Legitimizing Heresy through Law

Bleiburg, Ustasha, and Croatia's WWII Narrative

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In the heart of Europe, a troubling commemoration persists. On May 18, Croatia observed a remembrance day that honors the memory of those killed in Bleiburg in 1945 – a group that included members of the Ustasha movement, a Nazi collaborationist faction during WWII. Established by law, this memorial day controversially depicts Ustasha – responsible for sending tens of thousands of Serbs, Roma, Jews, and antifascist Croats to concentration camps – as fighters for Croatia's freedom and independence. Such a narrative not only distorts historical facts but dishonors the memory of the victims of Ustasha atrocities. Additionally, it affirms values contrary to the country's Constitution and fails to align with international standards on memorialization and the EU politics of memory.

Background

Since the 1990s, Croatia has experienced significant WWII-related revisionism as part of state-promoted policies. This has included attempts to rehabilitate the Independent State of Croatia (NDH) – a Nazi puppet state that existed from 1941 to 1945, covering most of present-day Croatia, all of Bosnia and Herzegovina, part of Serbia, and a small portion of Slovenia. The NDH was governed by the Croatian fascist Ustasha movement, which aimed to create a racially pure state. To this end, racial laws modeled after Nazi legislation and a system of concentration camps were established shortly after its formation in April 1941. The NDH's role in the Holocaust had dramatic consequences, with the United States Holocaust Memorial Museum reporting that 83,837 people were killed at the Croatian concentration and death camp Jasenovac.

Following Germany's capitulation and the end of WWII in Europe in May 1945, a group of Ustasha, Home Guards (regular NDH armed forces), and other Axis-aligned forces from across Yugoslavia, such as Slovene Home Guards, and Serbian Chetniks, fled toward Austria, hoping to surrender to the British military forces. This group also included an unknown number of civilians, mainly families of Ustasha officials, Ustasha sympathizers, and others fearing Partisan reprisals. On May 15, the group reached the town of Bleiburg in the south Austrian state of Carinthia, but the British troops turned them back to the Yugoslav Partisans, who then assumed responsibility for the prisoners. After surrendering to the Partisans, mass executions began either directly at the Loibacher Field near Bleiburg or during the death marches back to Yugoslavia. Those who survived faced summary executions or imprisonment in labor camps until the general amnesty was declared in August 1945. Estimates suggest that the Partisans executed between 70,000 and 80,000 people, including some 50,000 to 55,000 Croats, among them civilians.

Distorting the narrative

In the post-WWII period, the memory of the Bleiburg killings was suppressed, and no one was held accountable. As one of the constituent republics of former Yugoslavia, Croatia adhered to the official WWII narrative that emphasized a heroic and successful struggle for national liberation against fascism, with only a small minority of local pro-Nazi collaborators. However, with the violent dissolution of Yugoslavia, the NDH's legacy began to be reinterpreted and incorporated into the narrative of a centuries-long dream for independence that culminated in the Homeland War, the official name of the armed conflict of the 1990s. In this revised narrative, the NDH is depicted not merely as a quisling creation and a fascist regime

but also as an expression of the historical yearnings of the Croat nation for its own independent state.

Crimes committed by the Ustasha have been downplayed or denied, with efforts to minimize the number of people killed at Jasenovac or to rebrand it solely as a labor camp. In contrast, Bleiburg has been portrayed as a focal point of Croatian suffering, becoming an integral part of the national identity narrative, with Croatian victims being compared to Jews in the Holocaust and their march from Austria to Yugoslavia to the Passion of Christ, with the episode being named the "Way of the Cross."

Legal rehabilitation

The rehabilitation of the NDH occurred through legislative measures as well. The 1993 Law on Amendments to the Law on Pension and Disability Insurance enabled former Ustasha and Home Guards members to receive pensions, costing Croatia 45 million euros annually. The 1996 Law on Holidays, Memorial Days, and Non-Working Days further introduced the "Day of Remembrance for Croatian Victims in the Struggle for Freedom and Independence," to be observed on "the Saturday or Sunday closest to May 15." This date is widely understood to refer to those killed by Partisan forces after surrendering in Bleiburg, recasting WWII collaborators into national liberation fighters. A 2008 amendment to the 1996 law confirmed this by specifying that the remembrance day takes place on the weekend nearest to May 15 to facilitate wider participation in the Bleiburg commemoration. Additionally, the law deliberately failed to distinguish between civilians and Nazi and fascist collaborating forces, portraying members of the Ustasha as innocent victims of Communism. Without significant controversy or debate, the commemoration day has been reaffirmed in the 2019 Law on Holidays, Memorial Days, and Non-Working Days, which replaced the 1996 legislation.

Such legal provisions contradict the preamble to Croatia's 1990 Constitution, which asserts that the foundations of Croatian statehood were laid during WWII by the Antifascist Council of the National Liberation, in opposition to the NDH proclamation in 1941. It means the Constitution does not recognize the NDH as a precursor to present-day Croatia and considers only members of the anti-fascist movement, not the NDH armed forces, legitimate members of the Croatian army. In 2018, the Office of Ombudsman warned that attempts at WWII revisionism and downplaying the Ustasha crimes undermine the fundamental values of the Constitution.

The legal rehabilitation of the Ustasha regime can be partly explained by the portrayal of the 1990s conflict as a continuation of WWII. Historian Dubravka Stojanovic observed significant ideological continuity between WWII-era forces and those leading the 1990s conflict. Croatian paramilitaries fighting for independence in the 1990s even adopted Ustasha symbols and the chant "Ready for the Homeland." This connection also helps explain why Croatia has never adopted legal provisions banning the public display of Ustasha symbols or defining the very nature of the NDH. Although the use of Ustasha insignia is punishable under the 1990 Law on Offences Against Public Order and Peace, the absence of legislation defining the NDH as criminal or fascist has allowed the integration of Ustasha symbols into the emblems of legally recognized associations.

