



ЧЕТВЕРТЫЕ ЧТЕНИЯ ПАМЯТИ
Арсения Борисовича Рогинского

Берлин, 12–13 апреля 2024 года

ИСТОРИЯ И ИСТОРИКИ В ЭПОХУ
ПОСТПРАВДЫ: МОНОПОЛИЯ,
ПОЛИФОНИЯ, КАКОФОНИЯ?

Берлин
2025

Организаторы конференции:

Zukunft Memorial e.V., Mémorial France, Memoriał Polska,
Memorial Italia, коллеги из России.

При поддержке Международной Ассоциации Мемориал.

Оргкомитет конференции:

Борис Беленкин, Андреа Гуллотта,
Александр Даниэль, Елена Жемкова,
Наталья Колягина, Эмилия Кустова,
Марек Радзивон, Никита Соколов,
Ирина Щербакова.

ism on which liberal democracy is founded. The fragmentation of history, the emergence of the identitarian paradigm, and the politicization of the past have intellectually prepared the rise of populism and have thus contributed to the current crisis of liberal democracy.

Жюльет Кадио: Спасибо, Николай, за содержательный доклад и приглашаю выступить Антона Де Батса.

Antoon De Baets

Attacks on history: a conceptual analysis

The liquidation of the Nobel Peace Prize-winning NGO Memorial in Russia, Vladimir Putin's massive abuse of history in justifying his invasion of Ukraine, Jair Bolsonaro's interference with history exams in Brazil, Narendra Modi's cuts in the budget of the Indian History Congress, Xi Jinping's campaign against "historical nihilism" and "ethnic splittism" in China, the murder of history teacher Samuel Paty in France, Donald Trump's tampering with official records in the United States, the rewriting of the Martial Law era in the Philippines, the proliferating online harassment of historians worldwide... These are only a few recent events that have aroused new and strong concerns over a perennial problem: attacks on history. Historians have been under attack at all times and in all places in multiple ways, and it is no different today. The wide variety of these attacks requires a conceptual analysis of the core term "attacks" in order to understand – and combat – violent conduct that threatens the integrity of history and its practitioners.

Abusive and responsible uses of the term "attacks"

The concept of attack is much abused in and outside the historical profession. The term is misused, first of all, to label as attacks what are in fact permissible opinions. When sharp polemics take place – for example, between those who defend and reject postmodernism or postcoloniality – some tend to label the opponent's views as "assaults" or "attacks," but these are not attacks as understood here. Postmodernists and postcolonialists, by showing the epistemological limits of classical historical writing and its partly construed character, undermined some of its old certainties with the intent to improve it, not to silence it. This different intention

is the crucial factor. The scholarly and public debate about history must be robust and therefore, serious but honest criticism of opposite views is not an attack. Many bold opinions are not impermissible attacks and calling them so is abusive. An open debate must tolerate opinions that “offend, shock or disturb” – to use the classical formula of the European Court of Human Rights. Echoing the European Court, PEN America wrote: “While violence and threats are never appropriate, vociferous, adamant, and even disrespectful argument and protest have their place. An environment where too many offenses are considered impermissible or even punishable becomes sterile, constraining, and inimical to creativity”¹.

Secondly, the term “attack” is often introduced carelessly or maliciously in highly politicized rants and flawed ideologies. One strategy is “blaming the victim.” With this strategy, roles are reversed: (real) attackers call their targets the initial attackers and describe their own attacks as firm defenses of some conception of pure history. Typically, they blame historians for their unwelcome interpretations of the past, calling these interpretations attacks on “our” morality or pride and their own actions a rectification of this “deviant” behavior. They seldom label their own attacks as attacks, although they may sometimes call them “counterattacks.” A reckless or false accusation that a given conduct or opinion constitutes an attack, is itself an attack.

Why then use the term “attack” here as a central concept rather than comparable but less loaded phrases? The question is legitimate because the term is abused quite often. However, abuse of a term does not justify its abolition; rather, it calls for semantic precision.

