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CLASH OF COURTROOM NARRATIVES IN THE POST-TRUTH ERA

This article aims to build a better understanding of today's courtroom narratives. Today, our information landscape has changed drastically compared to decades ago because the frequency of fact-related words reduced enormously in the post-truth era. While competing in court, the participants use various information in their narratives, that affects rational perception (semantic information, influence on the mind); emotional perception (aesthetic information, influence on emotions); irrational perception (synectic information, influence on the unconscious). In other words, the effectiveness of the communication process in court is determined by the degree of influence or depth of penetration of the resources of each type of information. Also, information is closely related to memory. At the intersection of all this is the question of the interrelation between narratives and memory and the influence of the post-truth era on this process.

Through problematizing review, this article analyses such notions as “post-truth era”, “collective, cultural and communicative memory”, “storytelling”, “narrative”. There has been an observation that the public is demonstrating a shift in focus from the veracity of statements to their efficacy in the post-truth era. The issue of memory also contributes to this shift as our review has confirmed. In this context, we have explored in more detail collective, cultural and communicative memory. The concept of collective memory is represented in our research as a bipolar axis at opposing extremes of which we situate cultural and communicative memory. It is proved that communicative memory is characterized by its proximity to the everyday, while cultural memory is characterized by its distance from the everyday. Compared to “cultural” memory, communicative one is seen as the short-term memory of a society. It denotes a willful agreement of the members of a group as to what they consider their own past to be. The concept of communicative memory is susceptible to the influences of the post-truth era, whereas cultural memory is not. The paper concludes that this distinction leads to the emergence of divergent narratives based either on communicative or cultural memory, which can result in significant clashes between them.

Key words: narrative, storytelling, post-truth era, cultural memory, collective memory, communicative memory.

Problem statement. In this day and age, many scholars are talking about the change in the information landscape that began in the early 2000s “when across languages, the frequency of fact-related words dropped while emotion-laden language surged, a trend paralleled by a shift from collectivistic to individualistic language” [12].

We have previously addressed this topic indirectly by exploring the organisation of the courtroom information landscape through the architectonics of courtroom discourse as an assemblage of information clusters – semantic, aesthetic and synectic [17, p. 184].

It is clear from our previous studies that communication in court, in terms of its focus on the effective exchange of various information, affects three types of perception: a) rational perception (semantic information, influence on the mind); b) emotional perception (aesthetic information, influence on emotions); c) irrational perception (synectic information, influence on the unconscious).

The effectiveness of the communication process in court is determined by the degree of influence or depth of penetration of the resources of each type of information.

While on the other hand, information is closely related to memory. And memory can be defined as the ability of the brain to retain and voluntarily retrieve information. Memory is responsible for remembering, storing and reproducing different types of information. In the post-truth era, there is a lot of information, we are inundated with information. Of course, in court discourse there are also different types of information that create stories and, therefore, narratives. Narratives construct a certain information reality or information landscape where their authors compete with each other to win the trial. For this reason, it would be interesting to establish what kind of narratives are created by litigants and what is the cause of this. Thus, even a brief overview of the above allows us to state the **relevance of the research topic**.

The corpus material was YouTube speeches of the prosecutors and defense lawyers delivered at high-profile Kazakhstan domestic violence and murder trial (the Bishimbayev Trial 2024). It was a live-streamed murder trial [3;4].

Analysis of recent research and publications.

In the context of the aforementioned statement concerning the evolving information landscape in the contemporary world, it is essential to firstly address the issue of post-truth or the post-truth era. According to the Oxford dictionary, objective facts today are less important for shaping public opinion than appealing to emotions and personal beliefs. Indeed, in recent years, the distinction between truth and fabrication has become increasingly blurred. The fundamental consideration is that it should be congruent with the expectations and preferences of content consumers.

In a significant number of political and media discourses this year, there has been an observation that the public is demonstrating a shift in focus from the veracity of statements to their efficacy. This shift in attitude, whereby the emphasis has shifted from the factual accuracy of a statement to its effectiveness, is a pivotal factor in the emergence of the post-truth era [9].

