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Trial of Memory: Legal Regulation as a Tool of Memory Politics in Contemporary Russia

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ABSTRACT

The article examines how law enforcement sanctions, typically applied to real-life actions, are being transferred to online activities. Building on François Hartog's ideas, the study links memorial legislation to a new "regime of historicity," highlighting its unique role in commemoration. By examining relevant laws and media discussions, the study follows the evolution of memorial legislation, demonstrating its importance in commemorating the Great Patriotic War in post-Soviet symbolic politics. Analysis of the amendments to Article 354.1 of Russia's Criminal Code from its original formulation in 2014 to the revisions in 2021 reveals the shifting legal landscape surrounding online commemorative practices. As virtual spaces are gaining prominence in public discourse and legal interpretations, the boundaries between online activities and real-world actions are becoming increasingly blurred. The key trends in this process include the growing reliance on virtual platforms for information dissemination, the evolving notion of publicity in legal contexts pertaining to online behavior, and the broadening enforcement of Article 354.1. This research sheds light on the intricate interplay between memory politics, virtual spaces, and legal frameworks, reflecting broader societal shifts in information consumption and expression.

KEYWORDS

politics of memory, historical memory, commemorative legislation, order of time, memory on the network, regulatory regulation, rehabilitation of Nazism

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Introduction

The use of legal regulations in memory politics has a rich history. The global surge in such laws is closely linked to the development of a collective European memory, centered on the Holocaust. Germany and Austria were pioneers in implementing Holocaust denial laws shortly after the Second World War. In France, such legislative acts were passed in 1990 following the case of Robert Faurisson, who claimed that the Holocaust was fabricated by Zionists. In Belgium, similar laws were adopted a bit later, in 1995. The USA and UK currently have no specific memorial laws because they are viewed as constraints on freedom of speech. Italy, Finland, and Japan also oppose such legislation. Despite the fact that memorial legislation in European countries aims to protect the established perception of the Holocaust, some states also acknowledge the Armenian genocide by the Turks, and in certain Eastern European countries, such as, for example, Bulgaria, there is a ban on the use of Soviet symbolism (Campbell, 2013; Kopusov, 2011; Nowak, 2015).

Kopusov (2011) argues that there are two types of regulatory acts that can be described as memorial laws. Memorial laws of the first type can be declarative, that is, they assert a definitive evaluation of certain past events and determine the set of historical facts considered symbolically important for society (for example, the European Parliament resolution of 2 April 2009 on European conscience and totalitarianism). The second type of memorial laws refer to specific regulatory acts that stipulate administrative or criminal liability for the interpretation of the past that does not correspond to state or public interests (Kopusov, 2011, p. 62). The difference between these types of laws lies in the fundamental significance that they attribute to a specific historical event in shaping national identity. In contrast to the production of history textbooks, films, media publications, and scripts for state festivities, memorial laws not only transmit a particular representation of the past but also impose penalties for expressing alternative viewpoints. Therefore, a particular interpretation of history is declared as the only correct one, rendering debates unlawful, while the potential for punishment frames legislative practices as a means of fighting for historical truth. In this article, the focus will be made primarily on the second type of laws.

Another crucial aspect to consider is the dynamics of legal regulation of memory politics (including in cyberspace) in contemporary Russian society, which includes the series of memorial laws adopted from 2014 to 2021, specific cases from law enforcement practice, and trends in the development of the regulatory framework for memory politics. Empirically, the study draws upon relevant legislative acts, as well as media narratives discussing their application.

Memorial Laws as Instruments of Memory Politics

In the early 1990s, Western European countries reached a “never again” consensus, prompting them to take measures safeguarding the symbolic foundation of pan-European identity against potential distortions and doubts (Assmann, 2010). Meanwhile, Eastern European nations and post-Soviet countries faced a more complex historical dilemma. The collapse of the socialist bloc led Eastern European countries to not only determine their future political trajectory but also to decide on a symbolic vision of the past that would serve as the foundation for their chosen path. The gradual integration of Eastern European and Baltic countries into Western European memory culture took several decades and found reflection in Holocaust denial laws. In the Czech Republic, such a law was adopted in 2001, in Romania in 2002, and in Hungary in 2010 (Nowak, 2015).

