

Alarming Alterations

HOW MEMORY POLITICS TURNED THE RUSSIAN CONSTITUTION INTO A WAR WEAPON

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When, in 2020, Russian President Vladimir Putin put forward major [changes](#) to the country's constitution, the set of meanings established by the new provisions dealing with Russia's past was largely neglected because its legal relevance was not obvious. With the ongoing conflict in Ukraine and the important [role](#) that history and memory play in it, those provisions acquire new significance and require deeper explanation.

A closer look at the 2020 reform reveals that it incorporated into the constitution the pillars of Russia's collective memory. These include narratives about the origins of the nation and its victory in World War II. Memory politics is never innocent, and neither was this initiative. The move allowed the Kremlin to consolidate into the constitution rigid, exclusive, nationalist, and neo-imperialist narratives about Russia's past. Constitutional memory politics turned the Russian Constitution into a subtle weapon of war. Not only has it set the basis for justifying the invasion of Ukraine, but it is fueling the conflict.

Inventing Traditions

In its seminal work on the *lieux de mémoire*, French historian Pierre Nora [claimed](#) that every constitution is a place of memory, that is, a site in which modern-day nations deposit their memories of past glorious and dramatic events. Although the role of constitutions in memorialization processes has rarely been explored, some further indications may be found from Professor Johan Snyman at Rand Afrikaans, [who believes](#) that memory occupies a central position in constitutional interpretation. For him, constitution-making is a strategy of a politics of memory, while the constitution continues the institutionalization of memory within the public realm.

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University of Stellenbosch Professor Lourens du Plessis further [argues](#) that the constitution is both the author and narrator of the nation's past. He proposes an image of the constitution as a monument and memorial at the same time. Finally, Karin van Marle at the University of Glasgow [compares](#) the constitution to the archive. As the archive traces only particular aspects of the past, the constitution similarly traces only particular aspects and interpretations of the past and nation.

What is contained in the constitution is the collective memory rather than the history of the nation. The [difference](#) between the two terms is significant. While history's goal is to discover historical facts and truth, memory creates mythical narratives about a nation's past, as its goal is the creation of national identity. Memory is thus often associated with invented traditions, the fabrication of history, or historical revisionism.

By choosing particular interpretations of the past, constitutions make deep political choices. They close the ranks of the common "We-identity" and establish who is included in and who is excluded from the concept of the nation, as well as what is acceptable and legitimate to think of as official national history.

The Myth about the Origins of the Nation

Following the 2020 reform, Article 67.1 paragraph 2 of the Russian Constitution [declares](#) that "the Russian Federation, united by a millennium history, preserving the memory of ancestors who conveyed to us ideals and belief in God, as well as continuity of development of the Russian state, recognizes the historically established state unity."

This reference is built upon the idea that a thousand years ago, there was a realm called Kievan Rus (862-1242), in which adherence to the Eastern Orthodox Church has been now [seen](#) as a "civilizational choice" that created a "common spiritual space" for Russians, Ukrainians, and Belarusians, distinct from the Roman Catholic world. Kievan Rus' Prince Vladimir's major achievements—state unity and faith in God—have been thus elevated to the constitutional level as the major values inherited from the thousand years of Russia's history.

In this narrative, Ukrainians and Belarusians are not independent nations but mere sub-groups of the triune (all-Russian) nation with roots in the Kievan Rus. The triune nation myth was forged in imperial times and revived by Putin, most notably in his 5,000-word essay "On the historical unity of Russians and Ukrainians," [published](#) on the Kremlin's website in July 2021. The essay claims that Russians and Ukrainians are "one people" and denies Ukraine the right to exist as a state and nation. It blames the Bolsheviks for creating modern Ukraine, which occupies historical Russian lands. Ukraine does thus not have a separate history from Russia, and its existence as a sovereign country is possible only in partnership with Russia.

The triune nation [concept](#) also suggests that the natural borders of the Russian state are the borders of the Russian empire of the 19th and 20th centuries. In line with this, Article 67, paragraph 2.1 defends Russia's territorial integrity and sovereignty and proscribes separatist acts and speech. This statement precludes the return of Russian lands to foreign powers and protects Russia's 2014 annexation of Crimea by punishing those who question its legality. From the Russian perspective, there is nothing in principle that prevents applying the same provisions to cases of annexation of other territories considered historical Russian lands, such as southeast Ukraine or potentially other former Soviet republics.

Article 69, paragraph 3 allows for [intervention](#) in neighboring countries and justifies acts such as the intervention in Ukraine's Donbas region. It states that the "Russian Federation provides support to compatriots living abroad in exercising their rights, ensuring the protection of their interests, and preserving their shared Russian cultural identity." This formulation intentionally relativizes the borders between states. It further bounds the Russian nation by extending it beyond the borders of the Russian Federation. The term compatriots [refers](#) to the concept of the "Russian world," which includes not only ethnic Russians but also Russian-speaking compatriots abroad. According to Putin, everyone who speaks Russian and is steeped in Russian culture is [entitled](#) to call themselves compatriots.

The Russian narrative about Kievan Rus has already [created](#) a memory war with Ukraine as both countries position themselves within its legacy. Ukraine calls it Kyivan Rus and sees it as the starting point of its history that is separated from Russia and the cradle of its nation. This vision of the past has been incorporated in the [preamble](#) to the 1996 constitution by emphasizing the continuously existing state from 1,000 CE. In addition, Ukraine [interprets](#) the Christianization of the medieval realm as a European choice. This reflects its geopolitical and cultural orientations, enclosed since the 2019 amendments also in the constitution, which [emphasizes](#) the European identity of Ukrainians and the irreversibility of Ukraine's European and Euro-Atlantic course.