Similarly, the use of the Ustasha chant "Ready for the Homeland" has been tolerated, despite the Constitutional Court condemning it in 2016. The Council for Dealing with the Consequences of Undemocratic Regimes, established by Croatia's government in 2017, also considered the Ustasha chant unconstitutional but established that it can be used in public spaces to pay respect to the paramilitaries of the 1990s who fought for today's Croatia under this slogan. This effectively means that when the Ustasha iconography is used to honor those invoking the Ustasha memory in the 1990s conflict, it is accepted as consistent with the country's Constitution.

Constitutional Court's hypocrisy

In 2020, the Zagreb office of the Jewish World Congress (JWC) requested the constitutional review of the 2019 Law on Holidays, Memorial Days, and Non-Working Days, arguing that designating May 15 as a day of remembrance for Croatian victims in the fight for free-

dom and independence honors NDH armed forces because it refers to Bleiburg commemoration. In 2023, the Croatian Constitutional Court rejected the case, accepting the government's explanation that the law does not explicitly dedicate the day to Bleiburg or NDH soldiers, but rather to all victims who historically fought for Croatian independence, irrespective of ideology. The Court further cited its previous case law referring to Croatia's anti-fascist tradition.

The JWC also noted that the 2008 amendment to the 1996 Law on Holidays, Memorial Days, and Non-Working Days explicitly mentioned the Bleiburg commemoration. The Court, however, dismissed this as irrelevant to the new law, yet failed to identify any other significant event in Croatian history that would justify making May 15 the memorial day for "Croatian victims in the struggle for freedom and independence."

By rejecting the case, the Court revealed a striking inconsistency as it simultaneously promoted an anti-fascist foundation while implicitly legitimizing the day that honors Ustasha soldiers as freedom fighters. Each year, the weekend closest to May 15 in Croatia is marked by numerous events exclusively commemorating the 1945 events in Bleiburg. Despite the 2019 law's omission of explicit reference to Bleiburg, no ceremonies on that date honor Croatian defenders from the Homeland War or fallen Partisans from WWII. Judge Andrej Abramovic highlighted this in his dissenting opinion, stating that May 15 likely refers to the 1945 events, when NDH forces surrendered in Bleiburg, and noting that these forces were not fighters for freedom and independence. He further cautioned against commemorative days affirming values contradictory to constitutional principles and argued against the practice of relativizing constitutional values through lower-ranking provisions that endorse their opposites.

Austria's intervention

For years, the Bleiburg commemoration was observed not only in Croatia but also at Loibacher Field in Austria, with representatives of Croatia's government attending. The event became increasingly controversial as some participants wore Ustasha uniforms or insignia, leading to its characterization as the largest gathering of neo-Nazis in the EU. The Croatian Parliament sponsored the event until 2012 but ceased support due to concerns that it served to rehabilitate the ideology of the Ustasha regime, only to resume sponsorship in 2016.

Contrary to Croatia, Austria responded to the Bleiburg gathering by amending its Symbols Act in 2019 to explicitly ban the use of Ustasha symbols, including the letter "U" with a grenade and the NDH checkboard coat of arms which differs from today's Croatia coat of arms by starting with a white square. In 2021, Austria went further by banning the Bleiburg gathering, based on recommendations from a group of experts to the Austrian Interior Ministry, viewing the event as violating Austria's obligations under the Austrian State Treaty, which reestablished the country's independence in 1955 and prohibited Nazi and fascist organizations.

Not Croatia's anomaly

The rehabilitation of WWII collaborators is not unique to Croatia but reflects a broader trend across Central and Eastern Europe. In neighboring Serbia, for instance, WWII reinterpretations are aimed to rehabilitate Nazi collaborators, notably the Chetniks, rebranding them as anti-communist resistors. This effort was institutionalized through the 2006 Rehabilitation Law, leading to the 2015 rehabilitation of Chetnik leader Dragoljub Mihailovic. Similarly, Ukraine's 2015 decommunization laws rehabilitated Nazi collaborationist forces like the Ukrainian Insurgent Army and the Organization of Ukrainian Nationalists, now depicted as fighters for independence.

Moving forward

Historian Hrvoje Klasic noted that people executed in Bleiburg without trial by the victors of WWII in a fit of revenge are indeed victims and that their places of suffering should be marked, while the crimes committed against them should be condemned. However, the scale and nature of these crimes should not be used to justify proclaiming the NDH armed forces as "Croatian victims for freedom and independence."

The legal endorsement of a memorial day for Croatian independence fighters legitimizes Ustasha's actions and embeds a revisionist view of history in the national consciousness. This legal recognition implies state approval and complicity, suggesting that the Ustasha's sacrifices were for a noble cause, rather than for a fascist and genocidal regime. By commemorating a faction known for its collaboration with the Nazis and involvement in heinous crimes, Croatia undermines efforts to acknowledge and atone for the crimes committed during WWII, humiliates the memory of the victims, and hinders its progress toward a just and reconciled society.

It is time to critically reassess this memorial day and ensure that national commemorations reflect the values enshrined in the Constitution, while also respecting the right to truth, reparation, and guarantees of non-recurrence, as outlined by international standards on memorialization, especially for post-conflict societies. It is also essential to align memorialization with the European politics of memory, which recounts the story of states emerging from the ashes of WWII by rejecting nationalism and urges member states to recognize their own guilt committed in a violent and non-democratic past.[1]

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