

Legislating Memory: The Use of Law to Shape Historical Consciousness in Divided Societies

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This article explores how laws are used to shape historical memory in post-conflict and ideologically divided societies, examining their impact on national identity and collective remembrance. A scientific narrative review using a descriptive analysis method was conducted. Academic literature, legal texts, and policy documents published between 2020 and 2025 were analyzed to identify typologies, functions, and impacts of memory laws across diverse geopolitical contexts. Comparative case studies from Eastern Europe, Africa, Latin America, and Asia were used to illustrate the global application of legal memory politics. The analysis revealed several key types of memory laws, including genocide denial statutes, truth and reconciliation frameworks, heroization or criminalization of historical figures, and heritage protection laws. These laws serve multiple functions, such as promoting national unity, facilitating reconciliation, or entrenching dominant political narratives. Comparative cases demonstrated that memory laws can aid transitional justice efforts but also risk backfiring by silencing dissent, marginalizing minorities, or politicizing history. Their success largely depends on inclusivity, transparency, and alignment with broader justice initiatives. Memory laws are powerful tools that can either support or undermine democratic values, depending on how they are designed and implemented. When grounded in pluralism and historical accountability, they can contribute meaningfully to reconciliation and civic trust. However, when used to enforce rigid or exclusionary narratives, they threaten to deepen societal divides and restrict critical engagement with the past.

Keywords: *memory laws, historical consciousness, transitional justice, post-conflict societies, legal memory politics, national identity, collective memory, reconciliation, freedom of expression, comparative law.*

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1. Introduction

Memory laws, also referred to as legal memory politics, are legislative measures enacted by governments to shape, regulate, or control the collective remembrance of past events, particularly those that are traumatic, controversial, or foundational to national identity. These laws often dictate how certain historical episodes must be remembered or prohibited from being

denied or misrepresented. While they take varied forms, from bans on genocide denial to formal recognitions of national heroes or historical grievances, they serve a common purpose: shaping public discourse about the past through the instrument of law. Such legal interventions represent the formal codification of state-endorsed narratives and are a powerful means by which states attempt to produce a cohesive historical consciousness. In societies fractured by war, occupation,



revolution, or regime change, these laws become not only legal instruments but also political tools of memory governance.

In post-conflict or ideologically divided societies, the regulation of historical memory is of particular importance. These are contexts in which competing interpretations of the past can either fuel continued division or be strategically managed to foster unity, reconciliation, or national identity formation. The stakes are high: unaddressed historical traumas or unresolved collective grievances often translate into political instability, societal fragmentation, or even renewed conflict. As Balynska explains, memory functions as a semiotic instrument that influences both legal consciousness and societal norms, making the legal structuring of memory pivotal for state-building and conflict resolution efforts (Balynska, 2024). Similarly, Horonziak emphasizes the role of mnemonic governance in shaping political behavior through the regulation of collective memory, particularly in contexts where contested histories remain active battlegrounds (Horonziak & Kaim, 2023). In such settings, the state's intervention in memory through legal frameworks can either open space for inclusive narratives or entrench hegemonic accounts that silence alternative perspectives.

The central research question of this article is: *How do laws influence collective memory and national identity in divided contexts?* This question directs attention not only to the existence of memory laws but also to their normative content, socio-political impact, and long-term effects on processes such as democratization, reconciliation, and justice. This inquiry necessitates a multidisciplinary perspective that spans legal studies, history, political science, and memory studies, given the layered nature of law's role in constructing historical truth and legitimizing power.

The objective of this article is to conduct a scientific narrative review using a descriptive analysis method in order to explore how legal interventions into historical memory function across a range of geopolitical settings. This article aims to synthesize and interpret existing academic and legal literature from 2020 to 2025 to offer a comparative understanding of the uses and implications of memory laws in divided societies. The descriptive analysis method is particularly suited to this objective, as it allows for a thematic synthesis of diverse

materials—ranging from scholarly discourse to national legislation—without imposing an empirical hypothesis-testing framework. By using this method, the article can capture the complexity of memory laws as both symbolic and functional instruments of governance.

