exclusively (Connor, 1970, p. 288). Soviet sociologists considered these “incomplete” families, as well as “under-supportive” families in which both

parents worked out of economic necessity, a possible origin of delinquent behavior (Connor, 1970, p. 288-289).

Besides sociologists, medical doctors also took the issue of diagnosing the Soviet body politic into their own hands, linking morality, psychology, and sexuality. Werth notes the influence of Dr. T. S. Atarov, who published a book entitled *Problems of Sexual Education* which instructed young people as to the dangers of a 'bourgeois' approach to personal health and wellbeing (1961, p. 146). The bulk of Werth's analysis of the book goes beyond the scope of this paper, but he nonetheless offers observations that substantiate the role of social pressures in the Soviet public. Dr. Atarov explicitly denounces drunkenness, especially in the presence of or involving children or adolescents, which he claims leads to sexual deviance and a violent nature (Werth, 1961, p. 150). Dr. Atarov also condemns bad language: "Such dirty words... distort the understanding of the proper relations between men and women. Hence an immoral attitude to things, and immoral actions" (Werth, 1961, p. 150).

In order to quell such influences, Dr. Atarov calls for the wielding of public opinion, not necessarily the law (Werth, 1961, p. 150). That is not to say that legal pressures are unneeded, but rather that the social pressures are crucial in ensuring a cessation of moral decay. His position is consistent with those who turned to comrades' courts to charge and punish hooligans. Whereas past authorities of public morality were often religious figures, the new authorities in the Soviet era sought to explain behavior using nonspiritual means, such as through the field of medicine. Though the source of the moral diagnosis changed as Russia turned towards a materialistic ideology, the symptoms of the hooligan disease were largely the same. The cure, as in the past, was an increased control of public conduct and the intrusion into one's private life.

Failures of the family were seen as indicative of a greater issue: the failure of the Soviet Union's "moral mission" to provide an environment conducive to instilling in children collectivist values and a good work ethic (Connor, 1970, p. 291). With each passing generation, however, youth would become more psychologically distant from the original ideals of the Russian Revolution. A shift in the understanding of hooligans as not only working-age adults but also as young citizens would prefigure the youthful rebelliousness of punk bands today, who acknowledge and fully embrace those qualities which Soviet society would condemn as morally depraved.

The Writer-Hooligan

Public drunkenness, blasphemy, and swearing could be considered categories of speech in their own right, as a performance of values that elites perceive as being contrary to their own interests. However, it is important to discuss restrictions on political speech as these actions, previously attributed to a simple disregard for public order, became increasingly politicized. Nonetheless, the dynamics of control and the politics of reputation remained the same.

Barriers to freedoms of speech and expression in Soviet society gave rise to the figure of the writer-hooligan, whose offensiveness was begotten by performance in the public intellectual sphere rather than on the streets. Aleksandr Solzhenitsyn, though never himself earning the title of 'hooligan,' observed the suppression of writers' voices in his *Letter to the Fourth Congress of Soviet Writers*: "The right of our writers to voice judgements, which are ahead of their time concerning the moral life of men and society... these rights are neither presupposed nor recognized" (Dallin & Rice, 1986, p. 86). One such writer, Mikhail Zoshchenko, satirized Soviet life in *Adventures of a Monkey*, resulting in disapproval from the Communist Party, which condemned his work as "hooliganistic" (Swayze, 1962, p. 38). Writers were discouraged from

altering the public space, even if that space existed in fiction. Nonetheless, their criticisms proved that their encroachment onto Soviet values through creative works was, indeed, a threat.

Emerging Democracy

During the 1980s, the Soviet Union became increasingly dependent on Western states for goods ranging from basic necessities to technology (Borrero, 2004). With this came the influence of Western political values, such as freedom of speech. Some citizens went so far as to equate the twin goals of economic stability and democracy (Ostrovsky, 2016, p. 76):

“In fact, democracy and sausages were seen as part of one package: once the country had freedom of speech, sausages and clothes would follow and Russia would invariably turn into a nice-smelling Western-style country.”

Of course, ‘sausages and clothes’ implied the fulfillment of a minimum standard of decent living, which was to be coupled with a minimum standard of civil and political rights. Gorbachev would respond to such requests by loosening Communist Party control over politics, allowing citizens to take up various administrative roles that were previously barred to non-Party members (Borrero, 2004). His efforts, however, were not timely enough to satisfy the Soviet public.

As citizens took to the streets, performing demonstrations in the public sphere that openly condemned Soviet policies, the state of the Soviet Union was tenuous. Its collapse, then, was a signal that the new Russia was going to be subject to—and characterized by—an unprecedented level of dissent in the public sphere. Previously suppressed forms of behavior would make a rejuvenated appearance in the physical and intellectual avenues of this embryonic democracy. As social values and law adjusted to reflect new political realities, the hooligan, too, would learn to adapt.

The Democracy Project

Yeltsin, 1991-1999

For the first time, the streets were literally opened to public dissent in the 1990s. The Yeltsin administration allowed, at least in Moscow, the presence of meetings, rallies, and processions—including on Tverskaya, which was the city’s main thoroughfare (Gilbert, 2016, p. 1564). This signified, likewise, the welcoming of the ideas which these demonstrations may bring into the public sphere. In the meantime, the Yeltsin administration also moved to dismantle what was left of the KGB and any other mechanisms of the secret police. The FSB, the successor of the KGB, received backlash for its treatment of suspects of treason by judges themselves, who deemed their methods as “unconstitutional” (Matthews, 2000, p. 29). Combined with the civil rights granted by the new constitution, this decision sent a clear message that the days of relentlessly patrolling public discourse were over—at least under Yeltsin’s watch.

Under this relative loosening of public control, a new kind of hooligan emerged which had only existed in the shadows of Russian society. Homosexuals, many of them writers or journalists such as Slava Mogutin, faced charges for the content of their writings. Writing frankly and thoroughly about his experiences as a gay man, Mogutin received criminal charges for his publications because of their “glaringly foul language” (Essig, 2014, p. 18). However, in a legal system where public displays of homosexuality were prohibited and harshly punished, it is likely that basing the criminality of the publications on the use of obscenities concealed an ulterior motive (Essig, 2014). As writers could be accused of hooliganism for bringing subversive political ideas into the public sphere, likewise they were liable to be accused of introducing subversive social ideas. In this way, they brought to light tensions that have not been openly addressed.

Censorship of the media extended beyond writing to television broadcasts. Many assets previously owned by the Soviet government, including television news outlets, were sold to Yeltsin's supporters in a campaign of privatization in the late 1990s and early 2000s (Vlasenko, 2013, p. 74). Because many of these supporters were representatives of financial groups, they had the agency to fund programming that was in line with their interests and to revoke funds from programming that was not (Freedom House, 1999). Much of this funding also went towards political campaigns to suppress dissent. Yeltsin spearheaded the creation of a press ministry called the Central Election Commission (CEC) in order to "protect" the state from media influences (Freedom House, 1999). One of its early proclamations was a set of rules against "agitation" by journalists, which including a prohibition on expressing bias toward one candidate or the other in a given period of time leading up to an election (Freedom House, 1999). Broadcasting, then, was restricted in such a way as to avoid conflicting with the interests and values of the current administration by ensuring that subversive messages receive little to no air time.

It is a fair point to say that the Yeltsin administration was not quite the paragon defender of civil rights in a transitioning democracy. Ethnic and religious minority groups, such as the Chechens, were subject to everyday harassment, increased censorship and scrutiny, and military action (Freedom House, 1999). Chechen rebel groups received blame for acts of violence such as bombings in Moscow, which would bring further persecution upon all Chechens (Freedom House, 1999). Surely, their acts of protest against the Russian government would be considered affronts to the dominance of Russian elites. However, insofar as these groups were not included in the discourse of hooliganism, further discussion of their discrimination within and responses to Russian society warrants a separate study.

Putin and Medvedev, 2000-2012

Elected in 2000 following a highly corrupt campaign, Putin immediately pursued a policy of maintaining public order. Citing the need to eliminate corruption and appealing to calls for economic and political stability, he took measures to restrain the autonomy of business and political elites as well as that of the media (Freedom House, 2001). Part of this shift in priorities was inspired by government officials claiming to be speaking for the interests of the common citizen. Former KGB major Valery Velichko, making this appeal, welcomed the re-emergence of various bodies, which he calls “special services,” instituted to maintain order: “People now look to the special services as their saviors. They’re fed up with all the corruption and theft of the motherland’s resources—they want order” (Matthews, 2000, p. 29).

Upholding public order included eliminating political dissent. As such, the Putin administration granted wide powers to the FSB—the very institution that Yeltsin had decried. A former member of the KGB himself, Putin appointed other former officers to key government posts. These included seven “supergovernors,” who were to head one each of the newly-formed “super regions,” or federal districts, of the country (Matthews, 2000, p. 29). In addition, the Security Council of Russia, consisting of the supergovernors as well as the ministers of the departments of Defense, Interior, and State Security, was given the power of executive authority in the event of a state of emergency (Matthews, 2000, p. 29). Even when that was not the case, the newly created executive offices had the advantage of Putin’s support and previous experience with quelling subversive behavior, making them especially instrumental in silencing journalists.

Swearing, once again, became a crime. Within the first few months of Putin’s first administrative term, journalist Irina Grebneva had published a transcript of a conversation between a local governor and a deputy, filled with expletives, which earned her the charge of

“petty hooliganism” and a week-long jail term (Matthews, 2000, p. 29). This charge was consistent with laws which banned the use of foul language in written publications (Matthews, 2000). However, many suspected that it was not the word choice used in the publication but rather its content which incited authorities to punish Grebneva. The conversation that she had recorded included details about how the two men had planned to fix an upcoming election (Matthews, 2000). Regardless of the veracity of this publication, the fact that Grebneva had received punishment demonstrates that such material was not meant for the eyes or ears of the public, thus allowing a sharer of sensitive information to become a hooligan.

In order to build public trust in government institutions, the Putin administration embraced a strategy from 2005 forwards of presenting itself as a “champion of social rights issues” by instituting a number of “national priority projects” (Bindman, 2015, p. 346). These included programs aimed at improving the standards in healthcare, housing, education, and agriculture—many of the policy areas that had previously been criticized by Russians themselves (Bindman, 2015). As such, this new paradigm could be interpreted as a concession to citizens in the hopes of quelling dissent and engineering consent, regardless of their actual successes. In turn, any protestors found themselves standing in opposition to what appears to be a benign set of policies, diminishing their legitimacy.

Another notable institution is the Public Chamber, created in 2005. Though not included in Russia’s constitution and lacking a defined political function, it acts as a means of stifling societal dissent by imposing bureaucratic requirements on certain activities deemed contrary to societal values (Flikke, 2016, p. 105). Though its functions remain unclear, it has been tasked with acting as a “hub for a collective vision of ‘society’” with which various civil society actors, including NGOs, may interact (Flikke, 2016, p. 105). As such, its role as a gatekeeper for

Russian civil society facilitates restrictions on groups with messages that may be antagonistic to the state. By placing controls on the activities of organizations in the public sphere, much like the social and legal pressures on individual citizens, Russian authorities are implying that such groups can also deviate from prescribed norms, thus displaying hooliganistic behavior. This provides a political basis for the accusations during the current Putin administration against NGOs, such as Greenpeace, of hooliganism.

In the meantime, there was a significant change in rhetoric among the Putin administration and political elites toward civil society groups, with a renewed emphasis on patriotism. Regardless of actual national origin, organizations could be labelled as “unpatriotic” or even as “tools of foreign governments” (Gilbert, 2016, p. 1556). By doing so, the administration could equate a specific NGO, for instance, with goals deemed inconsistent with Russian social values or political interests with a credible threat to national security. Indeed, this was true in the case of the “spy rock” scandal of 2006, in which 12 NGOs were shown to have financial connections with a British MI6 agent (Gilbert, 2016, p. 1556). However, this principle is complicated when the organization in question includes primarily Russian citizens. Though clearly not agents of foreign governments, they could nonetheless be seen as an affront to patriotism, making them hooligans of conscience, if not of action.