The role of social networks in the creation of the post-truth era is paramount, as they have engendered a gnoseologically distinct situation, one in which the very notions of fact, truth, figures, analysis, and rationality have become obsolete. In this new paradigm, the dominance is characterised by brief messages, with a maximum length of 160 characters. This finding lends further support to McLuhan's theory that media is a message. McLuhan's theory posits that mass communication media do not merely function as transmission channels for information. They shape our reality and perception of the world. According to McLuhan, communication is constituted by external extensions of consciousness, which are reflected in language and human behaviour [8]. This perspective finds resonance with our grasp of the term "information" [17, p. 182].

It is evident that this subject has garnered the interest of researchers in the field. A substantial corpus of literature has been dedicated to the subject, with numerous articles offering insights into the phenomenon. [5; 6; 13].

Alternatively, scholars have expressed interest in the "behaviour of narratives" in different discourses in the post-truth era, for example, Hasan Saliu's work is devoted to "Narratives of Public Diplomacy in the post-Truth Era" [11]. However, we have not encountered any linguistic works concerning the narratives of courtroom discourse

in the post-truth era, which is the impetus behind the objectives of our study.

The aim and objectives of the research. The aim of the present study was to trace the "clash" of narratives in the information milieu within the courtroom. In order to achieve this objective, it was deemed essential to undertake the following tasks: firstly, to establish the types of narratives from the perspective of their authors' involvement of different levels of memory and the influence of the post-truth era on this process.

Methods of research. The methodological basis of the study is the concept of memory developed by Maurice Halbwachs [7] as well as researches by Aleida and Jan Assmann who differentiated his concept of "collective" memory into a "cultural" and a "communicative" memory [1;2].

For the purpose of investigation, courtroom narratives were subjected to content analysis, which was based on a system-structural approach. This approach was employed to identify the role of storytelling in the creation of these narratives and to achieve communicative impact. The discourse analysis method was utilised to examine the courtroom debates. The statements of the participants were considered taking into account social interests, political views as well as social and ideological ties.

In order to analyse court narratives, the method of content analysis was employed on the basis of a system-structural approach. This approach was aimed at identifying the role of storytelling in the creation of these narratives and achieving communicative impact. The discourse analysis method was utilised to examine courtroom debates. The statements of the participants were scrutinised taking into account social interests, political views as well as social and ideological ties. Additionally, the method of sociolinguistic analysis of the data set was implemented. The purpose of this analysis was to explore the relationship between language and society.

Results and discussion. Storytelling vs narrative. Firstly, it is vital to differentiate between storytelling and narrative. In this respect, we concur with the perspective of Frank Wolf, who offers the following elucidation of these concepts: "A story is a finite account of specific events. It revolves around individual characters and incidents. Together, stories work to bring narratives to life and build credibility. A narrative, on the other hand, is broader and more abstract. It weaves together and frames multiple stories into a cohesive framework, offering deeper meaning and context. While stories can entertain and inform, narratives provide the strategic

framework that aligns actions, builds trust, and sustains momentum over time” [15]. Narratives are constructed using the material provided by stories. perception (synectic information, impact on the unconscious). It is posited that every narrative possesses its own architectonics, which can be comprehended as “...a coordinated, subordinate arrangement of blocks of discourse, determined by the overall goal of the author in relation to the communication and impact of information, and their connection to a complete whole that is not reducible to the sum of these parts” [17, p. 184].

Types of narratives in the trial at issue. In the subsequent section of the paper, it appears pertinent to contemplate the nature of narratives from the vantage point of the authors’ involvement with varying levels of memory, along with the impact of the post-truth era on this engagement. The issues of memory have been and are of recent interest to scholars, especially in connection with the attempts of some notorious political “leaders” to justify their insane policies by some types of memory, for example, collective memory.

Consequently, the focus should be directed towards the abovementioned concepts of collective, cultural and communicative memory. Collective memory refers to the memories that individuals have as members of the groups to which they belong, whether small (family, school) or large (political party, nation). Henry L. Roediger makes the following observation: collective memory is history as people remember it; it is not formal history, because the “memories” of a group are often contradicted by historical fact [4]. The pivotal factor in this consideration is the recognition that individuals’ recollections vary according to the time period under scrutiny. The concept of collective memory is represented as a bipolar axis. On this axis, at opposing extremes, we situate cultural and communicative memory. While “communicative memory is characterized by its proximity to the everyday, cultural memory is characterized by its distance from the everyday” [2, p. 128–29].