The theoretical significance of this study lies in its potential to bridge gaps between legal theory and memory studies by exploring how state law acts as a mediator in the construction of collective identity. Through memory laws, states attempt to stabilize national identity, regulate public discourse, and define the moral boundaries of citizenship. These laws not only criminalize or promote specific narratives, but also define who is remembered and who is forgotten. As Egorova and Vasiliev argue, such legal regulations often aim to protect historical truth, but in doing so, they may also institutionalize selective versions of history (Egorova & Vasiliev, 2024). The real-world implications of these legal mechanisms are profound. In transitional societies, memory laws play a critical role in reconciliation efforts, contributing to—or undermining—the legitimacy of truth commissions, reparative justice, and public education. Abdurrahmani and Abdurrahmani highlight how in Albania, the opening of secret files and the legal acknowledgment of historical abuses were instrumental in reconfiguring public memory and confronting past state violence (Abdurrahmani & Abdurrahmani, 2024). In other cases, as shown by Vasiliev, Uzhanov, and Pechatnova, legal memorialization may internationalize historical grievances and bring them into arenas such as international law or transnational justice frameworks (Vasiliev et al., 2024).

By examining the diversity of legal approaches to memory governance across various societies—ranging from post-Soviet states and the Middle East to Latin America and East Asia—this article aims to provide a nuanced understanding of how law serves not merely to reflect but to actively shape historical consciousness. In doing so, it highlights both the potential of memory laws to facilitate collective healing and the dangers they pose when used to silence dissent, reinforce authoritarianism, or politicize historical truth.

2. Methodology

This scientific narrative review employed a descriptive analysis method to examine the role of law in shaping

historical consciousness within divided societies. The review was conceptual rather than empirical, aiming to synthesize and interpret scholarly discussions on memory laws and their legal, political, and sociocultural implications. The primary focus was to explore how legislation interacts with collective memory formation and how it contributes to reconciliation, exclusion, or conflict in post-conflict or ideologically divided states. The study's scope encompassed both democratic and transitional societies that have engaged in legal mechanisms to institutionalize specific historical narratives.

The selection of sources followed a purposive strategy to include high-quality academic publications, policy documents, and legal analyses published between 2020 and 2025. Peer-reviewed journal articles, monographs, and reports from recognized research institutions and human rights organizations were prioritized. Databases such as JSTOR, Scopus, Web of Science, and HeinOnline were searched using keywords including “memory laws,” “legal memory politics,” “transitional justice,” “historical consciousness,” “genocide denial laws,” and “post-conflict reconciliation.” Additionally, legal documents such as national legislation, international resolutions, and court rulings—particularly those from the European Court of Human Rights and constitutional courts—were reviewed to illustrate how law has been used to enforce or challenge specific narratives of the past.

To ensure a comprehensive understanding of the phenomenon across diverse geopolitical settings, the review incorporated case studies from various regions including Eastern Europe, Latin America, Sub-Saharan Africa, and the Middle East. These case studies were selected based on the presence of significant legal interventions in shaping memory, such as laws banning genocide denial, statutes commemorating national heroes or criminalizing specific ideologies, and legal frameworks governing truth commissions. The review emphasized sources that engaged with theoretical debates as well as applied legal analysis, focusing particularly on literature that critically assessed the normative tensions between historical justice and freedom of expression, the legal construction of collective memory, and the symbolic power of law.

The descriptive analysis method was used to interpret and synthesize the reviewed material thematically. This

involved identifying common patterns, recurring legal arguments, and contrasting national approaches to memory legislation. Special attention was given to articles that contextualized memory laws within broader frameworks of transitional justice, democratization, and nation-building. The analytical process was guided by an interpretive lens that considered both the intended purposes of memory legislation and their unintended consequences, especially in contexts where legal measures have led to further political polarization or suppressed minority narratives. This method allowed for a nuanced exploration of the evolving legal landscape surrounding historical memory and its implications for peace, justice, and pluralism in divided societies.