A Retrospective Analysis

The historical struggle of the hooligan in Russia follows a distinct pattern. Sensing a potential threat to their dominant place in society or government, a group of political, religious, or social elites declare a culture war against those who dare to publicly mock their values. Whether unintentionally or deliberately, these people branded “hooligans” exhibit deviant behavior—drunkenness, blasphemy, or treachery—that stand contrary to the elites’ notions of

the ideal Russian. Naturally, this ideal entails a strict adherence to a code of behavior, such as religious doctrine, with elites receiving exemptions. The composition of the elite group varies over time, and the methods it uses depend on the unique domestic and international pressures unique to each time period.

Under the tsarist regime, maintaining cultural hegemony was mainly a task of religious authorities, whether through direct or indirect means, who aligned with the interests of the ruling class. This phenomenon aligns well with the ideas of Gramsci as well as with critical legal studies, which portrays the law as an instrument of elite power, not as an object arbiter of disputes. The longevity of the medieval-era *Domostroy's* influence on the canon of everyday life attests to a general internalization of its central messages of piety and familial order, creating a false consciousness that is not consistent with the realities of oppression under the tsar. It is clear that not all Russians followed this code, but mechanisms of social enforcement remained present, mainly through the public humiliation of households or individuals. This would otherwise support the argument that society's control of social deviants, including hooligans, was part of deep-seated cultural values. Perhaps this was true in the past.

However, the upper class's push to produce a legal definition for hooliganism, thus allowing for more systematic enforcement, was likely a response to the emerging revolutionary sentiment of the lower classes. While public displays of drunkenness and swearing were not revolutionary acts per se, certain segments of society, such as the futurists, took it upon themselves to claim the public sphere. Elites were permitted to engage in such behavior privately—indeed, a cursory reading of Russian literature would produce numerous examples—but resented the lower classes for doing so, going so far as to describe it as a disease. Academics in the Soviet era would reuse this analogy.

The noble elites of the tsarist era would be replaced after the Revolution of 1917 by Communist Party leaders and sympathizers, including academics and legal experts. Though having a fundamentally different view of ordering society—one that emphasized collectivist values conducive to their interpretation of socialism—they curiously concurred that hooliganism was a crime. All the previous offenses that constituted hooliganism in the tsarist era were retained. As the Soviet Union sought to define itself, it also had to consciously discard elements of its Russian roots. The goal of social control shifted from one of maintaining proper spiritual and familial relations to one of developing a Soviet ‘culturedness.’ When religious authorities—or the tsar, with powers granted by religious doctrine—no longer dictated these standards, Party officials had to devise new models of enforcement.

Mirroring the community-based enforcement of social norms outlined in the *Domostroy*, comrades’ courts became one of the primary locations for shaping a new set of norms. It was no mistake that these courts were introduced first on university campuses. Since one of the goals of the New Economic Policy was to reform education, making it more conducive to the promotion of collectivist values, it was necessary to monitor the ideas and behavior of young Soviets. Through a constant process of norm shaping and the publicizing of socially deviant behavior, comrades’ courts relied on the student body itself to define and punish hooliganism. These young people, because of their limited memory of life under a tsar, made excellent candidates in a new social experiment.

The success of comrades’ courts on university campuses was a factor in the decision to implement them on a larger scale in the 1950s and 1960s. It is true that this was done to reduce expenses incurred by legal proceedings; however, it may not have been considered a viable option had it not been proven successful in at least one setting. Notably, the punishments for

hooliganism intensified or expanded in scope despite no real change in its definition. While public shaming was still in use, prison sentences up to a few years became increasingly common. Moving from primarily social to legal pressures marked a certain confidence of Soviet officials. No longer a new nation and with a more sophisticated structure of governance, the Soviet regime could now suppress social deviancy more effectively.

During the latter half of the Soviet Union's lifespan, hooliganism began to overlap with political dissent and activism. In the past, the crime was considered, for the most part, one of transgression against social norms. Any political action was implicit or unintentional rather than explicit. Academic fields, including medicine, began assigning political motives to acts of hooliganism, labelling such behavior as inherently bourgeois and thus contrary to the proper functioning of Soviet society. It is not possible to know whether individual hooligans carried out a burglary or episode of public drunkenness, for example, with this hidden motive. Nonetheless, academics were correct in sensing an increased politicization of hooliganism. Writers were among the prime culprits, proving that misbehavior in the public sphere did not include only that which was performed on the streets. Hooliganism included ideas as well as deeds.

As a democratic regime emerged under Yeltsin, the hooligan received little attention. However, the brief period of time encompassing his administration set the stage for later crackdowns on political dissent, despite his active efforts to promote civil freedoms. The consolidation of media outlets produced new elite figures who had the financial power to influence Russia's ideological sectors and public opinion. By Putin's second administration, the number of independent media outlets would drop significantly, severely restricting the content available to the Russian public. Putin, in his first administrative term, would facilitate this

process by allowing economic elites a prioritized position in developing institutions to maintain public order. Medvedev's term would act as a continuation of such policies.

As will be discussed in the following chapter, hooligans will once again find themselves pitted against a new elite. A new set of values would be made evident in the enactment of policies that seek to suppress dissent with help from unexpected groups in Russian society. At the same time, those left out of the process of norm shaping would find themselves gravitating towards the ideals of Western liberalism. Their numbers have increased over time in response to perceived failures of the Putin administration. Distancing themselves from the elites, perhaps some will find a new ally in the hooligan.

Chapter III: Political Context and Hooliganism in the Present

Introduction

Entering his second administrative term in 2012 after a highly corrupt election, Russian President Vladimir Putin immediately began the work that he had previously left to Dmitry Medvedev. A weak leader, Medvedev followed cues from Putin, who served as the Prime Minister. Since his election, Putin has instituted a series of reforms aimed at suppressing dissent and consolidating his authoritarian power, leaving Russians with severely limited civil and political freedoms. Still, hooliganism continues to flourish, and even middle-class Russians are beginning to speak up against the regime. The objective of this chapter is to examine the cultural, political, and legal forces which define hooliganism today and to demonstrate how the hooligan laws are used to silence oppositional voices in Russian society.

Cultural and Political Context

The previous chapter identified the various factors that contributed to the definitions and perceptions of hooliganism throughout Russia's history. As such, in order to understand the function of hooligan laws today, this section will use the same method of analysis. For the sake of simplicity and consistency, the factors will be discussed in groupings as they relate to Russia's goals as asserted by a tsarist era Minister of Public Education: autocracy, nationality, and orthodoxy (Blinoff, p. 192-193). Many cultural and political factors fall into more than one of these principles. Indeed, this further serves the point that they are mutually reinforcing and that a shift in the understanding of one often leads to a similar shift in the others. The Putin administration has shaped policies according to these historical principles in order to give the appearance of conceding to public opinion and to gain legitimacy for his authoritarian stance. As illustrated by the theories of Gramsci and Scott, he has effectively gained control of the

ideological sectors of Russian society to garner popular consent to policies that are not aligned with their interests.

Autocracy

A necessary prerequisite to analyzing the role of hooligan laws in maintaining Putin's power is the classification of the regime itself. While commonly referred to as authoritarian, it is more specifically described as a "new authoritarian" regime, in which the leader preserves his power "while employing relatively little violence against the public," instead using means of manipulation and intimidation (Lipman, 2016). Part of this manipulation involves a careful equation of national values with Putin's authority. This marks a departure from Soviet era tactics, which often relied on shows of force to deter and punish political dissent. That is not to say, however, that government authorities and the police under the Putin administration are violence-averse—violence is simply no longer the dominant tactic.

At the same time, many political dissidents, far removed from the Soviet era but possessing a deep knowledge of Russia's history, have ventured to make connections between their own treatment and that of their Soviet counterparts. Nadezhda Tolokonnikova, one of the members of Pussy Riot detained after the performance of *Punk Prayer*, likened her hearing to a "mock trial" of the Stalinist age (Smith, 2012, p. 16). The political and intellectual consciousness of repressive Soviet policies remains in the minds of the public, allowing them to draw parallels between past and present conditions even when personal experience is absent.

As a continuation of Yeltsin-era policies, media outlets continue to be privatized, with many of these finding their way into the same few hands. Oligopolistic in nature, media companies benefit from ties to political elites who limit the content of and access to the news. For instance, TV executives set forth blacklists of individuals and groups that are not to be

televised and exclude certain significant events, such as protests, from being covered if they reflect poorly on the Kremlin (Vlasenko, 2013). There has been a “crowding out” of media in which certain groups, such as human rights organizations, have faced a “progressive deterioration in the tones” used to describe them (Gilbert, 2016, p. 1562-1563). In other cases, media outlets initiate a “broadcast of deliberate misinformation” in order to present an alternate view of both historical and current events to the public (Vlasenko, 2013, p. 75). The eagerness with which media executives tailor their company’s messages to the whims of the political elite demonstrates a symbiosis that reinforces autocracy.

Nationality

The concept of ‘nationality’ as it pertains to Russia’s perceived values does not necessarily involve its legal definition, that is, the quality imparted by membership in a certain nation that may include citizenship. It does, however, feature an implicit tie to both ethnicity and geography. As it will be used in this analysis, ‘nationality’ will refer to the composite of those traits which are considered to best fit the idea of what a ‘Russian’ should be, as defined by any one or several social sources. Historically, these traits have been shaped, asserted, and maintained mostly by religious and political authorities; though, history has also demonstrated shifts according to the dominant ideologies of the times. When considering the perception, causes, and motivations of hooligans in Russia today, it is important to identify the major social forces that criticize them for deviating from the Russian ideal.

Harkening to the tsarist era, where elites often described Russia as a pious empire with Moscow as its holy city, Putin has described the Russia he intends to create with language that glorifies the country’s past. Whether described as a “civilizational mission” or as a “special destiny,” his vision involves reconstructing the past in order to build a sense of continuity and

spark national pride (Glisic, 2016, p. 209). Putin's ascension to the presidency as a strong leader who maintains a "symbiotic relationship" with Russian Orthodox clergy, under this carefully constructed campaign, appears to be the "logical" next step (Glisic, 2016, p. 210). The alteration of history for ideological ends, of course, is more difficult when collective memories of the past are distant.

However, individuals who retain memories of life in the Soviet Union have made active attempts to reconstruct the past for themselves. Whether driven by ideology or nostalgia, the search for a common truth poses an interesting question: will a recollection on this scale prompt support or opposition for Putin's vision? Some Russians vividly recall the emergence of democracy in the 1990s, dubbing it the "era of freedom"—a complex freedom in which there existed both a "lack of pressure...from the authorities" and "various bans on public activity" ("Russia's wild decade," 2017). When memories tend to be fragmented or generational, there may be various and competing views on Russia's trajectory, and this fragmentation may be reflected in corresponding ideas about how a Russian should act.

As in tsarist times, there is a continuing tension between Russians living in rural and urban areas as each group perceives its own mode of living as the correct one. Vanden Heuvel asserts that Russia can be divided along broad cultural, economic, and political lines (2012, p. 5):

One is largely urban, Westernized, secular and modern; the other includes struggling, industrialized regional cities and towns as well as the country's rural heartland, where most people are suffering economically. This other Russia believes it's guarding the country's traditional values and religious convictions.

That being said, each group may have differing opinions on what is considered social or political dissent and will support policies that align with their views. In drafting policy, then, the

administration carefully balances the needs of the large urban population and the smaller rural population, which is among Putin's strongest sources of ardent supporters.

