

MSC 2020**International Scientific and Practical Conference «MAN. SOCIETY.
COMMUNICATION»****“WARS OF MEMORY” IN THE INTERNATIONAL
COMMUNICATION SPACE: LEGAL ASPECTS**

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Abstract

The article discusses the legal foundations of international communication about historical events, allowing either to prevent the wars of memory, or prevent their development and minimize the consequences. It is shown that in the late XX - early XXI centuries there is a process of updating history, caused by the fact that historical knowledge and historical memory came into interaction and partly even began to be equated. Historical events are considered as social injuries, legal methods are used to overcome and prevent them. The international and national legal norms regulating relations regarding historical memory and setting the framework for international communication are studied. The reasons for the adoption of legal norms and enforcement acts in the field of memory are identified: the creation of new national identities, the creation of supranational entities, the strengthening of traditional collective identities that are experiencing a crisis in the period of globalization. Various strategies for the behavior of states in the international arena are demonstrated: recognition of responsibility for crimes of the past (for example, Germany), emphasizing the status of the victim (for example, a number of countries of the former Soviet Union), and strengthening the position of the winner (for example, Russia). Options are considered when the past acts as a unifying principle for states and peoples (existence within the framework of one state, common enemy, etc.) or becomes the subject of serious political debate, sometimes reaching ‘memory wars’.

2357-1330 © 2021 Published by European Publisher.

Keywords: Colonial period, genocide, historical memory, international law, memory wars World War II

1. Introduction

At the present stage, two interesting interrelated processes are observed - updating of historical knowledge, a new round of their politicization and use in determining the main directions of state policy of different countries, as well as the transition of history from the category of an elite study subject exclusively to specialists in the symbiosis of scientific knowledge and 'experiencing' the events of the past, memories that participants can share with a large audience through technical means. Experts say that since the 70s. The twentieth century has a tendency to 'reunite' historical science and memory, which has never been before, and therefore modern mankind lives in the midst of a deep crisis of national stories and their replacement with multiple memory (Nikolaenko & Evsikova, 2016).

Almost the fifth part of the XXI century shows that the last century left a huge number of questions that still determine the relationship between states, peoples, affect foreign and domestic policy, cause a serious response on a personal level.

2. Problem Statement

The so-called memory wars are unfolding in the international communication space today (Koposov, 2017; Lu, 2020; Smith, 2019; Subotic, 2020). This phenomenon, in the framework of which there is a different, sometimes even opposite, assessment of past events that determine the state legal, socio-economic and even cultural vector of the country's development.

At the present stage, the main historical 'battles' are conducted in the following areas.

Firstly, these are events related to the Second World War and its outcomes, primarily, the modern world order.

Secondly, the crimes of genocide, responsible for which either did not suffer due punishment, or the assessment of which began to undergo significant changes over time.

Thirdly, the colonial period of the history of mankind and its consequences, some of which have not yet been overcome.

Fourth, the creation of new international integration associations that are trying to 'write' their 'new', unified history of peoples who previously constantly fought with each other or were in confrontation, and make the past a unifying beginning.

3. Research Questions

The following questions were raised in this study.

- The memory of what historical events generates the discourse of confrontation in international communications, i.e. what events are at the center of modern memory wars?
- What motives determines the position of a state occupied in these wars?
- What strategies are used by the warring parties?
- What legal means are used in this?

4. Purpose of the Study

The purpose of the study is to develop, with the help of legal means, an approach that helps to overcome the ‘memory wars’ that have become one of the characteristics of life in the modern world community.

To achieve this goal, the following tasks need to be solved: to identify historical topics that cause the most fierce international controversy; reconstruct the position of the polemicists and determine their motives; describe the legal means used to express and strengthen the positions of the parties.

5. Research Methods

‘Memory wars’ take place in the communication space. The methodological prerequisites of this study are formulated in the framework of the theory of coordinated value management (Cronen, 2004; Pearce, 1994). Proponents of this direction believe that communication is a process in which we collectively create events and objects in our social world. Coordinated management of meaning begins with the assertion that the people participating in the conversation together construct their own social realities and at the same time they themselves are formed by the worlds that they create. Those. every conversation has a further fate. Tomorrow's social reality is the further fate of our interaction today. Therefore, the main questions: what do we create together? how do we do it? how can we create better social worlds? This approach is very important in the establishment and development of international integration associations, such as, for example, the European Union, in which attempts are made to create a common European history, but only of the member states.