In search of such precision, we can observe that the concept of attack is used properly in the leading human rights instruments. The Universal Declaration of Human Rights (UDHR) mentions the concept in its Article 12 and the International Covenant on Civil and Political Rights (ICCPR) in its Article 17. Both articles concern the right to reputation. The UDHR stipulates that “No one shall be subjected ... to attacks upon his honour and reputation” and the ICCPR uses an almost identical formula. In these instruments, the term “attack” is associated with a violation of the right to reputation

During the drafting processes of the UDHR in October 1948 and the ICCPR in October 1953, a large majority of the drafters voted to retain the term although the risk of abuse was duly recognized. Justifiable

¹ PEN America Principles on Campus Free Speech” in PEN America, *And Campus for All: Diversity, Inclusion, and Freedom of Speech at U.S. Universities*. New York: PEN America, 2016. P.8.

attacks were defined as those based on truth and made in good faith and as fair comment, while unjustifiable attacks received a variety of qualifiers (abusive, arbitrary, illegal, malicious, unjust, unlawful, unreasonable, and unwarranted) to distinguish them from justifiable ones. The ICCPR drafters in particular chose the expression “unlawful attacks” to distinguish unjustifiable from justifiable attacks. Decades later, in 2011, the United Nations (UN) Human Rights Committee, which supervises implementation of the ICCPR, used the term not in relation to the right to reputation but in relation to the right to freedom of opinion and expression:

[U]nder any circumstance, can an attack on a person, because of the exercise of his or her freedom of opinion or expression, including such forms of attack as arbitrary arrest, torture, threats to life and killing, be compatible with article 19 [Freedoms of opinion and expression, *adb*].²

The notion of attack is not only common in international human rights law, it also is in international criminal law and international humanitarian law. In the 1998 Rome Statute of the International Criminal Court, for instance, it is a central concept in defining crimes against humanity and war crimes. Qualifiers are used here as well: in defining crimes against humanity, the Rome Statute speaks of “widespread or systematic attacks,” for example. We can conclude that the term is well entrenched in the most important instruments of international human rights, humanitarian, and criminal law and that it can be used responsibly.

Definition of attacks on history

We are now ready for a definition:

*Attacks on history are threats or uses of force by State or non-State actors against historians or their work with the intent to silence them*³.

From this definition it becomes clear that attacks on history are attempts to undermine responsible historical research and teaching. To the extent that the outcome of these research and teaching activities contributes to a democratic awareness, especially through an open and robust public debate about the past, attacks on them also undermine democratic societies. Let us discuss the elements of the definition.

² United Nations (UN) Human Rights Committee, General Comment 34 [Freedoms of opinion and expression] (UN Doc. CCPR/C/GC/34) (2011), § 23.

³ Compare my definition with those of “attacks on education” in UNESCO, *Education under Attack* 2010 (Paris: UNESCO, 2010). P. 17; Global Coalition to Protect Education from Attack, *Education under Attack* 2018 (New York: GCPEA, 2018). P. 16; Global Coalition to Protect Education from Attack, *Toolkit for Collecting and Analyzing Data on Attacks on Education*. New York: GCPEA, 2021. P. 104.

Threats or uses of force

The *use* of force is the intentional infliction of harm to the targets (the historians or their work), preceded or not by a threat or warning. Attacks that use force are usually public and direct interventions. The use of force has two manifestations. It can take the form of physical violence to compel a target to adopt a certain behavior or belief. It can also be achieved through mental coercion (or duress), which includes direct manipulation (influence exercised in an unfair or unscrupulous manner without regard for individual volition) or indirect pressure to dominate, especially by using authority and exploiting fear and anxiety⁴.

Threats of force are credible and serious messages left with intent to intimidate. They can be public or covert and direct or indirect. A covert attack has to be understood as the degrading face-to-face treatment of the targets. An indirect attack consists of a series of acts that, taken separately, perhaps do not meet the threshold of an attack but nevertheless, taken together, can be shown to be part of a pattern of ambiguous, hybrid threats and bullying with effects as pernicious as full-blown attacks. Small non-attributable repeat attacks, either public or covert, can have similar effects.

From the distinction between the use and threat of force it follows that attacks do not need to be successful to constitute attacks, they can be inchoate acts: public calls for attacks that remain without consequences, planned attacks that were not executed, or failed attacks are attacks nevertheless if there was a reasonable probability that the attempts were imminent but stopped before or while being executed.