As Eastern European countries transitioned from socialist systems, they started to scrutinize Soviet portrayals of history, particularly interpretations of the Second World War. For these nations, adopting the Western European perspective on the Holocaust as the ultimate crime against humanity posed potential conflicts with their own historical narrative. While they sought integration into the wider European cultural and economic sphere, they hesitated to reevaluate aspects of their history that might unearth sensitive and conflicting issues (Nowak, 2015).

In post-Soviet Russia, similar processes took place, albeit with some delay; since 2014, one could observe a gradual transition from declarative acts to concrete measures of administrative and criminal prosecution. Russian authorities largely focused on the legacy of the Second World War, much like in Western Europe, although from a fundamentally different perspective. While the memory of the Holocaust, as interpreted by Habermas (1962/1989), was meant to symbolize a shared tragedy around which a new European identity could be constructed, for the disillusioned segments of Russian society, who were frustrated by the political and economic collapse of the 1990s, the issue of glorification, rather than victimization, proved to be more significant. In other words, the surge in public interest in the Great Patriotic War in the mid-1990s can be interpreted as a natural reaction to the overall deterioration of the socio-economic and political climate, an endeavor to emphasize the significance of the victory over Nazi Germany not only on a national but also on an international scale. It could be said that the sine wave of memory politics in Russia has completed another cycle, similar to the resurgence of the theme of the Great Patriotic War in the mid-1960s (Golovashina, 2017). However, it seems paradoxical that this renewed interest in the heroic past aligns with the gradual disappearance of war participants from active social life. Essentially, the right to speak about the victory and represent the victors was passed on to the next generation, who had lived through the collapse of the Soviet Union in their adulthood (Fadeev, 2021; Pokida & Zybunovskaia, 2017; Toschenko, 2020). The latter, however, were not ready to fundamentally change the established memorial patterns. What happened could be described by using M. Hirsch's terminology the following way: post-memory fills the void left by memory, with descendants of the victorious generation, including younger generations, children, grandchildren, and great-grandchildren, transmitting heroic memorial patterns rather than directly remembering them (Hirsch, 2012, p. 5).

In the mid-1990s, this trend was reflected in symbolic actions. On May 9, 1995, the first Victory Parade in modern Russian history was held on the Red Square to celebrate the 50th anniversary of the end of the Great Patriotic War. Later that month, on May 19, the Federal Law No. 80-FZ *Ob uvekovechenii Pobedy sovetskogo naroda v Velikoi Otechestvennoi voine 1941–1945 godov* [On the Perpetuation of the Victory of the Soviet People in the Great Patriotic War of 1941–1945] was adopted. This law mandates that annual military parades featuring weapons, military equipment, and replicas of the Victory Banner should be held in Moscow, Hero Cities,¹ and in cities with the headquarters of military districts, fleets, combined arms armies, and the Caspian Flotilla (*Ob uvekovechenii Pobedy*, 1995). In the 2000s, the authorities gradually came to realize that collective memory of the Great Patriotic War is the main cohesive and identifying factor of Russian society (Dorogie veterany, 2010; Kangaspuro, 2011; Kopusov, 2011; Priem ot imeni Prezidenta Rossii, 2010; Vystuplenie na prieme, 2003; Vystuplenie na Voennom parade, 2005), which necessitated the creation of the for the legal framework to shield the main historical narrative from outside and inside influences.

Starting from the late 2000s, the Russian government gradually shifted towards more active involvement in “memorial wars” (Golovashina, 2021). This trend received a new boost in 2014 due to a number of factors. From the perspective of the foreign policy, the imposition of sanctions following the events in Ukraine triggered a sharp rise in patriotic sentiments (ardorman, 2015; Patriotizm i grazhdanstvo, 2014) known as the “Crimean consensus” (Akopov, 2019; Byzov, 2015; Harichev et al., 2022; Schwartzbaum, 2019). In this context, certain ways of recalling the memory of the Great Patriotic War in the media appeared particularly provocative. For example, there was significant public outcry over a poll conducted by the Russian TV channel *Dozhd*² [Rain] (recognized as a foreign agent), asking whether “Leningrad should have been surrendered to save hundreds of thousands of lives” (Prokuratura nachala proverku, 2014; Trans. by Ekaterina Purgina—E. P.).