The ‘memory wars’ cannot be investigated without reliance on the achievements of sociology. In particular, it cannot be investigated without reliance on the theory of collective memory and social trauma.

The concept of ‘collective memory’ has been developed by sociologists since the 30s. of XX century. One of the first to introduce it was Halbwax (2007), a French scientist who died in 1945 in the Buchenwald concentration camp, where he fell for helping the Jewish population. He believed that the formation of collective memory is a purposeful work, understood as constructing a socio-cultural space, and not as fixing certain memories.

At the present stage, different levels of collective memory are allocated. In particular, the German historian and culturologist Aleida Assman described four such levels:

1) neural, where the human brain acts as a conditional medium, social communication as the medium, and symbolic mediators as a support;

2) social, where social communication acts as a carrier, the individual's brain as an environment, and symbolic mediators as a support;

3) cultural, contained in symbolic mediators, where social communication acts as the medium, and the brain of the individual acts as a support;

4) political, uniting elements of social and cultural memory, and therefore distinguished by dualism of both the media, and the environment, and support (Assmann, 2014).

It should be noted that the problem of collective memory was also studied in the Soviet Union. For example, Lotman (1992) considered this phenomenon from a semiotic point of view. He believed that

culture is a supra-individual mechanism for storing, transmitting, and creating new messages, i.e., collective memory.

Gradually, collective memory began to be understood as the memory of humanity as a whole or of individual peoples, and of certain social groups, united, for example, by a professional criterion. For its design can be used in various ways. Thus, the introduction of Decree of the President of the Russian Federation on February 4, 2008 No. 130 on December 3, even with a diverging date, is still publicly associated with the adoption of judicial statutes on November 20, 1864 and the beginning of the Judicial Reform as one of the most successful and productive reforms in the whole history of Russia.

Under such conditions, the theory of social trauma began to develop. In general, it was perceived by lawyers; there is a legal dimension to the concept of 'social trauma'. The law not only contributes to overcoming social injuries, but can also perform a preventive function - to prevent the emergence of new social injuries. The legislative 'assessment' of various traumatic historical events in the so-called memorial laws is typical for many countries of the world today (Cvijanovic, 2018; Gonzalez, 2019). Social trauma from a legal point of view is an event reflected in legal documents, the consequences of which must be overcome and the repetition of which must be blocked by legal means.

However, since the legal aspects of 'memory wars' are considered in the article, special methods of legal research are used: the formal legal method allows you to determine international legal norms that govern the attitude of the world community to certain events of the past, the comparative legal method contributes to the identification of different approaches to the formation and execution of an official memory policy, the method of legal modeling can help in determining the optimal model of 'memorial' legal acts and treaties.

6. Findings

In 2020, 75 years of the defeat of fascism are celebrated, but disputes over the events of World War II do not subside. Of course, this is due to the declassification of new documents, and the discovery of sources that were previously unknown. But the main reason is the use of the memory of the war to build the political line of modern states.

Four positions can be distinguished there.

The first and second are the positions of states that triumphed over fascism. It should be noted that almost immediately, at the end of hostilities, it became clear that 'memory wars' would be inevitable.

The winning countries already in May 1945 diverged in the end date of the war in Europe, because signed by general I. A. Susloparov May 7, the first act of surrender of Germany, which entered into force on May 8, did not suit the leadership of the Soviet Union, and at the very end of the day on May 8 G.K. Zhukov signed the second act, which entered into force on May 9. As a result, two Victory Day dates arose. All the countries of Europe began to mark the day of the defeat of Nazism on May 8, and the USSR and Great Britain on May 9. To explain this somehow, two versions were put forward. One called the cause of the discrepancy a time difference, which contradicts international law, because the date and time of signing the international treaty are determined at the place of its signing. Another - the continuation of May 9 battles in a number of cities, in particular in Prague.

In different ways, the victorious countries also relate to the very celebration of Victory Day. In the Soviet Union, this holiday gradually became one of the main ones. If in 1945-1947 Victory Day was a non-working day; at the end of December 1947, the New Year was a weekend instead. However, since 1965, May 9 was a non-working day, and this situation did not change in the Soviet Union, and then it was consolidated in the Russian Federation. The tradition of military parades also did not arise immediately. The first parade was held on June 24, 1945, and then the parades were resumed from 1965.