Though competing views exist on what behavior reflects the values of the ideal Russian, there is a notable group that is consistently excluded: Russians who identify as LGBTQ+. In fact, to express homosexuality in any form is considered tantamount to treason. Essig notes that since sexual deviancy in Russia is seen as a "perversion of the individual," and that the behavior of individuals has historically been seen as either an embrace or a rejection of societal values, then "the pervert was never a patriot" (2014, p. 5). Such an individual is liable to legal and social punishment. After the 'gay propaganda' ban was passed in 2013, harassment of LGBTQ+ Russians greatly increased, with authorities ignoring these incidents or blaming them on the victims ("License to harm," 2014). This gives an explanation for the treatment of LGBTQ+ hooligans, whose actions and lifestyles are equated with political treachery.

An integral part of the Russian identity is religion—namely, an adherence to the traditions of the Russian Orthodox Church. More will be said in the next section about the Church's role in influencing Russian politics. Here, its effects on Russian notions of proper public behavior will receive attention. For instance, Pussy Riot's *Punk Prayer*, calling upon the Virgin Mary to strike Putin down, incited anger among the deeply pious. However, some appealed not to its insult to God, but rather to a common sensibility. After the band members received prison sentences, Moscow police chief Vladimir Kolokoltsev personally defended their harsh treatment (emphasis added): "As an Orthodox man, I consider this performance a spit into my soul. Its cynicism is an *insult to all society*, and I consider the actions we took appropriate" (Antonova, 2012, p. 17). To be Russian is to be Orthodox, and to be Orthodox, in the eyes of many Russians, requires its own set of political obligations.

Orthodoxy

In present-day Russia, religiosity is intimately tied to political loyalty, and elites employ rhetorical strategies to equate the two. Putin's use of "God talk" in public and official discourse has signaled a reinvigorated symbiosis between church and state (Young, 2013, p. 43). This religiously-based speech has also manifested itself in the form of action, as the Putin administration introduces (or in some cases, reintroduces) clearly religious themes into the public sphere. For instance, high-profile politicians attend church services and Orthodox priests are invited to "[bless] everything from spaceships to new prison buildings" (Young, 2013, p. 43). While the appearance of religious themes and figures in public may not be unusual, it is the active exclusion and persecution of other religious groups that is an integral part of the administration's strategy. This idea will be explored in depth in a forthcoming section.

It is possible that the display of religious values in politics does not reflect popular attitudes about the separation of church and state but rather functions as a "new ideological prop, a 'national idea' to fill the post-communist void" (Young, 2013, p. 43). After the dissolution of the Soviet Union, the emerging Russia entered a struggle to redefine itself. This was not a simple transition, since the country could no longer rely on the canon of communist thought to form its guiding principles. Since civil and political rights were not fully protected under nascent democratic institutions, political elites gained the power to shape Russia's new identity. As was previously mentioned, Putin has begun a campaign based on nostalgia of Russia's imperial past, adopting its ancient moral authorities as the ones that will accompany him in carrying out his vision.

Religious activity is highly regulated, and the privilege or marginalization of certain faiths has a legal basis. State documents reaffirm "the special role of Orthodoxy" in conducting

the country's affairs and assert a "respect" for Judaism, Islam, and Buddhism (Young, 2013, p. 42). However, other faiths lack such protections—in order for a religious group to be legally recognized, it has to enter a 15-year "probation period" in which only private services or prayer meetings are permitted (Young, 2013, p. 42). Groups such as the Jehovah's Witnesses have faced both legal and social barriers—their members are often publicly persecuted and harassed (Young, 2013). As such, one's physical safety is partly dependent on the expression of one's faith.

In fact, the emotions of Orthodox Church members receive special legal protections. In 2017, 22-year old Ruslan Sokolovsky received a jail sentence of just over three years for recording a video of himself playing mobile game Pokémon Go in a church. He was charged under Article 148 of the Criminal Code for "insult[ing] the religious feelings of believers," which allows up to a one-year prison sentence ("Pokémon Go blogger convicted," 2017). It is important to note that, prior to Pussy Riot's performance of *Punk Prayer* in a cathedral, no such law was in place ("Pokémon Go blogger convicted," 2017). Though Sokolovsky was not charged with hooliganism, this case demonstrates the preferential legal treatment that members of the Orthodox Church receive, even if such protections involve restrictions in freedom of speech based on vague grounds. Such conditions are one reason that the hooligan laws are dangerous to civil and political rights.

In response to the performance of Pussy Riot as well as other acts of hooliganism, clergy have utilized a more abstract rhetoric than that used by laypeople. Often, this involves a judgement of the hooligan's soul. Echoing the concern of Moscow police chief Kolokoltsev in regards to the depravity of *Punk Prayer*, clergyman Vsevolod Chaplin laments: "What they did was service to the dark forces, and people with pure hearts and minds understand this, it is what

the entire church feels” (Antonova, 2012, p. 17). By illustrating the problem as one of a spiritual dissent rather than political or social dissent, clergy assume responsibility for remedying any wrongs and often do so with the full support of the Kremlin.

Policies and Administrative Action

The tripartite Russian emphasis on autocracy, nationality, and orthodoxy as has, in turn, been used to enact a series of policies. Much of these are continuations of policies set forth during Putin’s first administration or Medvedev’s administration. Others were instituted as a response to the perceived weakness of Yeltsin era policies, often reversing entirely the measures he had put into place. Generally, the policies set forth during Putin’s second administration were meant to achieve one of three goals in regulating public activity: controlling the public through additional restrictions, setting up alternative institutions to build political support, and countering foreign influence.

Controlling the Public

A number of new policies increased oversight of civil society, especially in response to the protests of 2011-2012 which were spurred by corruption during the presidential election. Many of these were proposed during Putin’s first term but have been implemented with greater deliberation. Among other provisions, the measures included the strengthening of GONGOs (government-organized non-governmental associations), the creation of the Public Chamber, and restrictions on the actions of both domestic and foreign-based NGOs (Gilbert, 2016). At the same time, the administration provided greater monetary and rhetorical support to organizations that were not political in nature or were openly supportive of the regime (Gilbert, 2016).

With this oversight structure in place, the Russian government began a general crackdown on public dissent, targeting both individuals and groups. This was initiated with the passage of four laws (Vanden Heuvel, 2012, p. 5):

A dramatic increase in financial and criminal penalties for “defamation”; a blacklist, as yet unpublished, of “harmful” websites; punitive fines on participants in, and organizers of, “unsanctioned” protests; and legislation mandating that NGOs declare any foreign funding and, if they accept it, label themselves as “foreign agents.”

Clearly, such laws are contrary to democratic norms and represent a sliding back of personal freedoms. However, the silencing of dissent would only increase as several new and interlocking laws were passed to further strengthen the government’s control over public speech and action.

Russian officials and the police have continued a campaign against unsanctioned protests, that is, those that do not first undergo the bureaucratic process of approval that few pass. This has included intimidating protestors. In some cases, the police detain and beat participants, even if they are assembling in a peaceful way (Lipman, 2016). Otherwise, organizers and protestors could receive a heavy fine of \$9,000, which exceeds the average yearly salary of \$8,500 (Smith, 2012, p. 17). By imposing both physical and material risks to protesting as well as severely narrowing the cases in which protesting is allowed, the Russian government is restricting civil and political liberties to the point where they are nearly nonexistent.

This crackdown culminated in the passage of the Law on Public Control, drafted from late 2012 to 2013. The Public Chamber deliberately excluded NGOs and other concerned groups from this process (Flikke, 2016). Only the Russian World Wildlife Fund (WWF) was permitted to make “short recommendations” for amending the legislation (Flikke, 2016, p. 114). Focusing on conservation and therefore having an apolitical agenda, the WWF in Russia would not constitute a likely challenge to regime power, so it is possible that it was selected in place of

other NGOs for this reason. Excluding all NGOs from the drafting process would raise suspicion of the law's true intents. The final product was a set of laws consisting of a "series of prohibitions and sanction" with "no legally founded definition of public control" (Flikke, 2016, p. 114).

Though the law originated within the Public Chamber, the presidential administration wields the legal right to "edit" laws it creates. (Flikke, 2016, p. 114). As such, it means that by the time the Law on Public Control formally went into effect in 2014, Putin himself had added several provisions that strengthened his role in its enforcement. The most notable change was the removal of references to citizens' constitutional right to manage public control themselves as well as to international laws and standards (Flikke, 2016). In making these revisions that wouldn't otherwise alter or obscure the functions of the law itself, he has implicitly asserted the primacy of the Russian political elite's norms regarding control of speech.

The Yeltsin administration attempted to strengthen civil liberties but also saw major restrictions on access to information as the newly privatized broadcast companies were quickly bought by economic elites. During Putin's second administration, the effects of this process would become even more pronounced. Major media outlets have gone so far as to reorganize their programming structures, and advertisers have revoked their funding from outlets that display a stance that is critical to the government (Lipman, 2016). One such independent outlet, TV Rain, faced a drop from 12 million viewers to 70,000 viewers in 2014 and was forced to operate solely online after cable TV operators terminated their contracts (Lipman, 2016). It is important to note that while these private companies are not acting as government entities per se, they have a significant political and economic incentive to comply. In turn, this greatly narrows

the scope of the content to which Russian viewers are exposed. Biased information and misinformation flourish under such conditions.

Censorship extends into cyberspace as well. Many laws governing freedom of expression on the Internet rely on vague terminology that, much like the laws against hooliganism, allow for flexibility in interpretation. For instance, a 2012 law calls for websites to be blacklisted and shut down if content is found to promote suicide, drugs, pornography, or extremism (Vlasenko, 2013). Restricting access to this kind of information seems, at first, to be legitimate from the standpoint of upholding public health or morals. However, it is the last of these, extremism, which is used to stifle certain political views which are not necessarily extreme, but rather contrary to the agenda or previous actions of the Russian government. A report by Human Rights Watch lists a few possible ‘extreme’ topics: “[T]he occupation of Crimea, criticism or satire regarding the Russian Orthodox Church, or Russia’s armed intervention in Syria” (“Online and on all fronts,” 2017, p. 2).

Alternative Institutions and Legal Barriers

When the outright silencing of political and social dissidents brought the risk of domestic or international censure, the Russian government turned to the creation of alternative institutions and legal barriers. These measures, sometimes using the rhetoric or methods of democracy, further solidified the regime’s authoritarianism. In other cases, the government gained the support of nongovernmental groups such as the Russian Orthodox Church in an attempt to recapture the public’s trust and counter activism. In taking these steps, the Putin administration is trying to demonstrate that its own interests are compatible with—or even equivalent to—those of the public, making it easier to charge and punish individuals such as hooligans.

In order to increase public trust in the government and to promote the image of democracy, a procedure was instituted in 2012 to allow citizens to propose laws through petitions. In order to gain consideration from the legislative Duma, petitions must receive more than 100,000 signatures (Flikke, 2016). Putin presented the program as a way to check the power of “image-makers” and “political technologists” in creating government policy (Flikke, 2016, p. 110). This method has had success in creating new laws, such as the Foreign Agents Law of 2012, which will be discussed in depth at a later point. The question remains as to the actual effectiveness of the petition procedure. Campaigning is based on access to media coverage, which is heavily regulated and concentrated. While citizens may suggest new laws that run counter to the regime’s interests, the chances that they will receive the required support are unlikely.

As a response to the increased prevalence of popular rallies, officials have sponsored rallies of their own. The “anti-orange rally,” held on February 4, 2012, took place on the same day as the “For Fair Elections” protest (Gilbert, 2016, p. 1553). In order to counter the public message of the original protestors, who criticized rampant electoral corruption, the alternative rally organizers adopted a staunchly pro-government stance (Gilbert, 2016). Protests organized by regime critics, no matter how large, received no air time. The inverse may also be true: pro-government demonstrations would likely receive more air time. Media companies, in colluding with government officials, could present a heavily biased version of current events, or exclude them altogether, in order to shape public opinion in their favor.