The first memorial law in Russia was promptly adopted in the same 2014, even though Irina Yarovaya’s proposal (she was among the 40 names behind this project) was criticized for its “legal vagueness” (Runkevich, 2014). The law provided a fine of 300,000 rubles or one year of correctional labor for “disseminating information that expresses blatant disrespect for society about days of military glory and memorial dates of Russia related to the defense of the Motherland, as well as desecration of Russia’s military glory symbols, committed publicly,” as well as denial of the decisions of the Nuremberg Tribunal and dissemination of “knowingly false” information about the activities of the USSR during the Second World War (O vnesenii izmenenii, 2014; Trans. by E. P.). Moreover, the law implied punishment not only for “inappropriate” interpretations of events from 1941–1945 but also for comments “showing disrespect towards society” (O vnesenii izmenenii, 2014; Trans. by E. P.) regarding such events

¹ These are cities awarded the honorary title “Hero City” (gorod-geroi) in recognition of their outstanding performance during World War II.

² По решению Роскомнадзора, телеканал «Дождь» полностью заблокирован в России как средство массовой информации, выполняющее функции иностранного агента.

as the Battle on the Ice, the Battle of Poltava, or the Battle of Borodino. However, so far such cases have remained rare in legal practice (Sudebnyi departament, n.d.).

Several events in May 2020 led to a new phase in the development of memorial legislation: first of all, due to the pandemic restrictions on mass gatherings, most events celebrating May 9th were held online, including the most popular event of the Victory Day, the Immortal Regiment march³. Instead of participating in the march through the streets of their hometown with a portrait of a relative who was a veteran of the Great Patriotic War, a home front worker, etc., participants were invited to upload these portraits to the appropriate website. However, some portraits that people uploaded or attempted to upload did not meet the movement's requirements (Ustav Polka, n.d.) as they could offend the feelings of veterans and other participants in the event. In the second half of 2020 and the beginning of 2021, regional courts heard cases regarding the posting of portraits of Third Reich leaders (A. Hitler, H. Müller) and other images on the Immortal Regiment website that did not comply with the requirements of this public movement. On September 1, 2020, a court sentenced Perm resident Daniil Simanov to 200 hours of compulsory labor for posting a photograph of A. Vlasov (a Soviet officer who defected to Nazi Germany) on the Immortal Regiment website (Svizeva, 2020). In Ulyanovsk, the regional court fined local resident Viacheslav Kruglov 120,000 rubles for attempting to upload a photo of Hitler to the same website (Sazonov et al., 2020). Later, on May 28, 2021, the Voronezh court sentenced local resident Aleksandr Khoroshiltsev for posting a portrait of Hitler in 2020 to a fine of 90,000 rubles (Tolmachev, 2021). In May 2020 alone, more than ten people across Russia became suspects in committing the crime. Even though instances of Nazi symbols being displayed on May 9th had happened before, in 2020 these incidents gained more attention, as they were directly linked to the Immortal Regiment march. They became the focus of both law enforcement and researchers, who saw them as an example of the state's tightening control over memory politics, not just institutionally but also in terms of norms.

After photographs of Nazi criminals appeared on the Immortal Regiment website, on May 27, 2020, two bills were introduced into the State Duma by Alexey Zhuravlev, a deputy from the Liberal Democratic Party. Unlike the law adopted in 2014, these proposals were aimed specifically at protecting the image of the Great Patriotic War. Although Zhuravlev's initiatives did not receive support from the parliament, deputies made amendments to the existing law toughening the penalties (*O vnesenii izmenenii v stat'iu*, 2021). If we compare the provisions of Article 354.1 of the Criminal Code in its original formulation introduced by Federal Law No. 128-FZ of May 5, 2014 (*O vnesenii izmenenii v otchel'nye*, 2014), and the amendments introduced by Federal Law No. 59-FZ of April 5, 2021 (*O vnesenii izmenenii v stat'iu*, 2021), the following significant differences can be observed:

³ The Immortal Regiment is a nationwide movement in Russia commemorating participants in the Great Patriotic War. Since 2011, commemoration has been held in the form of marches in major cities across Russia and around the world every May 9th during Victory Day celebration where people have carried portraits, usually of their relatives, who contributed to the victory.