For the Russian state, Victory Day became one of the main state holidays uniting not only Russian citizens, but also many former compatriots who now live in independent states that were formerly republics of the USSR. Moreover, the movement 'Immortal Regiment' showed that it was the Great Patriotic War that became a symbol of the interweaving of the official history of the country and the personal history of each family and each person.

In the USA, for example, Victory Day over Nazi Germany is not paid so much attention, parades are not held, although marches are annually held. A more significant date is September 2, 1945, when an agreement was signed to end the Second World War.

The third position is that at the official level in Germany, responsibility for the fascist period of the country's history is recognized.

Since 1950, in the GDR, the events of May 1945 were regarded as liberation from Nazism. In Germany, this happened much later. On May 8, 1985, the President of the Federal Republic of Germany, R. von Weizsacker (1929-2015), called this date 'the day of liberation'. Despite the fact that his presidency fell on 1984-1994, i.e. the period of the reunification of Germany, it is precisely this statement and in the 21st century is considered as one of the greatest merits of politics (Roze, 2015).

In 2000, a law was passed in the Federal Republic of Germany on the creation of the 'Memory, Responsibility and Future' fund, whose task was to organize the collection of funds for payments to foreign citizens forcibly stolen in Germany during World War II. Of the 4.54 billion euros collected by the fund, 443.7 million euros were allocated for Russian citizens (Filitov, 2015).

In September 1994, a paragraph was forbidden in the German Criminal Code prohibiting the use of Nazi symbols, slogans, hymns and paraphernalia. Criminal liability was established (imprisonment from 3 to 6 years) for defamation of the Jewish and other victims in the 1930s and 1940s peoples. History books instructed to spell out the atrocities of the Nazi period.

In Germany, tremendous work is being done to prevent and combat new international crimes. Germany became the 25th state to ratify the Statute of the International Criminal Court (Rome Statute), containing a modern understanding of international crimes. In addition, a Code of Crimes against International Law was developed and adopted, which entered into force on June 30, 2002. Thus, the activities of the German Government are aimed not only at 'experiencing' the historical past, but also at creating conditions and mechanisms under which Nazi crimes period could not be repeated.

The fourth position is taken by countries that believe that they cannot be held responsible for events occurring on their territory during the years of 'occupation'.

In Estonia, Latvia and Lithuania, as well as Georgia, in the acts on the restoration of independence, the period of entry into the USSR was called 'Soviet occupation', and in the decree of the President of Azerbaijan G. Aliyev dated March 26, 1998 the term 'genocide of Azerbaijanis' was used.

This position can be traced in relation to the events of the Second World War. First of all, this is characteristic of Polish politics (Belavusau, 2018). So, at the anniversary 70th session of the UN General Assembly in 2015, President Andrzej Duda equated the attack of Nazi Germany on September 1, 1939 and the entry of Soviet troops into Poland through the Curzon line on September 17 of the same year. A striking example of the continuation of this political line was the non-invitation of Russian representatives in September 2019 to events dedicated to the 80th anniversary of the outbreak of World War II. At the same time, German officials participated in all ceremonies.

Similar processes are taking place in some other countries of the former socialist camp. In particular, in Lithuania, where at an official level an attempt was made to abandon the Holocaust crimes committed during the Second World War in the republic, including by the local population.

This position is determined by the fact that these states are trying to present themselves as victims of totalitarian regimes and this becomes the basis of their modern politics.

It should be noted that such controversial positions were not immediately determined. Politicians of past years that survived the Second World War and were its participants tried to prevent such trends. Not in vain in the 1970s. to the universal principles of international law, enshrined in Article 2 of the 1945 UN Charter, the principles of the inviolability of state borders established after the war and cooperation were added. However, in many countries a different political line prevailed.

Thus, in the XXI century there was a political 'split' in memory of the events of 1939-1945. This way seems to be very dangerous, because instead of analyzing the mistakes of different countries that allowed the outbreak of World War II, making victory over fascism a unifying beginning, there are speculations on the topic of historical events, which sometimes come to the 'memory wars', the demolition of monuments and memorials inventing a 'new' story, etc.

Relatively complicated is the attitude to historical events related to the destruction of entire peoples or a significant part of them. As you know, genocide was recognized as an international crime only after the Second World War. However, the events that took place during the First World War also left a deep mark.