Organizers are subject to a heavily bureaucratic process for the proper permissions and licensing that pro-government bodies do not have to experience. Though this does not constitute a legal barrier per se, it operates through deliberate policy measures and imposes a significant

time and cost burden (Gilbert, 2016). Regional variations in regulations on organizing exist, making activism a formidable challenge in certain parts of Russia. In Moscow, for instance, human rights groups encounter much difficulty in receiving permissions to organize large public events (Gilbert, 2016). This is likely due both to the size of the city and its status as the capital—any public demonstrations will be highly visible. By restricting the loci of speech, regulations also implicitly restrict speech itself.

The Kremlin is not averse to suppressing political dissent by charging an individual with a crime that has little to do with political ends. Artyom Loskutov and Taisiya Osipova, opposition party activists, were charged with allegations of drug abuse despite a lack of evidence and an outcry from journalists and human rights advocates (Vlasenko, 2013). As a result, they both faced prison time up to 10 years (Vlasenko, 2013). Given this precedent, it would not be inconceivable for the Putin administration to use hooligan laws in the same way. Authorities seeking to quell a certain type of behavior, or to silence a certain group of people, can charge individuals with hooliganism in order to conceal the fact that they wish to punish another act. In doing so, they would avoid potential outcry.

Leaders in the Russian Orthodox Church have also had a say in influencing policy with the goal of shaping public behavior. The *Doctrine on Human Dignity, Freedom and Rights*, introduced in 2008, asserted the primacy of the interests of the “Fatherland” above individual rights (Young, 2013, p. 43). The exercise of such rights also should not challenge the “model of harmony” that exists between the government and society (Young, 2013, p. 43). Few other religious groups have made a comparable statement. In fact, part of its text suggests opposition between religious practice and international human rights norms (“Human rights in Christian worldview,” 2018):

[T]he implementation of human rights should not come into conflict with God-established moral norms and traditional morality based on them. One's human rights cannot be set against the values and interests of one's homeland, community and family. The exercise of human rights should not be used to justify any encroachment on religious holy symbols things, cultural values and the identity of a nation.

By equating religious piety with patriotic allegiance, and human rights institutions with the possibility of impiety, the doctrine prompts believers to be skeptical of foreign influence, especially in the name of universal values.

Countering Foreign Influence

Closely tied to Putin's nationalistic rhetoric is a distrust of foreign institutions, including domestic organizations perceived to have connections to foreign powers. In the eyes of the current regime, such outside pressures constitute enough of a threat to the ideals of Russian nationality and identity to warrant a policy response. As such, one of the major strategies of the Putin administration's policies involves countering or eliminating sources of foreign influence.

One of the types of institutions that receives the most scrutiny is NGOs. While both domestic and foreign-based NGOs are subject to legal barriers, the latter experience a greater extent thereof. In recent years, Russian civil society has experienced a substantial growth in both the number and range of NGOs, prompting a more firm stance from political elites. Near the beginning of Putin's second administrative term, about 650,000 NGOs existed, encompassing both political and nonpolitical concerns (Zakaria, 2011). In order to mitigate their activities, authorities have charged many NGO activists, such as the Greenpeace's Arctic 30, with hooliganism.

Foreign NGOs face an additional layer of restrictions through the Foreign Agents Law. Enacted in 2012, the law requires all foreign-funded NGOs to register as foreign agents, allowing

the government to conduct inspections of their activities as they see fit (Vlasenko, 2013). It is notable that this law was initially suggested through an Internet campaign with the slogan “you have a right to know” as a part of Putin’s initiative to allow citizens to propose new laws (Flikke, 2016, p. 110). As of 2016, the Russian Ministry of Justice has identified 77 organizations as foreign agents (Gilbert, 2016, p. 1573). This list is available on the Ministry’s website. Publicizing this information is a deliberative move to marginalize such organizations, considering the “strong social stigma” that the label carries (Gilbert, 2016, p. 1573). While the Foreign Agents Law is most certainly a tool of authoritarianism, the Putin administration can use the fact that it has received widespread public support to defend both its intent and methods.

Closely related to the Foreign Agents Law is the 2015 ‘undesirable foreign organizations’ law, or, more colloquially, the ‘undesirables’ law. The Foreign Ministry can identify organizations deemed to be a threat to national security and prohibit them from operating in Russia (Gilbert, 2016). In addition, all other organizations in Russia are ordered to cut off contact with any blacklisted organizations (“Online and on all fronts,” 2017). These measures severely restrict NGOs working within Russia from relying on resources or guidance from outside sources. Putin’s nationalistic rhetoric further directs the public view of foreign organizations, causing part of the pressure against them to be exerted by the citizens themselves.

Many of the ‘undesirable’ organization are currently “American democracy promotion or civil society capacity-building organizations” which have provided funding to similar groups in Russia (“Online and on all fronts,” 2017, p. 16-17). It is dubious to claim that such organizations pose significant threats to Russia’s national security, but perhaps they do pose threats to the authoritarian regime’s existence. This coupling of security with regime survival can breed a

sentiment of complicity as the public is persuaded to accept the decay of their civil and political rights as necessary.

The Russian government often associates certain groups with foreign, specifically Western, intrusion. The most common of these include not only organizations receiving foreign funding but also liberal activists and gays (Lipman, 2016). As was discussed previously, the Kremlin views these groups as subversive to Russian patriotism and, in some cases, as threats to national security. As such, pro-democracy advocates and LGBTQ+ Russians or those perceived as living lifestyles contrary to Russian ideals also face restrictions according to the laws governing the activity of foreign agents, even if they lack such an affiliation. When considering the charges of hooliganism brought against homosexual journalists or Greenpeace activists, for instance, it is important to keep in mind this context.

Who Is Targeted?

Through policies designed to suppress civil society and alliances with key cultural and religious figures, the Putin administration has made it clear that enemies of the regime, including hooligans, deserve harsh punishment. The guidelines for the classification and punishment of crime are outlined in the Russian Criminal Code. Besides the legal designation, hooligans today may be classified as political dissidents or social deviants, with varying degrees of overlapping qualities. In examining how these laws function, it is also important to note actions that, in any other context, would be considered hooliganism but are ignored on account of a particular quality of the victim. The consistency with which the laws are enforced may give clues as to whom the regime perceives as threatening its interests.

Hooligan Laws and the Criminal Code

Chapter 3 of the second section of the Russian Criminal Code outlines the concept of crime and the categories of crimes punishable by law. Article 14 defines crime as a “socially dangerous act, committed with guilt and prohibited by this Code under threat of punishment.” The document gives no guidelines for what may be considered a socially dangerous act, allowing for a broad interpretation. This fact alone is not necessarily worthy of concern since many legal codes intentionally include vague language in order to allow for changes in social norms. However, the latter half of the definition is suspect. Later articles in the Criminal Code detail the conditions necessary for guilt, which includes a full understanding of the possible social danger that may entail from the act, not the realized social danger after the act has been committed. Combined with the lack of definition of social danger, this provision allows authorities to punish individuals or groups according to the social danger that they subjectively perceive, likely serving the preservation of authoritarian power. According to critical legal studies, this is a predictable feature of legal tools serving authoritarian leaders as they are crafted and implemented in such a way as to reinforce their power.

Article 15 outlines the categorization of crimes as follows: crimes of little gravity, crimes of average gravity (or medium-gravity crimes), grave crimes, and especially grave crimes. These are differentiated by the degree of intentionality involved in the crime as well as the maximum penalty for committing the crime. The two most relevant categories to the analysis of hooliganism are crimes of little gravity and medium-gravity crimes, for which the maximum time in prison is three years and five years, respectively. Few charges of hooliganism result in a prison sentence longer than these periods of time. However, it is common for individuals to be

charged with multiple crimes at once, such as extremism or drug possession, causing the individual to spend several years in prison despite the low gravity of their separate crimes.

Provisions for identifying and punishing hooliganism are located in Article 213. Here, hooliganism is defined as a “gross violation of the public order manifested in patent contempt of society” and accompanied “by the use of weapons or articles used as weapons” or “by reason of political, ideological, racial, national, or religious hatred” as committed by an individual or group. For an individual, penalties include fines roughly equivalent to 2-3 years’ salary, up to 480 hours of obligatory labor, or a term of compulsory labor or prison sentence up to five years. For groups, penalties for each convicted person include fines roughly equivalent to 3-4 years’ salary, a term of compulsory labor up to five years, or a prison sentence up to seven years. As such, acts of hooliganism committed as a group are considered crimes of greater gravity than those committed by individuals. In order to understand why Russian law considers certain acts to be grave, it is necessary to first identify instances of these acts.

Political Dissidents

Capturing the world’s imagination, the feminist punk collective Pussy Riot has become the quintessential portrayal of the hooligan. Its members, varying in number but united in ideology, are known for colorful and evocative performances that shed light on the political and social issues of Russia today. In 2012, the band performed the 40-second *Punk Prayer* in front of the altar of Christ the Savior Cathedral in Russia, in which they called upon the Virgin Mary to “drive away Putin” and identified the “chief saint” of the country as the “head of the KGB” (Tayler, 2012). The religious symbolism and heavy use of expletives prompted an outcry from the Russian Orthodox Church, whose clergy condemned the acts as “blasphemous” (Vanden

Heuvel, 2012, p. 5). For their performance, they were charged with hooliganism, blasphemy, and other crimes and were sentenced to two years in a penal colony.

The group has chosen to take a broad political stance, decrying the close connections between Russian Orthodox clergy and Putin and aligning itself with feminist, LGBTQ+, and environmentalist activists (Bashir & Fedorova, 2015). While on trial for *Punk Prayer*, members defended their actions by claiming that the cathedral was “not a church but a commercial enterprise because of businesses that operate there” (Kishkovsky, 2012, p. 19). Elsewhere, they have expressed a similar skepticism of church-state relations, stating that “for [Russia] to have a church which is now serving the KGB is a crime” (Dawson, 2018, p. 16). That being said, while *Punk Prayer* certainly contains a strong message against the collusion between political and religious elites for the suppression of freedoms of speech, it is not indicative of a single message. Instead, this specific performance is a part of a generalized opposition toward “the total control over traditional media by conservative state institutions” (Bashir & Fedorova, 2015, p. 133-134).

Much like the Russian futurists of the early 20th century who, in a time of pre-revolutionary turmoil, mocked the values of the elite through their choice of attire, manner, and stage, the case of Pussy Riot also involves a deliberate subversion of the public sphere. Donning brightly-colored dresses and masks, the band members became anonymous Russian citizens, expressing dissent outwardly that many express inwardly. Part of their performance involved dancing and gesturing, including prostrating before the altar of the Cathedral, suggesting a parody of the behavior of Russian Orthodox clergy (Tayler, 2012). To complete the effect, the act was recorded up to the point where it was shut down by security guards, showing that the intent was for the performance to be shared widely. To simply dismiss the actions of Pussy Riot

as blasphemy would be to miss the point of the performance—it mocks clergy and believers not for their piety, but their devotion to the false idol of authoritarian rule.

It is not only individuals but also groups and formal organizations which may be targeted for political activism. According to the Russian Criminal Code Article 213, a group may be subject to hooliganism charges based on the actions of its members. For this reason, the actions of NGOs are subject to close scrutiny—especially if they act in a way contrary to the Kremlin’s interests. Legal mechanisms such as the Foreign Agents Law of 2012 and the ‘undesirables law’ put further restrictions on NGOs under the pretense that they are operating in accordance with the wishes of a foreign government.

One of the most notable instances of an NGO being charged with hooliganism involves the Arctic 30, a group of protestors and ship crew members backed by Greenpeace. Traveling aboard the Greenpeace ship *Arctic Sunrise* in September 2013, the protestors attempted to scale a drilling platform owned by Russian oil giant Gazprom before being captured and detained. In a trial that Russian lawyer Anton Beneslavsky called a “political circus,” the protestors received charges of piracy, liable for up to 15 years in prison, which were later dropped and replaced with the lesser charge of hooliganism (“Russia grants bail,” 2013).