1. Clause 1 is supplemented with the provision regarding punishment for false information spread about veterans of the Great Patriotic War. This could be seen as a law enforcement response to the legal proceedings involving Briansk blogger Sergey Maslov and Governor Alexander Bogomaz (Ukhvatov, 2020), as well as veteran I. S. Artemenko's lawsuit against Alexei Navalny ("Natsepili na nego eti medal", 2021).
2. Clause 3 is supplemented with the formulation "insulting the memory of defenders of the Fatherland or humiliating the honor and dignity of a veteran of the Great Patriotic War" (Trans. by E. P.), which significantly expands the scope of the law, as the term "defenders of the Fatherland" includes not only participants of the Great Patriotic War but also of other armed conflicts in Russian history.
3. The general characteristic is a significant toughening of punishment both in terms of monetary fines (up to 5 million rubles compared to previously 500 thousand rubles) and in terms of imprisonment, which now applies not only to the denial of facts established by the Nuremberg Tribunal but also to insulting the memory of defenders of the Fatherland.

Order of Time and Boundaries of Publicity

In the introductory chapter "Orders of Time and Regimes of Historicity," François Hartog introduces the concept "regimes of historicity," which he describes as a way of harmonizing the past, present, and future to establish a structured "order of time" (Hartog, 2008). Special attention is drawn to the compulsory nature of these temporal orders, which demand compliance from individuals irrespective of their personal preferences. Whether we are talking about a financial broker monitoring stock price dynamics or a successful manager needing to meet deadlines, modern people find themselves engaged in various temporal frameworks: they need to coordinate the operating hours of childcare/school with their own working hours, consider peak hours when planning business and personal meetings, the leisure time practices of their partners and clients, and so forth. However, social order also implies the structuring of time. One way of time structuring is through the use of images of the past as a political resource. In other words, the inclusion of events interpreted in a certain way into an established historical narrative becomes the basis of political discourse and the understanding of reality. Hartog (2008) emphasizes that the regime of historicity itself is not history, but the reproduction of history, or rather, its construction in accordance with certain conditions that make one historical narrative possible and another impossible.

Despite the prevailing "distrust of the metanarratives" (Lyotard, 1984) among intellectuals (Detmer, 2003; Rorty, 1989) and criticism of historical knowledge, the recourse to the past remains a common way of shaping an "imagined community" (Anderson, 1991). It was easier to synchronize these "orders of time" in the era of "print capitalism" (Anderson, 1991) due to the small number of media outlets and the state's monopolistic influence over content transmission. At later stages, with the proliferation of diverse media on the Internet, the significance of the state has dwindled, now comparable to that of a popular blogger. However, unlike bloggers and scholars, the state has resources, including memory policy and memorial legislation, that enable it to

coordinate the “orders of time” of citizens. Therefore, memorial laws aim to safeguard the constructed image of the past, ensuring the transmission of the desired “order of time” and, consequently, enhancing social stability and unity in society. It should be noted that whether actions occur offline or online is irrelevant for regulatory purposes in this context.