3. Theoretical Framework

The theoretical grounding of this article lies at the intersection of collective memory theory, legal instrumentalism and symbolism, and transitional justice frameworks. Each offers a lens for understanding how memory laws operate as tools of governance in divided societies.

The concept of collective memory, as developed by Maurice Halbwachs and later expanded by Pierre Nora, posits that memory is not merely an individual or psychological phenomenon but a social construct shaped by institutions, cultural practices, and power structures. Halbwachs emphasized that memory is embedded in social frameworks—family, religious institutions, political regimes—that shape how individuals remember (Mulderig et al., 2024). Nora introduced the idea of “lieux de mémoire,” or sites of memory, which include not only physical monuments but also symbolic legal texts and rituals that anchor national memory in specific narratives. In legal terms, memory laws become institutionalized sites of memory: they are textual enactments through which the state prescribes and preserves certain historical interpretations. As Kirnosov argues, the codification of historical memory into constitutional law illustrates how memory becomes an instrument for constructing legal identity and collective belonging (Kirnosov, 2024).

Legal instrumentalism and legal symbolism are two additional conceptual frameworks necessary for analyzing memory laws. From an instrumentalist perspective, memory laws serve clear functional purposes: to prevent denial of atrocities, to criminalize

hate speech, or to provide reparative recognition to victims of historical violence. This pragmatic use of law is evident in legislation that bans Holocaust denial or punishes glorification of totalitarian regimes. As Dorskaya and Dorskiy observe, such laws operate within international norms of protecting dignity and truth but are also shaped by domestic political imperatives (Dorskaya & Бондарев, 2021). However, legal symbolism focuses on the expressive function of law—how it communicates values, affirms national myths, and legitimizes particular historical narratives. In this sense, memory laws are not always about enforcement but about signaling identity. This is particularly evident in countries like Russia, where memorial legislation is used to reinforce patriotic narratives and marginalize dissenting voices, as Ivangorodsky discusses in his examination of Russian memory law as an occupation policy tool (Ivangorodsky, 2023).

Transitional justice theories further enrich this framework by contextualizing memory laws within broader processes of post-conflict societal transformation. Truth commissions, reparation programs, and institutional reforms often include legal measures designed to acknowledge past wrongs and promote reconciliation. According to Colman, archives of repression and the legal frameworks surrounding them are central to transitional justice strategies, particularly in countries like Argentina where law and memory converge in complex ways (Colman, 2023). Memory laws thus become part of the legal architecture of transitional justice, aiming to establish historical truth, prevent future atrocities, and restore civic trust.

Memory laws can be categorized into several types based on their legal form and political function. Commemorative laws typically recognize specific events, groups, or individuals as worthy of remembrance, such as national holidays or heroization statutes. Punitive memory laws criminalize the denial, distortion, or glorification of certain historical crimes, such as genocide denial laws. Denial laws, often the most controversial, explicitly prohibit alternative interpretations of historical events deemed foundational to national identity. These distinctions are crucial for evaluating the democratic legitimacy and human rights implications of such laws. As Bán notes, the governance of history via law is fraught with tension between legal enforcement and societal pluralism (Bán, 2023).

Critics of memory laws often raise concerns about their potential to suppress academic freedom and freedom of speech. Vasilieva critiques legal efforts to protect historical memory when they slide into authoritarian control over historical interpretation (Vasilieva, 2022). Similarly, Barnes-Gilbert warns that legal interventions into memory can perpetuate dominant narratives that marginalize subaltern voices, as seen in her analysis of American sex worker history and archival politics (Barnes-Gilbert, 2023). These critiques highlight a central dilemma: while memory laws can serve justice and recognition, they may also be deployed to entrench political orthodoxy, criminalize dissent, and close off public debate. As Chekmazov and Uziumova demonstrate in their comparative study of Finland and Spain, the role of state and non-state actors in shaping memory policy determines whether these laws enable democratic dialogue or reinforce authoritarian narratives (Chekmazov & Uziumova, 2022).