Critics of the trial point out that the hooligan charge was poorly justified. There are two conditions for hooliganism: it must be carried out with the use of weapons or else by political, ideological, racial, national, or religious hatred. In the case of the Arctic 30, there were no weapons present, and it was unclear whether the group incited hatred and against whom (Denber, 2013). It is true that Greenpeace has spoken against Gazprom’s drilling in the Arctic Ocean before, arguing that the company is “determined to ignore both science and good sense to drill in remote, frozen seas” (“Greenpeace activists charged,” 2013). However, this criticism could not

reasonably be construed as hatred. It is possible that the anti-drilling message could be seen as an affront to Russian national interests, since much of the country's economy is based in oil exports. However, this still fails to meet the legal requirements of a hooliganism charge.

In addition, the Russian authorities' seizure of the Arctic Sunrise violated both domestic and international laws. Researchers for Human Rights Watch have observed that "both Russian and international law provides protections to protestors, whether on land or at sea" ("Laws of attrition," 2013). Though Russia has not consistently protected the right to protest, the government's intervention was entirely arbitrary in this case. In fact, there are a number of instances in which Russian authorities have not pressed criminal charges against Greenpeace activists in the Arctic, making the case of the Arctic 30 an anomaly ("Laws of attrition," 2013). While most of the Arctic 30 activists were eventually granted bail, others faced pretrial detention for two months under the risk of fleeing the country (PRI's The World, 2013). Though being a crime of greater gravity than hooliganism, piracy charges do not include pretrial detention ("Laws of attrition," 2013).

Because the charges against the Arctic 30 as well as their pretrial treatment are shown to be arbitrary and even contrary to Russian law, the case is another example of the Kremlin's strategy of intimidation to suppress dissent. Greenpeace likely received harsher treatment on account of its status as a 'foreign' NGO with non-nationals leading the protest. As such, even if the protestors aimed to criticize only the environmental policies of Gazprom, the company is so closely linked to the economic wellbeing of Russia that the administration likely interpreted the event as an attack on national interests by a foreign entity. As such, officials could use the charge of hooliganism to silence this source of opposition, though its use is not fully in concurrence with Russian law.

Social Deviants

Russian officials also direct hooligan charges against individuals or groups expressing values indicative of lifestyles that are contrary to their notion of the ideal Russian. For instance, Russian LGBTQ+ journalists and activists are regularly targeted. Often, other laws restricting speech in addition to hooligan laws are invoked to suppress their voices. For instance, the ‘gay propaganda’ ban of 2013 prohibits the promotion of “the denial of traditional family values” including the portrayal of “non-traditional sexual relations” (“Online and on all fronts,” 2017). Claiming that such provisions protect children, the Russian government imposes a blacklist on content created by LGBTQ+ Russians on all media platforms as well as heavy fines (“Online and on all fronts,” 2017). This closely resembles the treatment of Slava Mogutin’s works in the 1990s, which were condemned for their use of explicit language though the real issue at stake was the content itself.

Another particularly striking example of social deviancy involves what seems to be a harmless prank. In 2015, three young women, one of them a teenager, recorded a music video in which they danced in front of a World War II memorial. The provocative dance move called ‘twerking’ was part of their performance. All three received hooligan charges for their performance. The location of the video footage is significant—the memorial is positioned near the Black Sea, expressing a “nostalgia” of sorts for Russia’s imperial past and ownership of Ukraine (“Dispatches,” 2015, p. 12). However, the original intent of the women remains unknown.

It is most likely the combination of manner and location that resulted in a criminal charge for these women. While provocative dancing is not generally acceptable in public, the twerking alone was not sufficient to earn punishment. According to the Russian Criminal Code,

hooliganism involves a contempt for society and may also be motivated by national hatred. By performing a socially taboo action on the premises of a symbol of imperial Russia—a Russia to which Putin aspires to return—it would appear as if these women were seeking to defame Russia’s ambitions. This appearance of deliberate defamation would be enough to warrant punishment by the authorities, even if that was not the action’s intent. The perception of a social danger, rather than the actual social danger, is what matters in Russian criminal law.

Public swearing continues to earn punishment. Leading up to the 2014 Olympic Games in Sochi, a number of demonstrators gathered in Russia’s cities to bring attention to issues surrounding the games, such as environmental concerns and LGBTQ+ exclusion (Kondratenko, 2014). Many were arrested and detained for periods of roughly three or four hours without access to food or drink (Kondratenko, 2014). One activist was charged with hooliganism for swearing at a police officer who attempted to take his passport (Kondratenko, 2014). Given the context, there is cause to believe that the hooliganism charge was added to multiple smaller charges so that the activist could receive harsher penalties, rather than to punish the act of swearing itself. While it is difficult to consistently enforce restrictions on swearing in public, it is much more effective as a tool of social control when enforced only selectively.

Ignoring Hooliganism: Violence Against LGBTQ+ Russians

Certainly, there are instances in which individuals who engage in actions that are legally considered hooliganism evade the criminal charge on account of the social identity of their victim, demonstrating how the laws are enforced selectively according to convenience or bias. The LGBTQ+ community in Russia is especially vulnerable to this kind of treatment. Police often disregard such attacks by putting the blame on the victim themselves: “It’s all right, you’re gay so it’s normal that you were attacked” (“License to harm,” 2014, p. 61). There are limited

legal protections for LGBTQ+ Russians and no protections against hatred based on sexual orientation as part of the hooliganism laws. Even when using a weapon, which would be considered part of an act of hooliganism, many Russians are able to make homophobic attacks with impunity.

After victims report violence to the authorities, police often express an unwillingness to investigate the case or punish the aggressor. Record-keeping is also inconsistent. In 2013, activist Dmitry Chizhevsky was leaving the premises of an HIV prevention community center as several men attacked him. One shot him in the left eye with a pneumatic pistol, causing him to permanently lose his vision (“License to harm,” 2014). Though police initiated criminal proceedings and declared the actions of the men hooliganism, they began a drawn-out investigation process and later dropped the case altogether, citing that they were unable to identify the perpetrators. Chizhevsky later left Russia, stating that “it became crystal clear to me that the situation in Russia these days is such that it is acceptable to call [LGBT] people such as myself the fifth column” (“License to harm,” 2014, p. 62-63). Police negligence, then, sends a signal to LGBTQ+ Russians that they would be better off by leaving Russia or else being nonexistent—essentially implying that their rights are likewise nonexistent.

In permitting homophobic attacks, Russian authorities have signaled that acts of violence and disturbances of the public order—crimes of no minor gravity—are justified insofar as the target is a person who does not conform to Russian values. Whether because of one’s social identity, lifestyle, or opinions, such a deviant cannot receive the same protections as one who better fits the ideal. This creates a dangerous state of affairs in which individuals are disempowered from exercising and advocating for their already tenuous rights. The rule of law,

inconsistently or selectively enforced, is not the rule of law at all, but rather an expression of authoritarian power.

Popular Dissent

In order to properly understand the role of hooligan laws in Russian society today, it is necessary to distinguish it from a trend of popular dissatisfaction with the Russian government. While few people express outright the desire for a more robust democracy due to the risks involved in doing so, it is becoming increasingly commonplace for Russians to question the merits of Putin's leadership. In fact, many have abandoned harsh skepticism of Western powers for a view that is more sympathetic, observing that much of the anti-Western rhetoric only distracts from the problems at home (Young, 2018). Though Putin continues to garner support from wide swaths of the population, the simmering sentiments of resistance should not be ignored.

Young points to the existence of "liberal islands" in Russian society in a metaphorical sea of regime supporters (2018, p. 33). Usually urban-based and educated, they demonstrate inclinations toward "pro-market" and "pro-civil liberties" policies that are diametrically opposed to Putin's brand of paternalistic nationalism (Young, 2018, p. 30). Many of their grievances are directed at deteriorating economic conditions and corruption in the political system. About a third of the population considers poverty an "urgent concern" (Young, 2018, p. 30). Corruption is evident in the regular shortages of medicines, negligence of the police, and a severely unequal distribution of wealth (Young, 2018).

By no means are these islands static. Public opinion polls substantiate the claim that opposition to the Putin administration is mounting. While only 16% of respondents to a 2007 survey indicated that they thought corruption was higher than it was in the 1990s, 52% of

Russians reflected this sentiment in 2011 (Zakaria, 2011, p. 44). In a 2015 survey asking how long it would take for one to run out of patience with Russia's political and economic problems, 21% responded with "a few years" and 30% claimed that they didn't know—"everything can explode in a most unexpected way" (Lipman, 2016, p. 38). However, public opinion surged after Russia annexed Crimea, with as many as 86% of Russians indicating that they felt proud of their country, demonstrating record numbers (Young, 2018, p. 32). Nationalistic fervor tends to die out quickly if it is not sustained.

Despite such impressive results in prior years, polls conducted in 2018 present a more complicated portrait of public opinion. The state-run Public Opinion Foundation reported that Putin's approval rating had dropped to 64% during the summer of 2018 (Young, 2018, p. 29). One would surmise that it would be in the foundation's interests to report the highest possible estimate to present a positive view of the administration, but the significant drop signals widespread disappointment. In fact, Young attributes this drop in part to a proposal to raise the retirement age over the next 15 years, though life expectancy remains relatively low (2018, p. 29). Of course, the pension controversy was one of several ill-handled policy issues, including slow economic growth, and Russians recognize this fact—42% of Russians agreed that the country "was headed in the wrong direction" (Young, 2018, p. 29).

As their own alternative to government mismanagement of public goods, some Russians have initiated small-scale, crowdfunded projects to solve local issues. Claiming the public sphere for their own, concerned citizens and activists alike have pooled their funds to host charity events, lectures, and arts festivals with little opposition from the Kremlin (Lipman, 2016). These efforts, however, are not sufficient to replace the support of NGOs, many of which face legal restrictions on their activities, especially as the economy remains weak (Lipman, 2016).

Individual donations from people with average wages simply may not be enough for projects of a certain scale. Nonetheless, this form of activism, while not explicitly political, implies discontent with the Putin administration.

The hooligan has been a constant figure in much of Russian history. Today, the trope is receiving new life as a political being, a force threatening enough to the Putin administration to warrant imprisonment and, on occasion, violence. This rejuvenation is indicative of a broader underlying dissent in Russian society, as citizens increasingly feel powerless in the face of rampant corruption. Like the eve of the Russian Revolution, the pressures for a more open society under Gorbachev, and the emergence of democratic sentiment as the millennium drew near, this could very well be the next epoch in Russia's political development. Change is certain, but its trajectory is difficult to predict: popular dissent may be countered by an even stronger authoritarianism, or it may pave the way towards democracy through public demonstrations and grassroots efforts.

Russia's political development depends on its future approaches to policy. Will its elites continue to express contempt for Western influence, namely its emphasis on civil and political rights? Furthermore, will it sustain ties to its traditional allies, including the clergy of the Russian Orthodox Church? Most importantly, it is necessary to monitor what additional restrictions the government may place on speech as well as the extent to which it enforces its current legislation on civil and political rights. Thus, the next step in this paper is to evaluate the legitimacy of hooligan laws under domestic and international laws on the freedoms of speech. From there, it will be possible to deduce whether Russia's punishment of hooligans is a justifiable practice or a tool of an authoritarian regime.

Chapter IV: Legitimacy of the Hooligan Laws

Introduction

The scope and intent of the hooligan laws is clearly troubling and poses a threat to the inception of democracy in Russia. In order to move beyond a purely normative stance and prove the illegitimacy of these laws, it is necessary to examine their relations to both international law and domestic law. This chapter will proceed by elucidating the rights of free speech and expression in international law. Following will be a discussion of appropriate restrictions on these rights accompanied by the case study of *lèse-majesté* laws in Thailand. The chapter will conclude with remarks about human rights in the Russian Constitution and a final analysis of the illegitimacy of hooligan laws as restrictions on free speech.