The charter of the Immortal Regiment (Paragraph 2) specifies who is eligible to be depicted in procession photographs, including veterans of the army and navy, partisans, underground fighters, members of the Resistance, laborers of home front, prisoners of concentration camps, Leningrad siege survivors, and children of war (Ustav Polka, n.d.). Incidents involving the use of photographs or portraits that do not formally fit these criteria had occurred before 2020 (Obukhov, 2016), but they tended to be more a subject of public discussion rather than a reason for state intervention; furthermore, there have been no recorded cases of participants in the Immortal Regiment march carrying portraits of Hitler or General Vlasov. In 2020, on the movement’s website, there were recorded several attempts to upload portraits that did not meet the criteria (that year, the March was replaced by an online platform for the first time). These included portraits of political leaders of the Third Reich (Hitler, Müller) and members of the Russian Liberation Army, which fought on the side of Nazi Germany, which lead to the initiation of a series of criminal cases. Most of the accused denied guilt (Bogdanov, 2022; Permiaka osudili, 2020; Starodubtsev & Treshchikova, 2021; Titov, 2020), stating they had no intention of rehabilitating Nazism and lacked malicious intent. However, in light of the motto of the Immortal Regiment, “Pomniu i gorzhus” [I remember and I am proud], authorities interpreted the posting or attempted posting of inappropriate portraits as taking pride in Nazi leaders or as attempts to put them on a par with Soviet heroes and thus as rehabilitation of Nazism. What mattered was not the intent but the potential consequences that the actions committed by the accused could bring about.

The text of the law emphasizes that actions for which a person can be punished are committed publicly, in other words, what is considered unlawful is not the thoughts, intentions, or beliefs of an individual, but rather their dissemination among a certain group of people. However, virtual space changes the boundaries of publicity and our understanding of it. “In broad terms, the public sphere is that part of life in which an individual interacts with other people” (Trufanova, 2021; Trans. by E. P.). Social theorists refer to the “public sphere” (Habermas, 1962/1989) or “public space” (Arendt, 1958) as a significant characteristic of human society, a form of public reflection. The development of the Internet has been viewed by many researchers as a means to overcome the deficit of publicity and strengthen the role of the public sphere, whose autonomy gradually declined in the era of radio and television (Kosorukov, 2019). However, this publicity has certain risks associated with the vulnerability of the individual in the public arena, the need to protect personal data, and so on (Galloway, 2017; Morozov, 2011). Even though discussions about the increasingly complex relationships between the Internet, the state, and civil society have been ongoing for quite some time (Bächtiger et al., 2017; Fraenkel-Haerberle et al., 2015; Trettel, 2015), the theoretical and methodological justification for the normative regulation of actions performed online is currently limited to individual cases. According to Babkin (2003),

there is no need to develop new principles of legal regulation of Internet relations. These relations need to be "localized," integrated into the existing legal system and considered within its framework, usually through the disclosure of certain concepts in legislation ... as well as the necessary modification and adjustment of the provisions of existing laws. (Babkin, 2003, p. 23; Trans. by E. P.)

It can be assumed that contemporary normative regulation is proceeding along this path, but there may be problems with interpreting "publicity" in each specific case.

In this regard, the case of Viacheslav Kruglov, a 22-year-old resident of Ulyanovsk, is worthy of special interest. On May 4, 2020, Kruglov (previously convicted of extremism and theft of building materials), attempted to post an image of Hitler through his social media account on the Immortal Regiment online platform. However, the photos of Hitler did not appear on the website as they did not pass moderation. In other words, Kruglov was effectively convicted for an intention that became known thanks to the Internet as his action (sending a picture of Hitler) did not achieve the goal, which was publication of Hitler's picture on the website of the Immortal Regiment movement (Foks, 2021).

Another factor is related to the interpretation of the concept of publicity in relation to the law under consideration. The Supreme Court of the Russian Federation considered the crime defined by Part 1 of Article 354.1 of the Criminal Code, for which Kruglov was convicted, and decided that the crime in this case "is formal, whereby it is considered completed from the moment of committing actions constituting the objective side, regardless of the consequences" (Foks, 2021; Trans. by E. P.).

Proceeding from the formality of this crime, the Supreme Court explains in its ruling, the fact that Kruglov had already expressed his attitude, subsequent blocking of the applications he submitted, preventing the demonstration of photo images of Hitler for public access cannot affect the qualification of actions as a completed crime, nor does the number of persons to whom these applications were available. (Foks, 2021; Trans. by E. P.).