Understanding the theoretical frameworks behind memory laws is essential for critically evaluating their legal design and social function. Whether viewed as tools of reconciliation, instruments of political control, or mechanisms of identity construction, these laws are deeply embedded in struggles over how societies remember—and who gets to decide.

4. Typologies and Functions of Memory Laws

Memory laws take a wide range of legal forms, each crafted to govern how societies remember their past, especially concerning traumatic or politically contentious events. Among the most recognized types are genocide denial laws, which criminalize the denial or minimization of mass atrocities such as the Holocaust or the Armenian Genocide. These laws are designed to protect the dignity of victims and affirm the historical reality of their suffering. As Vasiliev and Uzhanov explain, such legal interventions often stem from a desire to prevent the recurrence of mass violence and to institutionalize a state-sanctioned moral framework around historical truth (Vasiliev & Uzhanov, 2023). In countries like Germany and France, Holocaust denial laws serve as instruments of moral pedagogy as well as legal deterrents, reflecting a commitment to democratic values rooted in historical accountability.

Another category includes laws arising from truth and reconciliation processes. These are generally part of

broader transitional justice frameworks and are enacted in post-conflict or post-authoritarian societies to recognize victims, document abuses, and foster reconciliation. In South Africa, for example, the Truth and Reconciliation Commission (TRC) operated under a legal mandate to grant amnesty in exchange for full disclosure, representing a unique legal model aimed at balancing justice and forgiveness. Colman notes that such laws often work in tandem with archival and testimonial procedures that embed official memory within a legally recognized framework (Colman, 2023). In Latin America, countries such as Argentina and Chile have passed laws that support the disclosure of historical repression through access to state archives, enhancing both historical knowledge and collective healing.

Memory laws also frequently appear as heroization or criminalization statutes, in which historical figures are either officially glorified or legally condemned. Ukraine's Bandera laws exemplify this type, where controversial nationalist leaders are legally enshrined as heroes, despite their polarizing legacies. According to Tserkovnyk, these laws reflect a broader decommunization strategy aimed at reshaping national identity and distancing the state from Soviet-era narratives (Tserkovnyk, 2024). At the same time, such laws can deepen internal divisions and marginalize minority perspectives that do not align with the state's commemorative priorities.

A further typology includes heritage protection statutes, which seek to preserve sites, monuments, and symbolic spaces associated with historical events. These laws often overlap with cultural property and heritage legislation but acquire a distinct political dimension in post-conflict societies. For example, Batyrbayev discusses how Kyrgyzstan's efforts to legally protect sites tied to its national awakening are not merely about conservation but are also attempts to construct a cohesive historical narrative in a multiethnic society (Batyrbayev, 2024). In these contexts, legal frameworks concerning heritage serve not only cultural goals but also ideological ones.

The functions of memory laws vary significantly depending on the political and social context in which they are implemented. One key function is nation-building. In societies emerging from fragmentation or conflict, memory laws offer a legal scaffold for forging a shared sense of the past. As Balynska observes, such laws

often act as tools of collective identity formation, defining who belongs to the national narrative and who does not (Balynska, 2024). This function can be constructive when it enables inclusive historical recognition but can also be exclusionary when it imposes singular, hegemonic narratives that silence dissenting memories.

Another important function is promoting reconciliation. Truth and reconciliation laws are crafted to encourage the airing of historical grievances, validate victim experiences, and create a moral and legal basis for societal healing. Abdurrahmani describes how in Albania, access to secret police files and the public revelation of human rights abuses contributed to national dialogue and transitional justice processes (Abdurrahmani & Abdurrahmani, 2024). However, these laws can also re-traumatize individuals and communities if implemented insensitively or if they fail to acknowledge the complexity of historical suffering.

