

The Implications of Russia's Law against the "Rehabilitation of Nazism"

PONARS Eurasia Policy Memo No. 331

August 2014

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Amid the political turmoil following Russia's annexation of Crimea and the unrest in eastern Ukraine, the Russian parliament revived a bill criminalizing the "rehabilitation of Nazism" that President Vladimir Putin promptly signed into law. Met with protests by liberal critics and professional historians, the law emerged in the context of a conservative legislation spree by the Russian parliament; the Ukraine crisis, which has encouraged ideological hardliners; and Putin's own efforts to "manage" history. Ultimately, however, the law does not help Russian "conservatism" or Putin's use of history. In the long run, the law will damage Russia's national memory, one of the main resources of Putin's management of symbols. While trying to establish historical canon, the law threatens to have a destabilizing effect on Russia's national identity.

History of the Law

The legislation was originally introduced into parliament in early May 2009 on the eve of Victory Day, Russia's main public holiday of the year. It is also a commemorative day for those who perished in the war against the Nazis. Among the authors of the law were deputies Irina Yarovaya and Vladimir Medinsky (the latter is now Minister of Culture and one of the ideologues of Russia's "historical politics"). A week after the law was proposed, then-President Dmitry Medvedev created a presidential commission "to counter attempts to falsify history to the detriment of Russia's interests." As a result, the bill was considered obsolete, and prominent deputies like Oleg Morozov, Pavel Krashennnikov, and Vladimir Pligin revoked their support. The very idea of state interference into the domain of historical interpretation seemed to be abandoned as a result of the 2011-12 winter of protest; the commission was disbanded in February 2012 by presidential order.

After the protests themselves became history, a newly-elected parliament revisited the legislation. In July 2013, almost forty deputies added their names to the list of bill

sponsors. For more than half a year nothing happened, but in February 2014 forty-five deputies suddenly introduced a new edition of the bill for consideration. It was approved in April, and Putin signed it into law in early May.

The new law added Article 354.1 to the Criminal Code of the Russian Federation, making it a criminal offense:

to deny facts recognized by the international military tribunal that judged and punished the major war criminals of the European Axis countries, to approve of the crimes this tribunal judged, and to spread intentionally false information about the Soviet Union's activities during World War II.

The law also made it an aggravating circumstance "to artificially create evidence for the prosecution" (whatever that means) and criminalized:

the spreading of information on military and memorial commemorative dates related to Russia's defense that is clearly disrespectful of society, and to publicly desecrate symbols of Russia's military glory.

Commentators linked the appearance of this latter part of the law to the activity of popular opposition bloggers who caustically criticized the use of St. George ribbons as a symbol of Russian "loyalists."

Under the law, the rehabilitation of Nazism is punishable by a fine of up to 300,000 rubles (\$8,400) or three years in jail. If a state official commits the offense, he or she could be sent to prison for up to five years or face a fine of up to 500,000 rubles (\$14,000) and be barred from government posts for up to three years. Publicly desecrating symbols of Russian military glory or spreading information disrespecting public holidays related to the country's defense will be punishable by a fine of up to 300,000 rubles or up to one year of community service.

Reasons for the Legislation

There are several explanations for the law's adoption in 2014. First, it may be seen as part of the Russian parliament's conservative-traditionalist turn. Deputies have already voted for a number of laws in support of returning to traditional values and halting the proliferation of modern fashions and "moral relativism." A law that reminds the public of the existence of absolute evil and punishes its "rehabilitation" nicely fits this legislative agenda.

The law also corresponds to the Kremlin's new tactic of symbolically dividing society. Before the protests of 2011-12, the Putin-Medvedev regime deliberately employed only

symbols that could unite the nation, including the memory of the great victory of World War II. Beginning in the spring of 2012, however, the regime has regularly produced new divisive lines. The Pussy Riot trial, the anti-gay legislation, the anti-tobacco law, and even the conflict with Ukraine—these can be seen as a series of policy acts aimed to provoke splits within Russian society.

As a result, Russian citizens opposed to the ruling party and regime formed a united front in 2011 but are now experiencing one divide after another. The wording of the new law projects a split into the major unifying memory of Russians. Despite the war's significance to almost every Russian family, details and attitudes differ based on different personal and family stories. With the new law, some of the living memories of the war will contradict the official narrative.