The term "publicity" thus implies that there are certain spectators who can react in a certain way to the actions of the accused. For example, a veteran who sees a photograph of Hitler in the demonstration of participants on the Immortal Regiment's website will likely experience negative emotions, and that is why most of the defendants under Article 354.1 publicly apologized to veterans. Despite the fact that from a legal standpoint, the online and offline practices of the Immortal Regiment are considered equivalent, the effect it has on participants, whether they are actually marching or scrolling through a feed of photos on their smartphone or computer, cannot be compared. This can be explained by the importance of the performative bodily practices, which are only possible offline, as well as the almost religious exhilaration gained by participants from the sense of solidarity and unity with other marchers (Arkhipova et al., 2017). However, in law enforcement practice, there arises a peculiar situation that can be described as "presumption of publicity," where any action in the online space is initially regarded as having an audience, regardless of whether the presence of this audience can be confirmed or not.

It should be noted that Article 354.1 previously applied to crimes committed on the Internet. For the first time, it was used in the well-known case of Vladimir Luzgin, who was fined for sharing an article on his VK⁴ page about the beginning of the Second World War. Vladimir Luzgin refused to pay the fine and sought political asylum in the Czech Republic (Strugov, 2016). In some cases, people were also found guilty for posting photographs of Wehrmacht soldiers or images of Russian officials in Nazi uniforms on their personal open to other registered users, for example, on VK (Sudebnyi departament, n.d.). The law is applied similarly to online and offline crimes, such as defacing monuments of military honor with a swastika or desecrating the Victory Banner.

Social media and other online sources provide valuable insight into the views of the accused, supplementing traditional witness testimonies in legal proceedings. The algorithms used by VK enable the keyword-based tracking of user page content.

Moreover, many defendants had been under the scrutiny of law enforcement prior to their alleged crimes due to their opposing views, as exemplified in the case of Vladimir Luzgin mentioned above. Law enforcement does not distinguish between an audience witnessing an act of “rehabilitation of Nazism” online or on personal pages, open to other registered users, and actions witnessed by just one or two people, nor does it consider the potential impact of these actions.

Judging by the current law enforcement practice in Russia (Sudebnyi departament, n.d.), publicity is interpreted in an expansive manner. Importantly, this interpretation is connected not only with the Article 354.1 “O reabilitatsii natsizma” [On the Rehabilitation of Nazism] of the Federal Law No. 59-FZ, but also with other norms (Naumov, 2002; Tkhabisimova & Kamilov, 2021). By the expansive interpretation of publicity, I mean the idea that any action performed online can be considered public, regardless of the intended recipient of that action. One might assume that the priority becomes not the audience itself, let alone the number of people who could assess the outcome of that action, but rather the “subjectively assumed meaning” as described by M. Weber (1991). In other words, the intention of the actor may be more important than the actual outcome of the action. Therefore, it should be understood that any statements made in virtual space immediately acquire much greater legal significance.

Legal Realities in Virtual Settings

The expansion of the state and law enforcement agencies seeking to control the sphere of the Internet can be traced back to the mid-2000s. For example, in the United States, one of the first high-profile cases was the FBI’s criminal prosecution of the creators of the game *Second Life* in 2007 for operating illegal casinos (Trukhanov, 2007). Despite the fact that the discussion centered on virtual casinos, which were part of the *Second Life* gaming world, the FBI proposed extending existing legislation to the gaming realm because the money that could be won or lost in casinos in *Second Life*’s space was exchanged for dollars at a certain rate. This case did not reach a conclusion, as the

⁴ VK (short for its original name VKontakte) is a Russian online social media and social networking service. <https://vk.com> VK™ is a trademark of VK.com Ltd.

creators of Second Life decided to abandon the casinos on their territory; however, it served, like other trials dealing with the actions of players on this platform as a precedent (Cheng, 2007; Razvod za izmenu, 2008; Sud nad Second Life, 2007).