So, the issue of recognition of the genocide against the Armenian population of the Ottoman Empire is still not resolved in the modern international communication space.

On May 30, 1915, the Majlis of the empire approved the 'Deportation' law (Marukyan, 2017), which was officially dedicated to the fight against those opposing the government in peacetime. The deportation was to be carried out in accordance with three principles: 1) '10% principle', i.e. the number of Armenians in a particular region in relation to Muslims should not exceed the specified limit, 2) the number of houses deported could not exceed 50, 3) the deported were forbidden to change their destination. In fact, these measures were directed against the Armenian population.

Despite the fact that more than 100 years have passed, the 'memory wars' on this issue do not cease. Even the Turkish Military Tribunal on April 22, 1919 accused the leaders of the Young Turkish government of the Armenian Genocide, by article 226 of the Sevres Peace Treaty of August 10, 1920, Turkey recognized the right of the Allied Powers to prosecute and its obligation to transfer all those guilty of violating laws and customs war. However, then the Lausanne Peace Treaty of 1923 declared an amnesty for all crimes from August 1, 1914 to November 20, 1922.

At the present stage, Armenia calls on Turkey to recognize the fact of the Armenian Genocide in the Ottoman Empire during the First World War. The Pan-Armenian Declaration, adopted in 2015, dedicated to the 100th anniversary of these events, is seen as a milestone in the continuation of the struggle for historical justice, the motto of which is the phrase 'I Remember and Demand' (Pan-Armenian Declaration..., 2015).

Turkey, in turn, considers it necessary to carry out a historical investigation, citing the fact that the Young Turkish authorities did not adopt a law on the extermination of Armenians, and the mass death of the Armenian population occurred during the resettlement from the war zone (Cherkashina, 2018).

Real 'memory wars' are unfolding in the 21st century regarding the colonial period of history. Moreover, the forms and occasions are both international and domestic in nature (Lotem, 2018).

So, countries that were colonies in the middle of the 20th century use two types of tactics.

On the one hand, this is the use of legal mechanisms to establish a certain kind of responsibility of the mother countries. A case in point is the United Nations International Court of Justice, initiated in 1989 by the Republic of Nauru against Australia. The subject of the lawsuit was the activities of Great Britain, Australia and New Zealand on the island in the 1920-1950s on the development of the richest deposits of phosphates and the distribution of income from this by 42% and 16%, respectively. Thus, Nauru tried to take a certain 'tax' for the depletion of mineral resources and the poor ecological state left over from the colonial period. Without waiting for a decision of the Court, Australia proposed a settlement agreement with a certain amount of compensation, which was signed.

On the other hand, states that were previously colonies, even with significant differences, instantly unite against a common 'threat'. A striking example is the attempt to secede from the International Criminal Court of South Africa and Burundi, caused by the Court's demand to extradite the then-current President of the Sudan Omar al-Bashir, who was charged with genocide, war crimes and crimes against humanity. This showed the superiority in African politics of the value of the idea of African unity compared to participation in universal courts.

Another reason for the 'memory wars' is attempts to create a common history of countries that at the present stage are uniting into international integration entities. First of all, these processes are taking place in the European Union, because, firstly, in the integration process it has moved further compared to similar organizations, and secondly, within its framework, the difficult task of uniting countries that have either been for centuries were sworn enemies, either have territorial claims against each other, or for decades have been divided by the Berlin Wall not only in the political, but also in the general cultural sense.

In this case, two scenarios are possible. Either a systematic, gradual policy is being pursued to recognize pan-European values, history, culture, or rallying begins against a common 'enemy'. Of course, today both the first and second options are being implemented. Moreover, as it turns out, in the latter Russia plays the role of a country that is the initiator of a huge number of troubles in European history.

7. Conclusion

The combination of memory of the events of the past and history, which is observed at the present stage, thanks to new technical and communication capabilities, contributes, on the one hand, to the social and personal 'experience of history', but on the other hand, makes 'war of memory' inevitable.

A traumatic past can have various effects. This is overcoming the negative facts of the past through taking responsibility by subsequent generations, and issuing normative legal acts defining attitudes to historical events, and at the same time trying to justify their own difficulties and failures by the presence of a historical 'enemy' (Nuzov, 2019).