Many threats and uses of force that qualify as attacks remain unreported or underreported, among others because they have a diffuse character or because those attacked are too intimidated to report them. A regime paradox should also be taken into account: attacks in repressive societies are less documented but usually more serious while attacks in democratic societies are more documented but usually less serious. However, no regime type – totalitarian dictatorship, autocratic dictatorship, flawed democracy, emergent democracy, stable democracy – is immune to attacks on history and historians.

⁴ See: Aswad E. M. Loosing the Freedom to Be Human, // Columbia Human Rights Law Review, 52 no. 1 (2020). P. 355–356.

State or non-State actors

Attacks can be carried out by the State or by non-State actors. *States* can take part in attacks to varying degrees: attacks can be performed by State organs, at their service or with their open or complicit involvement. Alternatively, these State organs can also encourage or condone attacks of third parties or not react appropriately to such attacks or fail to act altogether. *Non-State actors* are private parties (individuals or groups) whose attacks are either condoned by the State or executed outside of any State influence. If more than one perpetrator is involved in the attack, not all perpetrators need to be fully aware of all characteristics and details of the attack.

In this regard, it is necessary to point to the dual role of historians. Whereas historians are usually targets of attacks on history, some of them have been involved in attacks on other historians as organizers or perpetrators of these attacks, often instrumentalized to that end by those in power, especially under totalitarian regimes. Although this may surprise at first sight, it is logical at closer scrutiny, as detailed expertise about what historians are actually doing is sometimes needed to successfully attack them. Therefore, historians can be found on both sides of the attack divide. While attacks on history and historians usually come from outside actors, historians participating in them attack history from the inside, violating professional ethics in the process.

Historians or their work

The targets of the attack are those harmed, namely the historians who as victims of the attack suffer consequences in their lives and work. Three aspects – the persons, the content they produce, and history in general – merit separate attention.

The first aspect is *the historian*. If historians are targeted, attacks can be directed at their entire personality or at some particular aspect of it: their dignity, integrity, safety, privacy (such as their appearance, gender, race, ethnicity, religion, nationality), reputation, and opinions. Mention or discovery of such specific characteristics during the attack can throw light on the motives of perpetrators. In addition, while the primary victims of attacks are the historians who were targeted, there is also a category of indirect victims: all those who were not attacked but still felt intimidated by the attacks and underwent their chilling effects.

The term historians is used here in a broad sense. Perpetrators of attacks try to eliminate all forms of history that are unwelcome to them, regardless of those creating them, and therefore the term “historians” should not be narrowed down to those with a university degree in history. “Historians” are all those who are involved, professionally or otherwise, in the collection, creation, or transmission of history, academic or not, professional or not. Everyone who happens to defend unwelcome opinions about the past can come within the purview of attackers.

It should be added that for our purposes the targets of attacks are historians *qua* historians. Attacks against historians acting in other roles – as journalists, peace or human rights activists, political activists, and so on – are beyond the scope of this analysis unless they have a clear historical component. However, even when historians with multiple roles are not attacked in their capacity as historians, complicating circumstances may arise. Historians may have adopted some of their other roles after insights gained from history motivated them to do so. Furthermore, attacks on historians acting in other roles can still have *indirect* effects detrimental to their functioning and work as historians. This, in fact, is often the case.

The second aspect is *the work* of the historian. This includes all stages from research design, fundraising, source and data collection to manuscript and output (a book or a class, for example). It also refers to the operation of second-order observation, which is reflection on history in the form of historiography or theory. During an attack, the work is disqualified, damaged or destroyed directly or collaterally.

It is often difficult to see who or what is the real target: the work or the person behind it. Indeed, the unwelcome content of a historical work may direct attention to its authors and, conversely, the openly expressed ideas of historians may direct attention to their work. Whereas all attacks are reprehensible, assailants cross an additional line if they target not only historical opinions but also the persons holding them.