Similarly, courts in the Russian Federation have equated posting photos of Nazi leaders online with physically displaying such portraits in public processions, thus blurring the distinction between public expression and other virtual practices. So far, the law enforcement practice of memorial legislation has not addressed games; nevertheless, in light of recent regulations discussed above, prohibiting the rehabilitation of Nazism, a significant question arises: Can gamers choose characters in online games, such as representatives of Nazi Germany, without committing a crime? Law enforcement agencies find it relatively easy to identify real individuals who take on such roles in the game, as online games facilitate participant tracking, and streaming platforms allow for the identification of individuals willing to adopt a *virtual* Nazi persona.

Currently, the domains of gaming and entertainment fall outside the scope of Article 354.1, which is applied to the resources that have already acquired a sacred significance, such as the Immortal Regiment. This distinction, however, is not specified in the legal regulations, which may result in new precedents in the future. It is probable that this distinction is rooted in the unique significance that the Immortal Regiment holds within contemporary symbolic politics.

The amendments to the Russian Constitution adopted on July 3, 2020 imply the need to protect “historical truth” at the state level. Article 67.1 stipulates the following: “The Russian Federation honors the memory of the defenders of the Fatherland and ensures the protection of historical truth. Denigrating the significance of the people’s heroic actions in defending the Fatherland is not allowed” (Konstitutsiia Rossiiskoi Federatsii, 2020; Trans. by E. P.).

Historically, there has been a back-and-forth in the relationship between social theories and legal practices. Since Weber’s time, social theories were applied in legal contexts. The definition of social action proposed by Weber: “Action is social in so far as, by virtue of the subjective meaning attached to it by the acting individual (or individuals), it takes account of the behavior of others and is thereby oriented in its course” (Weber, 1991, p. 7) is something for which the actor can be held responsible. Examples include the influence of Hugh Everett’s theory of multiple worlds on the M’Naghten Rule, legal precedents influenced by Erving Goffman’s frame analysis, or the theory of events, where legal precedents become the main cases for interpretation (Goffman, 1974; Thom, 1972/2002). However, nowadays, it is more common to see legal practices being analyzed through the lens of social theory (Kuznetsov & Rudenko, 2021; Law & Mol, 2002; Shtorn, 2018). For example, it is possible to analyze the concept of “historical truth,” found in the Russian Constitution and discussed in the above-mentioned cases of Nazi photographs being posted on the Immortal Regiment website, not only in relation to the development of historical discourse but also in relation to new political priorities and interpretations of significant markers of the past. While in the 2000s regulatory acts primarily focused on enforcing rules about public statements regarding the Great Patriotic War, recent years have shown subtle yet significant changes as regulations have started to tighten.

Starting from 2020–2021, there has been a noticeable trend of Article 354.1 being extended not only to the memory of the Great Patriotic War, but also to public representations of other episodes of national history that had previously not received close attention from law enforcement agencies. The most illustrative case is that of historian Sergei Chernyshov, the director of a college in Novosibirsk, who on August 17, 2021, published a Facebook⁵ post titled *On the Ghosts of the Past*, in which he compared Alexander Nevsky to a collaborator, after which he was summoned to the regional branch of the Investigative Committee (Nikolaev et al., 2021). However, law enforcement agencies continue to primarily focus on crimes related to the representations potentially discrediting the Great Patriotic War.

The grounds for this reaction were provided by the addition made in 2021 to Article 354.1, which now included the phrase “insulting the memory of defenders of the Fatherland” (Trans. by E. P.), a provision that directly applied to the remarks made by the historian from Novosibirsk. Such a formulation creates semantic ambiguity, thereby narrowing the very possibility of discussing specific historical events, as any doubt about the heroic behavior of defenders of the Fatherland or denial (even based on historical sources, documents) of such behavior can already be regarded as an insult, even if the statement is presented in a scholarly text.

A defining feature of contemporary memory politics in Russia is the desire to concentrate on a narrow set of themes that showcase a positive image of the past (Ivanov, 2020; Syrov, 2020). For a long time, such a theme was solely the Great Patriotic War. However, the examples discussed above not only indicate a tendency towards monopolizing the right to “historical truth” in the virtual space but also suggest the potential expansion of historical themes, which will constitute the sacralized core of state-oriented historical memory.