In any case, 'memory wars' have a devastating effect, because are a type of information warfare, destroy the general communication space.

The 'memory wars' are a negative phenomenon in the life of the modern world community, since they interfere with objective assessments, formulating conclusions from past events that may be useful in the 21st century. The use of history for political purposes poses a certain threat, since lessons are not learned, and the positive and negative experience of historical events is not perceived. Constructing the image of the enemy from the past can adversely affect both international and domestic communication and contribute to the development of confrontation in society, as well as between states.

References

- Assmann, A. (2014). *The long shadow of the past: Memorial culture and historical politics*. NLO.
- Belavusau, U. (2018). The Rise of Memory Laws in Poland An Adequate Tool to Counter Historical Disinformation? *Security and Human Rights*, 29, 36-54.
- Cherkashina, T. N. (2018). Denial of the Armenian genocide by Turkey: to the history of the problem. In N. V. Moskvicheva (Ed.). *Omsk scientific readings-2018. Materials of the Second all-Russian scientific conference* (pp. 285-286). Publishing House of Omsk State University named after F.M. Dostoevsky.
- Cronen, V. (2004). Something old, something new: CMM and mass communication. *Human Systems: The Journal of Systemic Consultation & Management*, 15(3), 167-178.
- Cvijanovic, H. (2018). On Memory Politics and Memory Wars: A Critical Analysis of the Croatian Dialogue Document. *Politicka Misao-Croatian Political Science Review*, 55(4), 109-146.
- Filitov, A. M. (2015). Russians and Germans - a difficult path to reconciliation. *Electronic scientific and educational magazine "History"*, 11(44), 44.
- Gonzalez, G. J. (2019). Wars of Memory in France and its Political Use by Nicolas Sarkozy. *Historiografias-Revista de Historia y Teoria*, 18, 76-90.
- Halbwachs, M. (2007). *Social frameworks of memory*. Novoeizdatelstvo.
- Koposov, N. (2017). *Memory Laws, Memory Wars. The Politics of the Past in Europe and Russia*. Cambridge University Press.
- Lotem, I. (2018). Beyond memory wars: The indigenes de la republique's grass-roots anti-racism between the memory of colonialism and antisemitism. *French History*, 32(4), 573-593.
- Lotman, Y. M. (1992). *Selected articles*. Aleksandra.
- Lu, K. (2020). Memory Laws, Memory Wars. The Politics of the Past in Europe and Russia. *Constellations-an International Journal of Critical and Democratic Theory*, 27(1), 161-163.
- Marukyan, A. Ts. (2017). Value of the Joint Declaration of Powers of the Entente of May 24, 1915, in the Question of Qualification of Armenian Genocide and its Impact on the Authorities of the Ottoman Empire. *Humanities and law studies*, 3, 71-75.
- Nikolaenko, G. A., & Evsikova, E. V. (2016). A New Concept of Memory: from M. Halbwachs to A. Assmann. Cultural Memory and Cultural Identity. In E. I. Rabinovich (Ed.). *Materials of the all-Russian (with international participation) Scientific Conference of Young Scientists (XI Kolosnitsyn readings)* (pp. 54-61). Yekaterinburg: Publishing house of the Ural University (Ural Federal University named after the first President of Russia B.N. Yeltsin).
- Nuzov, I. (2019). Freedom of Symbolic Speech in the Context of Memory Wars in Eastern Europe. *Human Rights Law Review*, 19(2), 231-253.

- Pan-Armenian Declaration on the 100th anniversary of the Armenian Genocide. (2015). *Voice of Armenia. Socio-political newspaper*. January 30.
<https://www.golosarmenii.am/article/26520/vsearmyanskaya-deklaraciya>
- Pearce, W. B. (1994). *Interpersonal communication: making social worlds*. HarperCollins College Publishers Inc.
- Roze, A. (2015, January 31). Ex-President of Germany Weizsacker has died at the age of 94. *Russian Newspaper*. <https://rg.ru/2015/01/31/prezident-site.html>
- Smith, K. (2019). Memory Laws, Memory Wars: The Politics of the Past in Europe and Russia. *Journal of Modern History*, 91(1), 176-178.
- Subotic, J. (2020). Memory Laws, Memory Wars. The Politics of the Past in Europe and Russia. *Nationalities Papers-The Journal of Nationalism and Ethnicity*, 48(1), 200-201.