Russia has signed and ratified several international agreements, including the Universal Declaration of Human Rights (UDHR) and the International Covenant on Civil and Political Rights (ICCPR), that contain provisions for the extent and restriction of freedom of speech and expression. It is also a signatory to the European Convention on Human Rights (ECHR) with reservations involving the ban on using the death penalty as punishment and the prohibition of discrimination. Though Russia has considered withdrawing from the European Court of Human Rights, no such action has been taken (Kozlov, 2018). Therefore, the Russian government has acknowledged the obligation to uphold the standards outlined in international law, even though there are limited mechanisms for enforcement. Nonetheless, any violations of these rights could come under scrutiny from Russia's citizens, foreign governments, and NGOs.

The urgency of the case is reflected in the importance of the ties between freedom of speech and the development of strong democratic institutions. In the Freedom of the World 2017 Report, the researchers of Freedom House mark several global trends in restrictions on speech,

many of them being a cause for concern, including those which have persisted despite internal and external pressures. The report notes (“Freedom in the world,” 2017):

All of these developments point to a growing danger that the international order of the past quarter-century—rooted in the principles of democracy, human rights, and the rule of law—will give way to a world in which individual leaders and nations pursue their own narrow interests without meaningful constraints, and without regard for the shared benefits of global peace, freedom, and prosperity.

With a Civil Liberties score of only 15/60 and a Freedom of Expression and Belief subscore of 3/16, Russia is a major concern in and of itself (“Freedom in the world,” 2018). Freedom House cites vague and inconsistently applied laws, poor protections for journalists, and government surveillance capabilities as being among the chief barriers to enjoying free speech and expression (“Freedom in the world,” 2018). Given Putin’s authoritarian posturing, it is highly unlikely that such barriers will be removed under his term. If the hooligan laws represent no more than the narrow interests of an authoritarian regime, then it would be sufficient cause to pressure Russia to reform or repeal them. First, it would be productive to identify the grounds for the trial.

Speech in International Law

The Universal Declaration of Human Rights (UDHR) contains the groundwork for standards on acceptable speech and expression. Article 19 of the UDHR states: “Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.” Russia has not included any reservations to this portion of the Declaration and has not suggested any since its ratification, signaling an initial and continued intent to follow it as such. As will be discussed in a later section of this chapter, even the Russian

Constitution contains references to this intent. While it is not binding law per se, it has risen to the status of customary law, giving other nations the power to exert pressure for compliance.

Mirroring the language of the UDHR, Article 19 of the International Covenant on Civil and Political Rights (ICCPR) includes the following provisions:

1. Everyone shall have the right to hold opinions without interference.
2. Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.

The most notable difference between the wording of the UDHR and that of the ICCPR is that the latter provides a broad collection of examples for the means in which opinions may be expressed. By expanding “media” beyond writing or speaking, Article 19 allows for the possibility of ‘speech,’ including that which is political in nature, to encompass action or performance. This expands the scope of protection to actions such as Pussy Riot’s *Punk Prayer*.

At the same time, freedom of speech and expression in international law is not absolute. There are broadly defined circumstances in which such freedoms may be restricted when they conflict with the exercise or enjoyment of another right. Article 19 of the ICCPR continues:

3. The exercise of the rights provided for in paragraph 3 of this article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:
 - (a) For respect of the right or reputations of others;
 - (b) For the protection of national security or of public order, or of public health or morals.

The body of the convention does not further clarify these conditions, allowing the state party to designate a national security or public moral concern itself. However, there have been cases that attempt to define those circumstances more narrowly.

The United Nations Human Rights Committee (UNHRC) has ruled on such matters in the 1985 case of *Hertzberg v Finland* concerning the broadcasting of program segments containing references to homosexuality. While the context of this case evades the scope of this paper, the Committee's final ruling deserves attention (O'Flaherty, 2012, p. 641):

Public morals differ widely. There is no universally applicable common standard. Consequently, in this respect, a certain margin of discretion must be accorded to the responsible national authorities.

O'Flaherty notes that this has been the only case that "invoked such a margin of discretion," demonstrating its relative novelty as a guiding legal principle (2012, p. 641). In fact, the notion is rejected in the UNHRC's General Comment no. 34, drafted in 2011. The comment makes clear that even when the protection of public health or morals is the motive, states are still required to demonstrate "in specific fashion the precise nature of the threat," thus preventing arbitrary or wide-reaching restrictions on speech. Though Russia may choose to restrict speech based on this principle, there is simply a lack of precedent to determine whether such a restriction is legitimate.

The European Convention on Human Rights (ECHR), as the guiding document of the European Court of Human Rights, further clarifies the legal protections for civil and political rights. Russia has been a state party since 1996 and thus is liable to have charges of human rights violations brought against it by other state parties. Much of Article 10 of the ECHR states verbatim the provisions of Article 19 of the UDHR and Article 19 of the ICCPR. However, there are a few notable restrictions on speech that are not present in the UDHR or ICCPR:

2. The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.”

At first glance, the hooligan laws may seem legitimate since Russian authorities have invoked motivations such as the “prevention of disorder or crime” and the “protection of... morals.” However, the case of *Handyside v. United Kingdom* in the European Court of Human Rights will shed light on an exception. In regards to the possible obscenity of the material in question, the ECHR ruled:

[F]reedom of expression... is applicable not only to “information” or “ideas” that are favourably received... but also to those which offend, shock, or disturb the State or any other sector of the population. Such are the demands of pluralism, tolerance and broadmindedness without which there is no “democratic society”.

That being said, the mere appeal to morals in order to protect the public from provocative speech is not sufficient grounds for its restriction. In order to best protect the freedoms of its citizens, a state must be ready to justify its restrictive policies on other grounds.

As a concluding note on international legal standards, it is essential to point out that the duty of the state in protecting speech is twofold: it has both a negative duty and a positive one. In addition to delineating the circumstances in which speech is protected a state must also actively “[ensure] an adequate space in society for free expression” (O’Flaherty, 2012, p. 639). When considering Russia specifically, it is important to keep in mind its performance regarding this

goal. Would debilitating fines worth up to a year's salary, a lack of rights in court, and arbitrary mishandling by the police constitute an "adequate space" for speech? These matters will be considered in detail later in the chapter.

When Can Speech Be Restricted?

The UDHR and ICCPR recognize that, while free speech and expression are among the chief human rights since they precede the enjoyment of other rights, they are not absolute. As was previously discussed, restrictions apply under a set of circumstances, left flexible in definition. In order to account for what otherwise might be a vague provision, the ICCPR provides a process for which to evaluate a state's policies:

When a State party invokes a legitimate ground for restriction of freedom of expression, it must demonstrate in specific and individualized fashion the precise nature of the threat and the necessity and proportionality of the specific action taken, in particular by establishing a direct and immediate connection between the expression and the threat.

The ICCPR is clear about the spirit in which these standards are imposed: "Any such limitations must be understood in the light of universality of human rights and the principle of non-discrimination."

To further illustrate how these provisions are meant to reflect a universal view of human rights, the ICCPR provides cases in which it is inconsistent with the spirit of the document's norms to restrict speech:

It is not compatible with the covenant for a restriction to be enshrined in traditional, religious, or other such customary law... [T]he purpose of protecting morals must be based on principles not deriving exclusively from a single tradition.

By calling for multiple influences and traditions to be involved in creating a law that may restrict other rights, the ICCPR lessens the chances of an arbitrary law being put into place. If a law is

truly reflective of the needs and preferences of the population, then it will include multiple aspects of their lives. Otherwise, it would be easier for a single authority figure or dominant group—gaining power from custom, politics, or religion—to monopolize the rule of law and distort it for personal gain.

Furthermore, the ICCPR expresses concern for specific justifications in restricting speech, once again demonstrating the need to uphold the rule of law:

States parties should consider the decriminalization of defamation and, in any case, the application of the criminal law should only be countenanced in the most serious of cases and imprisonment is never an appropriate penalty.

As will be seen in the examination of *lèse-majesté* laws in Thailand, the crime of defamation is often invoked as a political tool and curtails the exercise of a wide range of other rights. That being said, the very act of punishing speech under criminal law, especially when it does not present an immediate link to danger, is contrary to the norms advanced in the ICCPR. Such a punishment serves to reinforce existing, often authoritarian, structures of power and hampers the development of democratic institutions.

By placing the burden of proof on the state in question, the ICCPR encourages accountability despite its lack of enforceable sanctions. If the state provides a contrived or generalized reason for imposing a restriction on speech or fails to identify the threat involved, then this warrants any one of several appropriate responses from other states parties. These are meant to address inconsistencies either in the theory or practice of the law. Other states may call for the reform or repeal of a law, or the actions of authorities may be put under investigation in order to prevent further acts of noncompliance. The former approach has been suggested to remedy the *lèse-majesté* laws in Thailand. Bodies such as the ECHR, however, do carry the power to place sanctions on states parties, but may use these mechanisms strategically so as to

not strain diplomatic relations. Both may be used in concert to promote accountability to overlapping standards.

Lèse-majesté Laws in Thailand

Though similar laws are disappearing globally, *lèse-majesté* laws, which seek to protect the honor of the king, his heirs, and other noble figures against defamation, continue to persist in Thailand (Baber, 2014). This has come at the cost of prison time for journalists, scholars, and citizens who offer critique of the monarchy with sentences ranging from three to fifteen years (Baber, 2014). While other defamation laws of lesser gravity exist in Thailand's criminal code, the *lèse-majesté* laws are unique for two reasons: they presume ill intent thus removing the need to prove the speech's intent in court and do not offer exemptions for guilt from this intent (Greenfield, 2013, p. 381-382). In addition, anyone may bring up a *lèse-majesté* charge regardless of their connection to the royal family or proof that the statement in question would actually be insulting to the royal family (Greenfield, 2013).

Despite the continued symbolic importance of Thailand's monarchy, *lèse-majesté* laws are not, in and of themselves, a cultural development. If this was the case, the law would not have been subject to dramatic revisions and would have been applied consistently over time. At the very least, it would not be sensitive to regime changes and would have stayed firmly in the scope of the monarchy's abilities. This is contrary to the reality.

Though the law entered the legal code at the beginning of the 20th century, its terms were strengthened in 1957 in response to political unrest in 1932 that "jeopardized" the "strength of the monarchy" (Baber, 2014, p. 696). The law has seen a resurgence in recent years as the military-led government sought to secure its rule. While there had been an average of five cases of *lèse-majesté* per year from 1992-2004, this has skyrocketed to a rate of 231 cases between

2006-2008 (Baber, 2014, p. 707). This authoritarian pattern of behavior has been demonstrated in other areas of Thai politics, as the same party has placed restrictions on expression and the dissemination of information that “challenges or even differs from the official story of the coup” (Haberhorn, 2018, p. 936).

Drawing from a Thai expression, Haberhorn identifies this undue restriction of human rights and arbitrary punishment as a way for the ruling party to “[kill] the chicken to scare the monkey”—in other words, to ensure compliance and silence through “harsh repression upon a few” (2018, p. 936). In this way, individuals are compelled to resort to self-censorship in order to preserve their safety and reputation. In the meantime, they are powerless in facilitating the creation of democratic institutions or spreading democratic norms themselves while they may have been able to do so in the past. These “monkeys,” then, cannot hear, speak, or act against the injustices of an authoritarian regime—that is, until they find an unlikely ally.

One of the strongest points of criticism against the *lèse-majesté* laws comes from the king of Thailand himself. Baber calls attention to the remarks given by the now deceased King Bhumibol Adulyadej in a 2005 speech: “[But] that the king can do no wrong is very much an insult to the King...because this shows that they regard that the King is not human. But the King *can* do wrong” (2014, p. 711). This statement is contrary to the policies of the government, which has wielded power in the judicial branch to punish any matter of direct or indirect insult to the monarchy (Baber, 2014). In this way, it is clear that these laws are not truly meant to preserve the institution of the monarchy as a part of Thailand’s cultural heritage, but as a way for the military-led dominant party to maintain a vice grip on Thai politics.