The third and arguably most difficult aspect to evaluate is *history in general*. If the issue of harm and victimhood is readily clear for persons and the content they produce, that is less so when we consider “history” – understood as the writing and teaching of history: in what sense can an abstract concept such as history ever become a target and a victim of attack? Attacks against history cannot be observed in the same direct way as attacks on historians and historical content. They can be traced only indirectly: person-oriented attacks result in fewer and less active *speakers* in the area of history than otherwise would have been the case and work-oriented

attacks result in less informed, fewer and less receptive *listeners* in the area of history than otherwise would have been the case.⁵ In other words, attacks on history generate fall-out not reducible to historians or their work and cover the wider ramifications of these attacks on the community of historians and its audience and on the entire biotope of the public historical debate. Society has an interest in the outcomes of historiography and the harm done to it is not only a professional but also a social harm. The actual harm done to historians or their work or to history in general is often not accurately assessable or immediately and fully known at the time of the attack. Likewise, the long-term impact of attacks on those attacked is often unknown. Similarly, when historical sources or manuscripts are destroyed, this may come to light after long delays only. The harm done to history eventually reveals itself in a climate where freedom of expression about the past is chilled and where public trust in the integrity of historical information has diminished, if not disappeared.

Intent to silence

Attacks are always intentional but they can be targeted or indiscriminate. If they are targeted, they are directed at specific individuals, institutions, infrastructures, or works; if they are indiscriminate, they are intended to strike at historians in general either because that is their special purpose or because the methods or means employed are so generic that they cannot be narrowed down to specific targets and therefore have a random fallout (typical examples are internet slowdowns and shutdowns). The result of silencing those attacked can be qualified as *epistemic injustice*.

Attacks on historians often lack the necessary intent to silence the latter *as historians*. In such cases, they still qualify as attacks, but not as attacks on history. As indicated above, to the extent that attacks on historians for reasons unrelated to their history-oriented tasks interfere with these tasks, they may qualify as indirect attacks on history. This is particularly the case for large or indiscriminate attacks that target communities of academics, professionals or intellectuals.

The intent must show bad faith – namely, to silence. Often this will be obvious (when physical violence or coercion is used), but attacks involving subtler pressures are less recognizable. The fact that some attackers *say* or *believe* that they acted in good faith (in order to “save history from

.....
⁵ Compare International Mechanisms for Promoting Freedom of Expression // Joint Declaration on Crimes against Freedom of Expression (2012), fifth preamble recital.

contamination,” for example) is never decisive in determining that a certain conduct did not constitute an attack. If the good faith of a perpetrator is proven beyond reasonable doubt, this is an attenuating circumstance and even, for single-perpetrator attacks, a reason to annul the charge of an attack.

Intent should not be confused with motive. Intent refers to *how* the silencing operation is carried out (“in bad faith,” “maliciously,” “recklessly,” etc.), while motive refers to *why* it is carried out. If the purpose is to verify whether a given conduct constituted an attack at all, intent (to silence) is important; if the purpose is to analyze and evaluate the attack, motives come into play as well. Attacks can be motivated by many reasons, most often political, ideological, ethnic, racial, religious, or national security and public order reasons. For example, attacks can be mounted in the name of the State, the nation, the fatherland, the flag, justice, religion, race, tradition, custom, culture, national honor and pride, the ancestors, soldiers and veterans, or a combination of them.

Related concepts

Attacks on history overlap with, yet should be distinguished from, other concepts such as *persecution, crime, and abuse of history*. In general, we can look at an attack as an *incident*; at persecution as a *process* involving attacks; at crime as a particular *form* of attacks; and at the abuse of history as *a tool* for or *result* from an attack. The difference between attacks and these related concepts is often a mere question of perspective. In practice, many of these concepts can be simultaneously applied to the same set of incidents.

Persecution

The persecution of historians is the severe deprivation of their human rights on intentionally discriminatory grounds because they are historians, ranging from the destruction of their infrastructure of sources and resources to pressure, harassment, dismissal and to imprisonment, torture, exile, and death. “Attacks” is at once a broader and narrower concept than persecution. It is broader because it includes inchoate attacks, which are difficult to categorize as actual persecution. It is narrower because the analytical unit to investigate attacks is an incident, that is, a report about one threat or use of violence that occurred during a single period (although this does not exclude simultaneous, protracted, or repetitive attacks). In contrast, persecution is a process, a chain of attacks.