Compared to “cultural” memory, communicative one can be seen as the short-term memory of a society. “Communicative memory,” on the other hand, denotes a willful agreement of the members of a group as to what they consider their own past to be, in interplay with the identity-specific grand narrative of the we-group, and what meaning they ascribe to this past [14].

It is evident that communicative memory is contingent on the manner in which societal actors reach a consensus regarding the interpretation of past events. The concept of communicative

memory is susceptible to the influences of the post-truth era, whereas cultural memory is not. This distinction leads to the emergence of divergent narratives based either on communicative or cultural memory, which can result in significant clashes between them. A particularly salient example of this phenomenon can be observed in the trial of Kuandyk Bishimbayev, former Minister of National Economy of Kazakhstan.

The prosecution asserted that the accused, Bishimbayev, had subjected his girlfriend to a period of prolonged physical abuse, culminating in her death. According to the prosecutor, the defendants repeatedly visited the room where Saltanat was lying that day, observed her in a state of helplessness, and detected unnatural wheezing sounds emanating from the deceased. However, they did not take any action. It is evident that the fatal injuries sustained by Saltanat were the result of the aforementioned violent acts. However, the defendant’s attorneys present a contrasting explanation.

Narratives of the defendant’s attorneys. Storytelling of one of the defendant’s defence lawyers Leyla Ramazanova is vilification of the victim under the guise of ‘truth’ and justification of the defendant under the guise of the same truth:

Here in the courtroom, it was heard that Bishimbayev vilified the victim Saltanat, but Kuandyk was left with no other choice. Either he confesses to one of the most serious crimes provided for in the Criminal Code of Kazakhstan, which means for him to put his head on the scaffold, or he tells the truth and nothing but the truth. Including about Saltanat (3;4).

The second defence lawyer argues that battery does not constitute torture. Yerlan Gazymzhanov, emphasising that the Criminal Code classifies systematic battery as torture, tried to convince the audience that the situation with Nukenova was different:

But three incidents in a year of living together – is that systematic battery? They went out, had holidays, went wherever they wanted, ate whatever they wanted, wore expensive jewellery and clothes. Three times they had a conflict, and is that systematic torture, systematic beatings? Let’s give every husband... to break into any family – and for three conflicts a year give from 4 to 7 years (3;4)

A third defence lawyer, Nazken Kusainova, creates a story about how life is not just over for the victim:

I get it, Saltanat is dead, but I don’t think he’s sitting there alive right now. He died that day too. The children gave up on him, everyone started saying

he was a murderer. But he shouldn't walk around with the stigma of a murderer. That's for you to see and make the right decision (3;4).

Another defence lawyer of Bishimbayev, Talgat Balashov, asked to change the qualification of the criminal case. According to the defence, the case should be reclassified to causing death by negligence, as such 'light' beatings could not cause death. And the death occurred because of an 'old' injury:

The facts of the victim's already damaged brain prior to the event of 9 November 2023 show that even the most minor impacts on the head area could have had consequences. The defendant did not know and could not have known of the girl's pathology in the form of a chronic haematoma, as the brain had already been damaged. This fact shows the accidental nature of the consequences and the defendant's unintentional actions (3;4).

He stated that Bishimbayev had no intention to kill his civil spouse.

The defendant's mother Almira Nurlybekova, as a public defender, acknowledges her fiasco as a mother, however, stating that her son wants to be convicted for all the crimes of the past:

I will be analysing until the end of my days, trying to understand what were the lapses in upbringing on my part. We brought him up in the best traditions of a Kazakh family. We had a big friendly family. Five generations lived in one house. My children did not see violence in the family; the victim's defenders called my son "a parasite of society, a man of "Old Kazakhstan"" and want him to suffer exemplary punishment for all the officials who ruled Kazakhstan for more than 30 years (3;4).

The defendant himself calls the brutal battery 'a couple of slaps', explaining his aggression by his wife's behaviour, which provoked him to such actions:

At some point I got angry and let go of the belt. And it was such a counterbalance, she lost her balance, hit the wall – the wall was to her right, she somehow pushed off it with her hand and her face fell on the toilet. It was just a really hard blow. Bang – she fell and her face bounced off the toilet bowl; my male ego was hurt by her adultery..... (3;4).