The Myth about World War II

Central to Russia's collective memory is also Article 67.1, paragraph 3 of the constitution. It states that "the Russian Federation honors the memory of the defenders of the Fatherland and ensures the defense of historical truth. Diminishing the significance of the heroism of the people in defending the Fatherland shall not be permitted."

Nowadays, the concept of "defense of the Fatherland" is largely linked to the Great Patriotic War. The key aspect of this narrative is the 1945 victory over Nazi Germany, after which the USSR rose to great power. The narrative, however, intentionally [excludes](#) the darkest chapters of Soviet history, such as Stalinist repressions, state-sponsored violence, and the war crimes committed, including the Katyn Forest massacre of Polish military

officers. It further ignores the ambiguous role of the USSR in the 1939-1941 non-aggression pact with Germany, while the Soviet occupation of Eastern Europe is presented as liberation from Nazism.

This glorious vision of Soviet history has been [codified](#) in the 2014 Law “Against the Rehabilitation of Nazism.” It added Article 354.1 to the Russian Criminal Code by making it a criminal offense “to spread intentionally false information about the Soviet Union’s activities during World War II.” It additionally criminalized “the spreading of information on military and memorial commemorative dates related to Russia’s defense that is disrespectful of society, and to publicly desecrate symbols of Russia’s military glory.” Globally, any public attempt to equate the aims and actions of the Soviet Union and Nazi Germany during the war, as well as to deny the decisive role of the Soviet people in the victory over fascism, is now banned.

The memory of the Great Patriotic War protects a very selective narrative about World War II, which celebrates Soviet history and its core event, the victory over Nazi Germany. Not only is this narrative protected by the constitution as historical truth, but Article 67.1 paragraph 1 further establishes the continuity with these glorious pages of Soviet history by asserting that the Russian Federation is a legal successor and continuator of the USSR. Emory University Professor Nikolay Kopolov [notes](#) that Russia’s World War II narrative is almost unique as it openly protects the memory of an oppressive regime against the memory of its victims.

The Kremlin’s World War II memory both resulted from and triggered a series of memory wars with Eastern European countries, which see the Soviet Union as an occupying power and have memory politics of their own Communist pasts. The main issue with this memory-making is that the equation of Nazism and Soviet Communism has often led to the rehabilitation of past World War II criminals and Nazi collaborators while [diminishing](#) national crimes committed in the Holocaust. In Ukraine, for example, the 2015 decommunization laws have [rehabilitated](#) Nazi collaborationist forces involved in mass murders during the world war, including the Ukrainian Insurgent Army (UPA) and the Organization of Ukrainian Nationalists (OUN), depicted as “fighters for Ukraine’s independence.”

Conclusions

History is very different from what has been established by the Russian Constitution. As University of Michigan professor John Fine [underlines](#), the employment of history for political aims is always an abuse regardless of whether the history is accurate or not. Some scholars have observed that the 2020 constitutional changes dealing with Russia’s past did not introduce any novelties as they only [raised](#) to the constitutional level what has been already contained in ordinary legislation or state-supported projects. Their effects should

be thus [intended](#) as limited or minimal. Several important reasons, however, do not allow sharing this approach.

First, as the Council of Europe [notes](#), the nature of provisions as constitutional law and as ordinary legislation is very different, as constitutionalizing a law affects its character. It raises its hierarchical rank from ordinary legislation to the constitutional level, and this withdraws that legal provision from the influence of later legislation according to the *lex posterior* principle. Another effect of constitutionalizing a law is that it cannot be reviewed by the Constitutional Court but becomes the parameter for reviewing the constitutionality of ordinary legislation. In the Russian Constitution, history has been exchanged for myths, and myths have come to function as official history. They can no longer be changed by ordinary legislation but have become the yardstick for evaluating other legal provisions and proclaiming their unconstitutionality.

Second, as Hebrew University Professor Avishai Margalit [observes](#), anchoring the source of legitimacy in events of the past is something typical of authoritarian regimes, which are marked by an urgent need and ardent desire to control collective memory because, by so doing, they exercise a monopoly on all sources of legitimacy. By imposing specific statements about the past, the Russian Constitution created an authoritarian “monopoly of truth.” No other interpretations are allowed.

Most importantly, the constitutionalization of collective memory produces a surplus of meaning through the constitution. The Russian narrative about the origins of the nation is a [call to war](#), while the World War II narrative [legitimizes](#) acts of aggression. Their elevation to the constitutional level created an explicit constitutional basis for legitimizing armed conflicts. In other words, any implementation of constitutional provisions dealing with the past rendered Russia’s war on Ukraine almost unavoidable.

Both constitutional narratives were, in fact, invoked before launching the invasion. In his February 21 speech, Putin explicitly [said](#) that Ukraine was an integral part of Russia’s “own history, culture, spiritual space.” Then, by using World War II language, he [launched](#) in his February 23 speech the “special military operation” to demilitarize and de-Nazify Ukraine, thus portraying the ongoing conflict as a continuation of the 20th-century fight against fascism.

The foundational myths positioned at the basis of national identity are not fixed but can change over time and generations, as the [construction](#) of collective memory is a result of a continuous process. The constitutionalization of memory, however, renders its renegotiation more complex because it affects society in a more rigid manner and for a long period of time. The ultimate goal is to render memory irreversible, or at least very difficult to change, as any alterations will need a new round of constitutional changes.

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