Crime

Attacks on history and historians turn into human rights violations – notably violations of the freedoms of opinion, expression, assembly, and association – when States are involved in these attacks. The harm inflicted by an attack of a non-State actor is technically not a human rights violation but a human rights abuse; in the latter case, a violation only arises if the State participated in the attack or failed to investigate and prosecute the attack. Attacks on history become crimes when they are criminal according to domestic or international law and regardless of whether they were committed by State or non-State actors. In 2012, the rapporteurs on freedom of expression of the United Nations, Africa, the Americas, and Europe issued a “Joint Declaration on Crimes against Freedom of Expression” in which they listed various such crimes:

Expressing our abhorrence over the unacceptable rate of incidents of violence and other crimes against freedom of expression, including killings, death-threats, disappearances, abductions, hostage takings, arbitrary arrests, prosecutions and imprisonments, torture and inhuman and degrading treatment, harassment, intimidation, deportation, and confiscation of and damage to equipment and property...⁶

Likewise, the most extreme attacks on history can be called *crimes against history*, for example, the assassination and disappearance of historians, the use of hate speech against historians, or the intentional destruction of cultural heritage.⁷

Abuse of history

Finally, attacks on history differ from abuses of history in that the latter are a tool from, and a result from, the former. Abuses of history are uses of history with the intent to deceive.⁸ One form of abuse is censorship. Classic censorship is directed at the message before it becomes public (the historical work), but censorship by heckling and killing targets the messengers (the historians). Other egregious forms of abuse are the fabrication, falsification, and plagiarism of historical data and interpretations. As they corrupt the integrity of history, abuses of history are manifestly inconsistent with or contrary to the purpose for which history is designed: the search for historical truth(s).

.....
⁶ International Mechanisms for Promoting Freedom of Expression // Joint Declaration, fourth preamble recital. This list corresponds to the list of the UN Human Rights Committee already quoted.

⁷ De Baets A. Crimes against History. London: Routledge, 2019. P. 3–4.

⁸ De Baets A. The Abuse of History // Bloomsbury History: Theory & Method. New York ; London: Bloomsbury, 2021.

Whereas abuses of history aim to *deceive*, attacks on history aim to *silence*. The relationship between deception and silence is tight. A successful deception fosters the silencing of truthful versions of history. Conversely, attacks attempting to silence historians often mobilize deception techniques and fuel a climate of deception. Deception and silence are twin tools: deception clarifies perpetrator conduct whereas silence clarifies victim conduct. Deception always leads to some form of silence and silencing often requires deception. Attacks and abuses go hand in hand.

Limits of the concept

The concept of attacks has limits in contrasting directions: at its lower end, it excludes conduct that does not reach the threshold of an attack; at its higher end, it only partially covers the phenomenon of systemic bias and it is itself swallowed by systemic violence. Let us discuss these three extremes.

At the lower end of the spectrum, not every obstacle, not every pressure, not every constraint, not every convention or practice which makes communication for some individuals more difficult, not every uncomfortable circumstance rises to the level of attacks. Attacks are hostile or retaliatory interferences of a certain intensity. They are grave breaches of the integrity of history and substantially harm the activities and lives of historians. In contrast, a bold use of freedom of expression, sharp methodological debates and polemics, generalized feelings of insecurity, small acts of sloppiness, much conduct to accommodate to power inside and outside academia, and numerous small chilling gestures do not reach the threshold of physical violence or mental coercion defining attacks.

At the higher end of the spectrum, the first question is whether the concept of attack includes forms of systemic bias. Biases in the system can result in structural violence and epistemic and other injustice. If history education is not or barely offered at pre-university levels, the influx of a critical mass of capable history students at university levels is seriously hampered. If archival laws are not inspired by access to information principles and lack administrative flexibility, the sources of historians are systematically curtailed. If skillfully applied funding policies promote certain career types and discourage others, they may orient the avant-garde of the historical profession in a predetermined direction. If political power and lobby groups distort and manipulate public debates about history, they may result in systematically selective access to them and unduly interfere with the emergence of a sound public opinion. These examples illustrate

that systemic bias can be as effective as attacks and make the latter partly or wholly superfluous. An attacks-based approach will touch upon many aspects of systemic bias and the structural violence and the injustice they engender, but not fully cover it.