The law can also be explained by Putin's attachment to symbolic politics. He is famous for his skillful use of the memory of the Great Patriotic War to raise his own popularity. Just a year earlier, he initiated the unification of Russian history textbooks with the aim of creating a standard version of national history. From this perspective, Putin is seeking to prevent any challenge to the main pillar of the historical narrative that he has devised. As the generation of war veterans is fading away, the state is seizing hold of all interpretations of the war in an effort to remain the sole caretaker of national memory.

Finally, there is the timing of the legislation's reappearance, coinciding with the Kremlin's decision to annex Crimea and its propaganda war against Ukraine. The terms "Nazi" and "fascists" were widely used in Soviet propaganda after World War II to demonize political opponents. In this latest propaganda war, Russian state television has labeled the Ukrainian national movement as "Nazis," providing the pretext for seizing Crimea, supporting further interference in Ukraine, and justifying defense of the local population. The law assists in this propaganda campaign. In addition, some years ago Ukraine successfully rewrote its own national history of the war, which may now be considered illegal by Russian law.

What Exactly is Wrong with the Law?

One argument authors of the law have used in its favor is that Germany, Austria, France, and other European states have similar "memorial laws." Such laws prohibit Holocaust denial; in France, they also forbid the denial of the atrocities of French colonial administrations. These laws, however, were propagated by left-wing political forces aiming to preserve the memory of oppressed groups and the crimes of their states. The Russian variant (like memorial laws adopted in Poland and some other Central and East European states) is backed by pro-state right-wing politicians that seek to create a heroic national narrative and legislate away any doubt about the state's historical righteousness.

The law also uses exceedingly vague language. The ban against desecrating symbols “of Russia’s military glory” seems distant from the “rehabilitation of Nazism.” Equating hooliganism to the whitewashing of Nazism erodes the meaning of the latter as a unique evil. Also, the clause about “spreading information on military and memorial commemorative dates related to Russia’s defense that is clearly disrespectful of society” is simply difficult to understand. How can information be “clearly disrespectful of society”?

An organization of independent Russian historians, the “Free Historical Society,” issued a warning against the legislation, pointing at flaws in the very idea of the law, as well as in its wording.¹ In particular, as the law prohibits the “artificial creation” of historical evidence, they have pointed out its dangers to scholars seeking to carry out objective research on the history of World War II. Also, the term “intentionally false information” recalls the language of the Soviet-era Criminal Code, which forbade “spreading intentionally false information about the Soviet system,” something that was used as a pretext to punish dissidents. Moreover, any punishment for “false information” as applied to history implies the existence of some final historical truth. The path of establishing a historical canon—a state-approved version of history—resembles Stalin’s creation of the infamous *Short Course of the History of the Communist Party*.

Critics have also noticed that the law upholds the “facts recognized” by the Nuremberg tribunal rather than their rulings and definitions of war crimes and crimes against humanity. This means that any actions committed during the war that were not recognized by the tribunal as war crimes could not now be called such, even with sound evidence to support it. If such crimes were attributed to the Red Army, moreover, it could lead to criminal punishment. Needless to say, such an approach eliminates freedom in researching the history of World War II and effectively halts historical inquiry into that period of Russian history.

Finally, the new law is dangerous even to the dominant Russian historical narrative. The Great Patriotic War is the focal point of the nation’s memory; it plays a socializing role and unifies Russians. A legal ban against addressing that history turns the central part of Russia’s historical narrative into a blind spot, ruining the whole edifice. If nobody will ask new questions about the war—if it is in the public space only in the form of ossified sacred texts and untouchable memorials—it will cease to represent the actual past and lose its significance.

Conclusion

For Russia, World War II is the most important part of the national memory. Russian identity is centered on the sufferings, martyrdom, and victory of the Great Patriotic War.

¹ http://polit.ru/article/2014/04/28/vio_280414/

That is why Russia has resisted the creation of state-supported narratives and memorial laws in neighboring states. Now, however, the Russian state itself has opted to create its own historical framework. This is a dangerous path that could lead to the inability of national memory to play an important socializing role, posing a challenge to Russian national identity.

Despite criticism from many experts, the law was signed and we will have to see what the repercussions are. There are generally three possibilities: it may be widely used, used selectively against critics of the regime, or—hopefully—it will end up on the road to nowhere that was previously trod by Medvedev’s presidential commission against historical falsification.