Thus, several important trends in the normative regulation of memory politics in the online sphere can be identified in Russia:

Firstly, technological advancements have led to a significant portion of the population relying on the virtual space as their primary source of information, shaping their worldview and political beliefs. In 2020–2021, an increasingly significant role was played by not only social networks but also messaging apps, which are gaining popularity among young people and effectively complementing traditional socialization institutions. The government’s increased focus on this area has been driven by the COVID-19 pandemic, which has diminished the political impact of traditional memory-related events like parades, processions, and the Immortal Regiment.

Secondly, from a methodological standpoint, it is important to consider the transformation of the concept of “publicity” in legal discourse regarding actions taken in virtual spaces. The evidence of publicness is by default understood not as a reliably confirmed number of direct or indirect responses to the action taken, but rather as the mere fact of the action itself. Moreover, the capacity to record nearly any user activity online significantly aids law enforcement agencies in gathering evidence,

⁵ Facebook™ is a trademark of Facebook Inc., registered in the U.S. and other countries. По решению Роскомнадзора, социальная сеть Facebook в России признана экстремистской организацией и заблокирована.

a process often accompanied by lengthy and sometimes unproductive procedures in the physical world.

Thirdly, an important trend in recent years is the broadening interpretation of Article 354.1 in law enforcement practice. While previously the focus was mainly on the Great Patriotic War, now situations arise where law enforcement activities turn to other historical periods, especially those symbolically significant to modern memory politics in Russia, like the figure of Alexander Nevsky.

As the state tightens regulations, there is also a noticeable increase in the stringent enforcement practices of law enforcement agencies, particularly in activities related to memory politics in the online sphere. The coronavirus pandemic marked a significant shift in this trend, as it weakened traditional ways of maintaining symbolic politics in Russian society. This led the state to focus more on the online space and create a corresponding regulatory framework. Even after the pandemic situation improved, memorial laws remained severe due to existing enforcement mechanisms. Furthermore, current trends in Russia's domestic and foreign policy show the state's determination to maintain and enhance its control over online platforms that shape collective identity.

Conclusion

Thus, memorial laws serve to protect the established understanding of historical events like the Holocaust (in Europe) and the Great Patriotic War (in Russia) while also endorsing specific political ideologies and values. Memorial laws often have a distinctly political orientation. In European countries, they are aimed at safeguarding European values, including the recognition of the Holocaust, in other words, this legislation has a supra-state character, and its emergence was the result of public discourse. In Russia, memorial laws are tied to the formation of state consciousness based on the history of the Great Patriotic War and the main actor in memorial legislation is the state, which distinguishes Russia's experience from that of Europe.

The idea of legal regulation of historical memory rouses vigorous controversy (Campbell, 2013; Koposov, 2011; Korobitsyna, 2023; Nowak, 2015). As legal norms align with state memory policies, which evolve over time, this approach may conflict with established legal norms. The enactment of memorial laws can signal shifts in the perception or understanding of historical events. Consequently, the past transcends mere facts to become a potent resource for shaping social consciousness. The memory industry strategically employs history to legitimize political regimes, while laws govern the utilization of historical images as tools.

Special attention in defining the historical truth is given to the state's military history, which is directly linked to conflicting political viewpoints. The ways of protecting this truth are outlined in laws and legislative acts and can be analyzed by looking at the practical application of these laws.

As a result of technological changes, many people have come to rely on virtual space as the primary source of information and online media are now significantly shaping their worldview and political stance. The pandemic contributed to the state's

increased attention to the virtual sphere as the political effectiveness of traditional performative practices in memory politics, e.g., parades, marches, Immortal Regiment, has been reduced. However, the shift to online events and the legal issues they raised have prompted a reevaluation of certain regulatory measures. From a theoretical-methodological standpoint, the transformation of the concept of “publicity” in legal discourse regarding actions performed in virtual space is quite intriguing. Publicity is understood not as the reliably confirmed number of direct or indirect responses to the action but as the mere fact of its occurrence. Additionally, the ability to record practically any user action in cyberspace greatly facilitates the task of law enforcement agencies in forming evidential bases, which in real space is often accompanied by lengthy and not always productive procedures (to establish guilt unequivocally).

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