The situation worsens when systemic bias and its violence and injustice are not limited to certain areas of social life (such as history education, archives, funding policies, or the public debate as in the examples above) but flow through all its veins, that is, when they are transformed into a repressive political system. In a certain sense, the mere existence of a repressive political system, even when operating under the cloak of democracy and keeping up a semblance of legality, is one big and complex systemic attack on the human rights of its citizens, historians included.

Perhaps surprisingly, the existence of repressive political systems implies that there is no automatic relationship between the frequency of attacks and a regime type. At first sight, regimes at the authoritarian end of the political spectrum are expected to organize more frequent attacks than regimes at the democratic end. That is too simple. There are factors that interfere with frequency. On the one hand, the more authoritarian regimes rule with ruthless power and manage to instill an overall climate of fear and terror maintained by an apparatus of formal institutions (including the parliament, the courts, the leading political party, the police, military, and security services, and the censorship bureau) and informal means (thugs and death squads operating in the shadow), the less they need to organize targeted attacks. An overall repressive system renders individual attacks less necessary and when they take place they are often designed to set an example and to intimidate. On the other end of the political spectrum, attacks under democratic regimes are on the whole less fatal and countered with less fear for retaliation, but the censorial role of semi-public and private lobbies, groups, and individuals is potentially larger than in the more authoritarian contexts where the public sphere is curtailed. What we tend to see, then, are authoritarian regimes with a restricted elite of very powerful attackers at one end and democratic regimes with many but less powerful attackers at the other end and a mix of the two in-between. Therefore, attack frequency is not necessarily a differentiating factor between regime types. The paramount differentiating factor is the existence of greater or smaller degrees of freedom of expression for repelling attacks on history.

In sum, at the lower end of the scale, the concept of attack is too strong for relatively normal social practices and relationships, or for conduct that according to most reasonable observers does not reach a certain threshold

of force or coercion. At the higher end of the scale, the concept of attack is not always well suited to include processual, structural and systemic limits on historians. Democracies have a range of built-in structural biases that often do not rise to the level of attacks but still prevent opportunities for large categories of historians. In contrast, authoritarian regimes result in one big crackdown on dissidence, including dissident history, making individual attacks on specific targets surprisingly less urgent.

In conclusion, this analysis has shown that the concept of attacks cannot cover the entirety of extreme adverse circumstances in which historians live and work. However, a thoughtful and precise use of the concept can acutely enhance our understanding of the many ways in which history is undermined.

Жюльет Кадио: Спасибо, Антон, было очень интересно. А теперь, коллеги, у вас есть возможность задать вопросы выступавшим и принять участие в общей дискуссии.

Обсуждение докладов. Вопросы и ответы

Павел Махцевич: У меня вопрос к Норберту Фрау. В какой степени история конфронтации с нацистским режимом важна для нового правого движения в Германии? Вы привели слова Александра Гауланда, одного из деятелей AfD, о нацистском режиме. Это просто какая-то маргинальная ремарка была или у этой ультраправой партии AfD есть собственный подход к истории, своя собственная концепция? Как вы знаете, в Польше историческая политика стала очень важным элементом становления партии PiS. Вот мне хотелось бы знать, насколько эта политика послужила также для становления ультраправой партии AfD в Германии.

Норберт Фрай: Мне было очень важно сказать, что, с одной стороны, это дистанцирование справа, а с другой – постколониальный дискурс слева. И, действительно, в этом германском дискурсе сначала был дискурс элит, а потом, через поколения только, это спустилось во все население. Но не хватало одного момента, а именно – дискурса в ГДР, потому что в ГДР, конечно, тоже случилось нормативное дистанцирование от преступлений нацистского режима. И я думаю, что недостаточно сказать только о том, что ГДР признавала ФРГ как правопреемника фашистской системы. Я думаю, что здесь нужно смотреть все-таки более дифференцированно и исследовать, на-