Memory laws can also serve the function of silencing dissent or reinforcing political orthodoxy. In regimes with authoritarian tendencies, such laws may be used to suppress alternative versions of history, particularly those critical of the ruling elite or dominant ideology. Ivangorodsky highlights how Russia's memorial legislation has been used as a tool of occupation policy, marginalizing narratives that challenge state-sanctioned versions of history (Ivangorodsky, 2023). Similarly, Vasilieva warns that under the guise of protecting historical memory, legal mechanisms can be weaponized to criminalize critical inquiry or alternative remembrance practices (Vasilieva, 2022).

On the other hand, memory laws can promote justice by affirming the rights of marginalized or persecuted groups and publicly acknowledging state crimes. Egorova and Vasiliev suggest that well-structured memory legislation can play an essential role in safeguarding historical truth, deterring hate speech, and reinforcing human dignity (Egorova & Vasiliev, 2024). In such cases, these laws contribute to a democratic culture of accountability and pluralistic remembrance.

Ultimately, memory laws are neither inherently democratic nor authoritarian; their political function is contingent upon how they are designed, implemented, and contextualized within a broader legal and social framework. They are complex legal instruments that can simultaneously facilitate reconciliation and exclusion,

justice and censorship, identity and division. Understanding their typologies and functions is essential for assessing their role in contemporary governance and their implications for historical consciousness.

5. Comparative Case Studies

The application of memory laws across various regions reveals the diverse ways in which states use legislation to shape historical consciousness, especially in post-conflict or ideologically divided societies. In post-communist Eastern Europe, memory legislation often centers on decommunization and national redefinition. Poland has been at the forefront of this trend, enacting laws that criminalize the denial of Nazi and communist crimes. The so-called “Holocaust Law” of 2018, for instance, prohibited blaming the Polish state for Nazi atrocities committed on its territory, generating international controversy. According to Kirnosov, such legislation reflects a constitutional effort to reclaim national dignity and resist external accusations, but it also exposes tensions between national identity and historical accountability (Kirnosov, 2024). These laws often provoke significant public debate and scholarly concern regarding freedom of speech and the politicization of historical memory.

Ukraine presents another compelling case, particularly in its post-Euromaidan efforts to redefine national identity through legal memorialization. The 2015 decommunization package included laws that both criminalized the promotion of communist and Nazi symbols and legally honored historical figures from Ukraine’s independence struggle. Tserkovnyk argues that these laws are part of a broader symbolic effort to consolidate a Ukrainian national narrative distinct from Russian imperial and Soviet legacies (Tserkovnyk, 2024). However, these legal measures have also drawn criticism from human rights groups and historians for marginalizing ethnic minorities and silencing alternative interpretations of the past.

In post-apartheid and post-conflict Africa, memory laws have played a crucial role in national reconciliation efforts. South Africa’s Truth and Reconciliation Commission (TRC), while not a memory law in the punitive sense, operated under a legislative mandate that facilitated public testimonies, historical investigations, and conditional amnesties. Colman points out that such mechanisms helped the country transition

away from authoritarianism while embedding official memory within a moral and legal framework (Colman, 2023). The TRC’s influence has been far-reaching, offering a model for other post-conflict societies seeking to balance justice with healing.

Rwanda provides a different model, centered on legal efforts to combat genocide ideology and denial. The 2003 law against genocide ideology criminalized speech and expression that questioned the 1994 genocide against the Tutsi. Myl explores how these laws have helped establish a shared national narrative and prevent hate speech but also notes that they have been used to suppress political opposition and dissent (Myl, 2023). This duality illustrates the challenge of using law to manage memory in societies where historical trauma remains politically salient.

In Latin America, memory laws have been integral to transitional justice and the recovery of historical truth. Argentina, in particular, has developed a robust legal framework that includes the annulment of amnesty laws, the opening of military archives, and the prosecution of former officials for crimes committed during the dictatorship. Colman describes how the DIPPPA Archive in Argentina has served as a legal and symbolic tool in reconstituting public memory and holding perpetrators accountable (Colman, 2023). Similarly, in Chile, legal efforts to acknowledge and address past atrocities have contributed to ongoing debates about the role of memory in democracy and justice.