In terms of the post-truth era, it is customary for narratives that evoke sentiments unrelated to the optimal facets of human nature to predominate. These narratives encompass the financial provision of the deceased by the defendant, the attribution of blame to the victim for her savage beating, and the defendant's wounded masculinity, denigration of the victim's image (allegedly due to her consumption of

alcohol and immoral lifestyle); the presence of secret enemies (punishment for all the officials who ruled Kazakhstan for more than 30 years); and finally, an attack of jealousy, despair, alcohol and nervous exhaustion on the part of the defendant, which led to this tragedy.

Such narratives have been shown to influence perceptions that are both emotional and irrational, with synecitic and aesthetic information becoming particularly salient. The victim is held responsible for the actions of the defendant, as a result of the influence of these types of information, which construct a unique informational reality.

The narrative constructed by the defendant's defense attorneys is predicated on the concept of communicative memory. It is imperative to emphasise that communicative memory encompasses the content of memory that is subject to constant change in the process of daily communication within social groups. This encompasses both active memory, comprising memories themselves, and the transmission of knowledge from three to four generations through informal interactions, such as family information and conversations between generations.

In the recent past of Kazakhstan, the Soviet-era nomenklatura society was characterised by a pervasive culture of deceit, where the prevailing societal norm was to maintain familial harmony, even at the cost of personal wellbeing, as evidenced by the societal preference for a torturer husband over a divorcee. Furthermore, trials pertaining to the transgressions of those in positions of authority were routinely closed, if the case was indeed brought before the court. Moreover, as previously mentioned, the post-truth era, which began to develop rapidly in the 2000s, also had its influence, resulting in such a dense tangle of lies, hatred, envy and moral turpitude.

Narratives of the injured party's attorneys.

Conversely, the injured party's advocates have drawn upon cultural memory, generating opposing narratives. Firstly, historical evidence indicates that Kazakh women have been recognised for their contributions to war, child-rearing, and agricultural activities, which they engaged in alongside men. Furthermore, Kazakh women have been known as having played a defensive role in safeguarding their land, homeland, and hearth. This suggests that from ancient times, Kazakh society has preserved an egalitarian gender policy, even with a tendency towards female supremacy in keeping home, as women in Kazakh society were the primary bearers of traditional Kazakh culture.

Secondly, it is only the truth, without any “buts”. *“Those tortures that we saw on the video files, they really shocked, the court even announced a break. Such cruelty that Bishimbayev showed, we have never seen even in scary films,” said Zhanna Urazbakhova, a defence lawyer for the injured party (3;4).* But even despite this obviousness, they had to confirm all the bruises and injuries of the murdered Saltanat. Ex-minister Bishimbayev was killing his beautiful wife, Saltanat Nukanova, for eight hours, but there were no prints of her in the room.

Thirdly, the defence lawyer of the injured party wants to overcome the stereotype of post-Soviet Kazakh society about the inviolability of the caste of officials, and the accused is an powerful man, a former minister, with “acquaintances everywhere” and money. Bishimbayev succeeded in working as a managing director of the National Innovation Fund, as an adviser to the Minister of Economy and Deputy Prime Minister, as a vice-minister of two departments and as the head of the Baiterek holding company, until he finally became the Minister of National Economy.

The exceptional brutality of the murderer was attributed, in part, to the fear of facing criminal prosecution, as asserted by the second defence lawyer of the injured party, D. Ishmametov. Aitbek Amangeldy, the brother of the murder victim, also drew attention to this. He posits that the reason for the murder was fear, citing an instance during the attack when his sister remarked that her “bloodstained shirt would serve as evidence against her civil husband” (3;4).

Conclusions. The narratives generated by the defendant’s defence lawyers are about the ‘immoral’ behaviour of the murdered woman, the defendant’s ‘concern’ for her, his jealousy and hurt ego, his coming from a reputable family and the fact that he should not be held responsible for all the officials before him. These are clearly consistent with a post-truth society and rely on communicative memory. The defendant’s lawyers’ narratives are obviously aggressive and through them they exert pressure on the participants in the trial. Let us present it graphically.