Generally, legal scholars and activists have offered two solutions to the injustices brought about by the Thai *lèse-majesté* laws: reforming the laws or repealing them altogether. While

these options seem to be mutually exclusive, the first may precede the second, securing an even greater victory for human rights in Thailand.

Those in favor of the first approach note that *lèse-majesté* laws may be brought in line with other Thai defamation laws administering a lighter punishment (Greenfield, 2013). Greenfield suggests three specific avenues: removing the assumption of ill intent and allowing “good faith” expressions, interpreting the law more narrowly, and allowing the monarchy to have the final say in pressing charges (2013, p. 393-396). This course of action has a lesser chance of being resisted by the current regime, but still allows for the possibility of an eventual cessation of charges. In addition, it protects against the possible backlash of an “instantaneous” repeal, which may pose a threat to national security (Baber, 2014, p. 726).

Still, others suggest that the laws be repealed entirely in order to signal a greater commitment to international norms. When they are the only ones of its kind left in existence, it is only just to abolish them (Baer, 2014). The fact alone that other countries with equivalent laws have rid their codes of them lends credence to a shift in global norms—one that decries the citation of tradition as a means to silence political opposition. O’Flaherty points out that the ICCPR General Comment no. 34 explicitly voices a commitment to the “decriminalization of defamation,” thus setting it as a salient goal in progressing human rights (2012, p. 649). Similar rhetoric has been used to condemn religious defamation laws, such as those in Saudi Arabia, which are similar in intent to the Thai laws. Surely this commitment applies not only to the protection of defamation of monarchical figures or clerics but of other political leaders as well.

How Legitimate are the Hooligan Laws?

The prior examination of international law standards of free speech and expression, as well as the elucidation of two relevant controversies, serves as the backdrop for analyzing the

legitimacy of the Russian hooligan laws. This section will begin with a discussion on speech protections under Russian law, namely those contained in the Russian Constitution. Next, the international standards from previous sections will be linked directly to the actions of Russian authorities. Finally, the section will conclude by identifying the responses of various actors, including foreign governments, NGOs, and activists within Russia. All of these components serve to illustrate the unjust use of these laws toward authoritarian ends.

Among other goals, and despite the efforts of Russian officials to ignore it, the Russian Constitution clearly sets an intent to uphold the standards set forth in international law and to pursue a fully democratic society:

...[P]roceeding from universally acknowledged principles of equality and self-determination of peoples... reviving the sovereign statehood of Russia and asserting the firmness of its democratic basis... recognizing ourselves to be a part of the world community...

Article 15 reflects this principle in greater detail:

4. Universally recognized principles and norms of international law as well as international agreements of the Russian Federation should be an integral part of its legal system. If an international agreement of the Russian Federation establishes rules, which differ from those stipulated by law, then the rules of the international agreement shall be applied.

This may be interpreted as an instance of monism, in which a state actively incorporates international law into its own legal system and, in the event of a contradiction, alters domestic law. In contrast, a dualist conception of law, such as that used in United States law, views international and domestic law as separate, and as such the two may stand at odds. It is evident that Russia's Constitution allows for an active role in world affairs though the state's motivations

may be self-interested. Nonetheless, these provisions leave little room for Russia to assert its own standard of human rights protections over any universal standard.

That being said, a continued reading of the Constitution bolsters the position that Russia is legally bound to uphold its duties according to international law. Article 2 asserts: “Man, his rights and freedoms shall be the supreme value. The recognition, observance and protection of human and civil rights and freedoms shall be an obligation of the state.” Therefore, Russian law acknowledges the role of the state to fulfill both negative duties, including protection, and positive duties, such as recognition and observance. Since the freedoms of speech and expression qualify as human rights, specifically civil and political rights, they deserve this same guardianship. Any undue restriction on these freedoms would signal a failure of the state in adequately preserving the supreme value of its citizens.

Article 13 discusses additional rights associated with speech and expression. It is likely that these were included as reactions to the lack of these freedoms under the single-party Soviet regime and as mechanisms to prevent totalitarian rule in the future. The Article proceeds as such:

1. Ideological diversity shall be recognized in the Russian Federation.
2. No ideology shall be proclaimed as State ideology or as obligatory.
3. Political diversity and the multi-party system shall be recognized in the Russian Federation.
4. Public associations shall be equal before the law.
5. The establishment and activities of public associations whose goals and activities are aimed at the forcible changing of the basis of the constitutional order and at violating the integrity of the Russian Federation, at undermining its security, at creating armed units, and at instigating social, racial, national and religious strife shall be prohibited.

One may observe an apparent contradiction between sections 1 and 5. Though “ideological diversity” is legally recognized, associations who meet the criteria of section 5 are explicitly prohibited. At first, it may seem as if groups such as Pussy Riot and the Arctic 30 are punishable due to the highly political nature of their criticisms. However, it would take a stretch of imagination to argue that their primary goal is to change the “basis of the constitutional order,” and especially when no violence was used. In fact, by asking the leaders of their country to hold themselves accountable for their actions—a keystone of a democratic system—these groups are doing just the opposite. Therefore, they cannot be found in violation of the provisions of Article 13.

Article 29 further expands on the principles underlying acceptable speech and expression:

1. Everyone shall be guaranteed freedom of thought and speech.
2. Propaganda or agitation, which arouses social, racial, national or religious hatred and hostility shall be prohibited. Propaganda of social, racial, national, religious or linguistic supremacy shall also be prohibited.

Like the hooligan laws, the Constitution invokes the concept of “social, racial, national or religious hatred” brought about by “agitation.” However, the term “agitation” implies a certain level of violence or offensiveness that invokes such hatred in the audience. Furthermore, as is shown in the cases of hooliganism discussed in the previous chapter, the perceptions of intent made by Russian authorities often differed greatly from the actual motivations of the individual or group in question. In cases such as the violence against LGBTQ+ Russians, acts of hatred were ignored due to the homophobic bias of the authorities involved.

Contrast the hooligan laws with legitimate restrictions on hate speech as demonstrated by two ECHR cases. *Pavel Ivanov v. Russia* concerns a newspaper editor and owner who disseminated anti-Semitic ideas through a series of articles portraying Jewish people as a source

of evil in Russian society (“Hate speech,” 2019). The Court ruled that his actions, especially given their wide reach through mass media, were indeed an incitement to ethnic hatred and therefore were not protected. As for an example of religious hatred, the case of *Norwood v. the United Kingdom* is especially illustrative. The individual in question received charges after displaying a poster with the slogan “Islam out of Britain—Protect the British People” emblazoned on a picture of the burning Twin Towers (“Hate speech,” 2019, p. 4). In a general and vehement attack against Muslims as a whole, reasoned the Court, the individual had acted in a way that contrary to the Convention’s values, including tolerance and social peace.

Generally speaking, each case of hate speech mentioned included two components: a specific target and a broad reach in which all members of the group in question were treated as a whole. Furthermore, the Court clearly articulated how each act was contrary to the values of its Convention rather than appealing to vague notions of nationalism or other types of rhetoric. Nonviolent acts of hooliganism expressing a political stance do not target groups but rather policies and the actions of government officials, and thus do not constitute hate speech according to ECHR standards. The homophobic attacks of uncharged hooligans, however, would likely qualify.

A final note on civil and political rights in the Russian Constitution would clarify the specific rights of expression for groups. Article 31 states: “Citizens of the Russian Federation shall have the right to assemble peacefully, without weapons, hold rallies, mass meetings and demonstrations, marches and pickets.” Where the nature of the message is concerned, given the fact that the citizens are in fact assembling peacefully, the Constitution is silent. This implies that cases of nonviolent hooliganism, wherein charges are brought forth solely because of the political content of the act, are within the scope of the rights outlined in the Constitution.

As for limitations on all of the rights discussed, Article 55 reaffirms the primacy of international standards and accepts the terms of restrictions put forth in the UDHR and the ICCPR:

3. Human and civil rights and freedoms may be limited by federal law only to the extent necessary for the protection of the basis of the constitutional order, morality, health, rights and lawful interests of other people, and for ensuring the defence of the country and the security of the State.

Of course, as was demonstrated by the ECHR case of *Hertzberg v. Finland*, there is no predetermined method for determining what exactly constitutes public order or morality. However, the ICCPR General Comment no. 34 condemns the use of an arbitrary margin of discretion. In this light, since Russian law contains an express commitment to the participation in the international community and an internalization of the community's values, it is this same group that can evaluate the legitimacy of controversial Russian policies.

Consistency with Law

The actions carried about by Russian authorities, as described in previous chapters, make it clear that hooliganism is regarded as a type of speech. Though the exact nature of the crime has morphed over Russia's history, starting with distinctly apolitical acts such as public drunkenness, it has taken on a political character beginning with the Soviet era. Since then, individuals have been branded as hooligans as a way for Russian elites to silence their voices. Surely unruly and even violent hooliganism continues to exist. However, with a myriad of other criminal charges at the Russian government's arsenal, there is no legal reason to criminally prosecute nonviolent forms of expression in the same way that rowdiness and swearing have historically been prosecuted. Thus, if an act of hooliganism is punished on account of its

message, whether underlying or overt, then it shall be subject to laws regarding speech and expression.

When addressing potential violations of the law when multiple systems of law are in question, it is simplest to begin with domestic law. If a policy is found to be inconsistent with the principles of the state's own legal system, then it cannot continue as such. However, the Russian Constitution explicitly states a commitment to upholding the standards of international law. In other words, it reflects a stance of monism in which domestic law must defer to international law. As such, it is not necessary to appeal solely to Russian domestic law in order to evaluate the ultimate legitimacy of the hooligan laws.

Recall that the UDHR and the ICCPR contain criteria for legitimate restrictions on speech and expression. The state in question must determine the exact nature of the threat brought about by the expression and any response must be proportionate. In the charges of hooliganism that this paper has discussed, there has been no attempt to meet either of these criteria. In fact, as in the case of the members of Pussy Riot, individuals are often subject to periods of pretrial detention that are not proportionate to the gravity of the crime. The Russian Criminal Code does not consider hooliganism a crime of sufficient gravity to be punished in this way, demonstrating a blatant abuse of power.

While public officials, Orthodox Church clergy, and other figureheads spoke out on the threat of Pussy Riot's *Punk Prayer* to public morals, they have also failed to define what those public morals actually entail. In addition, as illustrated by the cases of *Hertzberg v. Finland* and *Handyside v. United Kingdom*, speech which shocks and offends the public—including those who find themselves in a position of elite power—deserves protection. Such speech may not be

overtly political, as with the twerking performance, but nonetheless expresses a message that is meant to challenge public perception.

The triduum of political, religious, and cultural power in Russia is a complex entity, and while these forces have had a distinct impact on the course of Russian history, they are by no means immutable. In the previous example of Pussy Riot and in the case of homosexual journalists such as Slava Mogutin, the preservation of this tripartite concoction seems to be the primary motive. There is an underlying logic that criticism of one component is criticism of all three and is thus a threat to Russia's internal affairs. However, this is mainly a rhetorical strategy used by Putin to deflect criticism of his actions, especially when they are not consistent with the 'Russian values' to which he appeals. Those values have certainly not been stable throughout the tumultuous 20th century, as Russia redefined itself as a socialist nation and then again as a budding democracy. When values change in a short time, evident by public opinion polls showing declining levels of satisfaction with his political performance, it is not valid to appeal to ideals that no longer hold sway.

Here, one can make a valid comparison between the hooligan laws and Thai *lèse-majesté* laws to further illustrate their inconsistencies with international law. While each is defended as protecting an institution or set of ideals considered fundamental to their respective cultures, they are both wielded excessively as tools of political control. If they truly were protective of cultural values, then the nature of the crime would not change over time and especially not with regime changes. The number of charges for each crime varied greatly between time periods and even surged during periods when the regime in power aimed to further legitimize its power. For Thailand, this was the military coup of 1932; for Russia, this was the inception of Soviet rule as well as the transition away from democracy after Yeltsin. While politics may heavily influence

culture and vice versa, they are not to be equated. Thus, the cultural relativist argument that hooligan laws seek to protect Russian cultural values does not hold sway.

Another argument against the legitimacy of hooligan laws is the outcry that such charges earn. Though Russian law seeks to insulate the workings of its government from foreign influences, officials cannot write off such criticism as meddling—if Russia ratifies international law, it is liable to criticism from international sources. For instance, during the pretrial detention of the Arctic 30 activists, NGOs such as Human Rights Watch called for an immediate release of custody and the dropping of all charges (Denber, 2013). The rationale was that such a charge was “distorted and disproportionate,” since the protests involved neither the use of weapons nor a discernible motivation of hatred (Denber, 2013).

As for the plight of the Arctic 30 protestors, Amnesty International has contested the grounds of their hooligan charges and has questioned the logic of the laws themselves. The Europe and Central Asia Programme Director John Dalhuisen emphasizes that while hooligan charges are based on the presence of violence, the Arctic 30 certainly did not meet this criteria as they were “engaging in peaceful protest” (“Hooliganism’ charges do not apply,” 2013). Furthermore, he criticizes Russian authorities for having an “ulterior motive behind their repeated attempts to use criminal charges” when lesser, non-criminal charges are available and appropriate (“Hooliganism’ charges do not apply,” 2013). By extension, all other cases of nonviolent hooliganism should not face this criminal procedure. Some acts of hooliganism could be covered by other criminal laws with milder sentences, while others should not receive charges at all. However, the ulterior motive for punishing certain acts, especially as exercises of expression, should not be ignored.

The European Court of Human Rights (ECtHR) has also taken a clear stance on the hooligan laws, siding with Pussy Riot. In July 2018, the court ordered Russia to compensate the band members 50,000 euros (\$58,000 USD) for damages during their trial following *Punk Prayer* (Kozlov, 2018). No remedy would have been requested unless, of course, legitimate damage was done. ECtHR representatives noted that the punishment “for simply having worn brightly colored clothes, waved their arms and kicked their legs around and used strong language”—that is, for having expressed themselves in a provocative but ultimately nonviolent way—was “exceptionally severe” (Kozlov, 2018). Moreover, the ECtHR did acknowledge the performance as an act of political speech, unlike the Russian courts, which upheld its conviction of religious hatred (Voorhoof, 2018).

Though the ECtHR did not explicitly call for a reform or repeal of the hooligan laws, it has sent a clear message that they can be used as an instrument of violating human rights. In fact, the ECtHR defended the performance as an exercise of the freedom of artistic expression, with conduct being a valid form of this expression (Voorhoof, 2018). As long as authorities continue to harshly regulate and punish public conduct on account of its political content, even expressed artistically or abstractly, the state is failing in protecting human rights. As Russia is currently considering a withdrawal from the ECtHR, and thus an avoidance of the responsibilities that come with membership, its officials are likely aware of that fact as well.

Hooligan laws are contrary to both the letter and the spirit of international law standards regarding speech and expression. By criminally punishing those who criticize leaders or policies with their nonviolent actions, Russia has failed in its duty as a state to create space for free expression. Its noncompliance with international law alone is one violation of its own constitution—its deep disregard for the human rights of its own citizens, international standards

notwithstanding, is another. If anything, it is the so-called hooligans that take action to oppose Putin's authoritarian policies that are maintaining—not threatening—the constitutional order. Perhaps the true hooligans are the ones who enforce such laws. In doing so, they are expressing national hatred by failing to uphold the standards of their own country's constitution.

If Russia truly wishes to abide by its own constitution and pursue the trappings of a democratic state, then hooligan laws have no place in Russian society. They must be abolished in their entirety. Why not weakened, as some suggest as the ideal fate for *lèse-majesté* laws? The answer is simple: the Criminal Code already accounts separately for crimes lumped together as “hooliganism.” In their own contexts, of course, they are stripped of their covert political meanings. For the case of physical assault (murder notwithstanding), Articles 111-118 are sufficient. Theft, swindling, robbery, and other related acts are covered by Articles 158-164. Destruction of property is outlined in Articles 167-168. If any of the above occurs, then it should be punished for exactly what it is. The hooligan laws, seen through the lens of the Criminal Code in which they live, are proven to be redundant.

The final nail in the coffin for the hooligan laws is the inconsistency with which they are applied. As one of the cornerstones of a functioning democracy, the rule of law must be upheld—any nascent democracy would be wise to follow this standard. Recall the fact that many instances of hooliganism against LGBTQ+ Russians, much of them involving violence or threats of death, are left unpunished. Here, one can observe a contradiction: though the act is carried out using weapons and is motivated by hatred—social hatred specifically—it is pardoned on account of the victim's identity. Such abuse of power cannot be tolerated.

A full-scale repeal of the hooligan laws is an urgent task if the country wishes to carry out the democratic inclinations outlined in its own constitution. Unless, of course, the leaders of

Russia reject that their country is democratic, which would be a singular threat to the constitutional order. In fact, the violation of the equality of human and civil rights is a crime outlined in Article 136 of the Criminal Code:

Discrimination, that is, violation of the rights, freedoms and legitimate interests of man and citizen based on gender, race, nationality, language, origin, property or official status, place or residence, attitude to religion, convictions, or affiliation with public associations or any social groups, made by a person through the use of the official position thereof—shall be punishable.

The evidence against Putin and his regime is overwhelming—Article 213 of the Russian Criminal Code is inconsistent with international human rights norms, unconstitutional in execution, and undemocratic in intent.

Chapter V: Conclusion

Performing Resistance

The performance has not yet ended. In 2014, Nadya Tolokonnikova of Pussy Riot launched the subversive web outlet MediaZona. Focusing on criminal justice news that would otherwise be censored in mainstream Russian media, the mission of the site is to counter the information hegemony of Russia's elite. By 2016, the website had about 2.2 million visitors a month (Weber, 2016). Today, the website's headlines prominently feature those parts of society which Putin and his officials keep under wraps: policy brutality, the persecution of Jehovah's Witnesses, and the mobilization of activist groups, among other forbidden topics. When interviewed by Reuters about the motivations behind MediaZona, Tolokonnikova replied: "The real punk is to build institutions" (Weber, 2016).

Tolokonnikova's comment parallels the sentiment behind the actions of her fellow hooligans who, through a public performance of resistance, exposed the contradictions of power in Russia and called for a more open political system. Shifting from a socially-sanctioned set of public behaviors to a legally-sanctioned category of actions arbitrarily receiving punishment, hooliganism has become code for political speech. In appealing to a set of mythic, 'traditional' values, Putin has carefully groomed public opinion in support of his policies. In the meantime, he is endorsing actions that are contrary to the laws of Russia itself, international law notwithstanding. In a world where scholars and policymakers sympathetic to democratic institutions have cause for concern, this development is not simply troubling—it is deadly.

And so it continues. In March 2019, the Russian parliament instituted a new set of laws to further insulate the government from criticism. The first outlaws "blatant disrespect" of the state, government officials, and society, and the second bans the sharing of "false information of public

interest, shared under the guise of fake news” (“Russia laws ban,” 2019). Though parliament members tout the policies as promoting “discipline” and “greater accountability” of citizens, critics have called it “barbaric” and repressive of journalists (“Russia laws ban,” 2019). Such policies are likely to lead to self-censorship as journalists and activists face a new set of potential charges. In this way, the parliament, too, has been instrumental in transferring moral leadership to state hands, giving it the exclusive power to create, regulate, and enforce its norms.

In the dichotomy of power relations in Russia throughout its history, hooligans have stood firmly opposed to those who claim moral leadership. The exact nature of the elite group has shifted over time and has included a broad range of individuals such as religious leaders, media oligopolists, and executive offices. In turn, the parameters of the hooligan laws have been adjusted to fit the methods, message, and membership of the societal elite and not to an enduring cultural idea of hooliganism. By engineering the idea of public conduct through law and force, Russian elites have reinforced their power. Putin, then, is no exception. However, it is his augmentation of this enforcement, as well as his equation of regime loyalty with ideal Russian living, that belie his authoritarian ambitions.

Furthermore, the inconsistency of his own policy actions, including but not limited to hooliganism, with the Russian Constitution are particularly striking. Underlying all of these is a disregard for the Constitution’s own allegiance to democratic values and pledged participation in the international community. In actively violating the norms of the international community, especially those regarding freedom of speech and expression, the Putin administration seems complacent with Russia’s failure to uphold the rights of its own citizens. According to the view that one of the primary duties of states is to fulfill such rights, Russia has failed as a state. By no means are the hooligan laws the only instance of unjust restrictions on rights, but a close study of

them can provide the means for identifying, investigating, and eradicating others of a similar nature.

Applications and Future Research

Surely, the Russian hooligan has counterparts around the globe as political dissidents and social deviants are tolerated—or punished—in varying degrees. As was shown with *lèse-majesté* laws in Thailand, the perceived dangers of freedom of speech and expression may be inconsistent with reality. As such, one of the major contributions of this work to the study of international law and civil and political rights is its demonstration of how such restrictions on speech are expressions of authoritarian power, not necessarily cultural imperatives. The same tools of analysis may be used to evaluate religious defamation laws, for example, which persist in states such as Saudi Arabia and Morocco. Decoupling the culture from the content will be key in arguing for reforms.

On a more localized scale, the points brought up in this paper as well as its synthesis of a variety of sources could serve the study of crime in Russia in a broad sense. In uncovering the origins of hooliganism as a crime, tracing its codification and modification as law, and pointing out its abuse, this research presents a possible methodology for studying other crimes in depth. Due to the sometimes rapid ideology changes present throughout Russia's history, it is necessary to place these laws in a greater context to fully understand their function. For human rights activists in Russia, especially, a deep analysis as such can serve as a powerful tool in exposing the arbitrary nature of punishing certain actions.

Winning the 2018 presidential election in Russia, Putin is set to spend six more years in office. If his authoritarian inclinations continue, one may expect more crackdown on dissident and further restrictions on civil and political rights. It is imperative during this time for human

rights watchdog groups to closely monitor his policy initiatives and, if needed, recruit the help of international sympathizers. Hooliganism and other crimes may be punished even more harshly than before or may include additional, wider-reaching provisions. As such, the understanding of these crimes will need to be updated to account for these changes. In the meantime, this work presents a logical and comprehensive methodological framework that can accommodate future insights.

Closing Remarks

James Scott cautions against a sharp separation of ‘real’ resistance and incidental activities which may appear subversive but are no more than isolated, apolitical phenomena. To do so would be to misconstrue the very relations of power within a given society. When power is highly concentrated into elite hands, non-elites may lack the resources and agency to speak out in more formalized ways. As elections in Russia are proven to be more theatrical than genuine, conventional methods in creating political change are no longer accessible. Action, and even non-action, are potent forms of speech.

In reclaiming public space from Russian elites, individuals branded as hooligans perform resistance. This performance, however, is not to be understood as a singular, self-serving act. Rather, it sends a mission of an alternative order of things beyond the elite values of autocracy, nationality, and orthodoxy. For Pussy Riot, it is a separation of church and state power as well as greater state transparency. For the Arctic 30, it is a responsible management of natural resources and a more equitable distribution of the country’s wealth. For LGBTQ+ Russians who publish their experiences, it is safety from the physical violence and discrimination which threaten the rule of law. Each of these acknowledges the crucial role of civil and political rights in countering injustice. None of these allow space for authoritarian rule or narrow ‘cultural’ concepts of rights

that are, in reality, constructed by Russia's elites. It is time for Putin and his officials to make a choice: acknowledge and embrace these norms or admit Russia's failure in upholding its own standards of governance. Perhaps his vision for an authoritarian Russia deserves a curtain call—not with the thunderous applause of his supporters but rather the outraged voices of dissent.

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