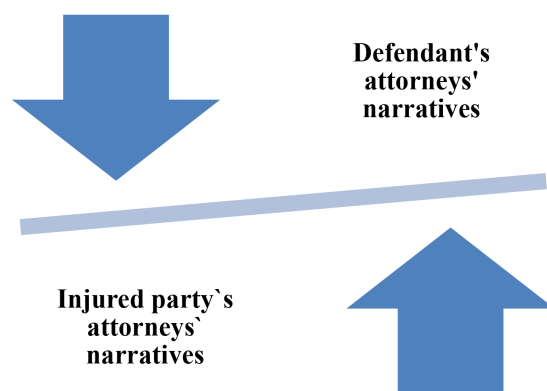


Fig. 1. Narrative clash process

The narratives of the injured party include the following points: women in Kazakh society were the primary custodians of traditional Kazakh culture; the principle of the rule of law should be inviolable; and the inevitable punishment of those who violate the law. It is evident that these narratives are not aligned with the post-truth era and instead depend on cultural memory.

Narratives grounded in cultural memory are juxtaposed with narratives that depend on communicative memory. In this particular trial, the former prevailed, albeit with considerable difficulty, over the state judicial system.

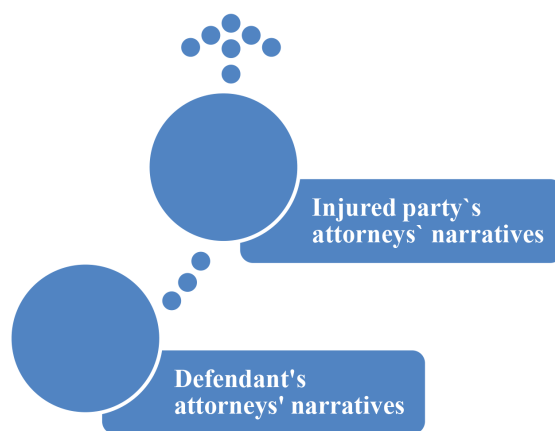


Fig. 2. Result of the narrative clash process

The study shows promise, as it would be intriguing to explore this issue from the perspective of the other kinds of memory, for example, individual, political, and social memory, as some options for further research.

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Зайцева М. О. ЗІТКНЕННЯ СУДОВИХ НАРАТИВІВ В ЕПОХУ ПОСТ-ПРАВДИ

Ця стаття має на меті покращити розуміння сучасних наративів у залі суду. Сьогодні наш інформаційний ландшафт кардинально змінився порівняно з тим, що було десятиліттями тому, оскільки частота слів, заснованих на фактах, значно зменшилася в епоху пост-правди. Змагаючись у суді, учасники використовують у своїх наративах різну інформацію, яка впливає на раціональне сприйняття (семантична інформація, вплив на розум); емоційне сприйняття (естетична інформація, вплив на емоції); ірраціональне сприйняття (синектична інформація, вплив на підсвідомість). Іншими словами, ефективність комунікаційного процесу в судовій залі визначається ступенем впливу або глибиною проникнення ресурсів кожного виду інформації. До того ж, інформація тісно пов’язана з пам’яттю. На перетині всіх цих питань постає проблема взаємозв’язку наративів і пам’яті та впливу епохи пост-правди на цей процес.

У цій статті шляхом проблематичного огляду проаналізовано такі поняття, як «епоха постправди», «колективна, культурна та комунікативна пам’ять», «сторітелінг», «наратив». Виявлено, що в епоху пост-правди суспільство демонструє зміщення фокусу з правдивості висловлювань на їхню ефективність. Питання пам’яті також сприяє цьому зрушенню, як підтверджує наша розвідка. У рамках цього дослідження ми детально розглянули колективну, культурну та комунікативну пам’ять. Поняття колективної пам’яті представлено в нашому дослідженні як біполярна вісь, на протилежних полюсах якої ми розміщуємо культурну та комунікативну пам’ять. Доведено, що комунікативна пам’ять характеризується близькістю до повсякденності, тоді як культурна – віддаленістю від повсякденності. На противагу «культурній» пам’яті, комунікативна пам’ять розглядається як короткострокова пам’ять суспільства. Вона означає свідому згоду членів групи щодо того, яким вони вважали власне минуле. Концепт комунікативної пам’яті піддається впливам епохи пост-правди, тоді як культурна пам’ять – ні. У статті підсумовано, що ця відмінність призводить до появи різних наративів, заснованих або на комунікативній, або на культурній пам’яті, що може призвести до значних зіткнень між ними.

Ключові слова: наратив, сторітелінг, епоха пост-правди, культурна пам’ять, колективна пам’ять, комунікативна пам’ять.