However, these efforts have not been without controversy. Akmalie notes that amnesty laws in Latin America often served as legal shields for perpetrators under the guise of reconciliation, leading to persistent calls for their repeal and greater judicial accountability (Akmalie & Aminah, 2023). The legal tug-of-war between justice and impunity remains a defining feature of memory politics in the region, where the past continues to cast a long shadow over legal and political life.

In the Middle East and Asia, memory legislation often intersects with ongoing conflicts and unresolved historical grievances. In Lebanon, the post-civil war government adopted a “law of silence” that effectively prohibited public discussion of the war’s sectarian atrocities. This informal legal silence, while never codified as a punitive memory law, has had the effect of freezing public memory and impeding reconciliation. Home and Armia argue that this strategy reflects a

deliberate avoidance of historical truth in favor of political stability, but one that comes at the cost of long-term societal healing (Home & Armia, 2025).

Japan offers a contrasting case where the absence of punitive memory laws has led to contentious public debates over historical responsibility. Akmalie's analysis of Japanese cultural memory highlights how legal silence on the Nanjing Massacre and wartime atrocities has enabled nationalist narratives to flourish, leading to international tensions and domestic polarization (Akmalie & Aminah, 2023). This example underscores the idea that the lack of memory legislation can be as politically significant as its presence, shaping historical consciousness through omission rather than imposition. These comparative case studies illustrate that memory laws are not uniform in their form or function. Whether used to criminalize denial, honor national heroes, facilitate truth-telling, or suppress uncomfortable pasts, memory legislation reflects broader societal struggles over identity, justice, and the politics of remembrance. By analyzing how different regions deploy such laws, it becomes clear that legislating memory is always a political act—one that both reflects and reshapes the moral and historical landscape of the societies in which it operates.

6. Controversies and Critiques

Memory laws, though often designed with the intention of preserving historical truth and preventing the reemergence of violence, are also the subject of significant controversy. One of the central critiques revolves around their impact on freedom of expression. Critics argue that these laws, particularly those that criminalize denial or alternative interpretations of historical events, risk infringing upon the right to free speech. The French Gayssot Act, which prohibits Holocaust denial, is frequently contrasted with the American approach under the First Amendment, which protects even offensive or false speech. While France defends the Act as a means of safeguarding public order and honoring victims, detractors argue it sets a dangerous precedent for state overreach into academic and public discourse. Vasileva highlights this tension by questioning whether legal efforts to protect historical memory can coexist with the liberal democratic commitment to free expression (Vasileva, 2022). In societies with fragile democratic institutions, the risk

that such laws will be used to silence dissenting views or target minority narratives becomes especially pronounced.

The instrumentalization of memory laws for political ends is another serious concern. Laws that claim to protect historical truth may, in reality, serve to reinforce a dominant political ideology or to delegitimize political opposition. Ivangorodsky analyzes this phenomenon in the Russian context, where legislation surrounding the memory of the Great Patriotic War functions not merely to honor the past but to consolidate a nationalistic and militarized historical narrative that marginalizes critical or alternative interpretations (Ivangorodsky, 2023). This strategic deployment of memory law as a tool of governance allows states to control the past in order to manage the present. Dorskaya and Бондарев similarly note how legal forms of experiencing history are often used to solidify hegemonic political discourses under the guise of historical preservation (Dorskaya & Dorskiy, 2021). In such cases, the line between commemoration and coercion becomes blurred.

The question of inclusion versus exclusion is also central to the critique of memory laws. While some laws aim to affirm the dignity and recognition of historically marginalized or persecuted communities, others exclude or erase alternative memories, particularly those of minority groups. Dunamalyan's study of Armenian memory politics illustrates this duality. On one hand, legal efforts to integrate the memory of national minorities can contribute to a shared historical consciousness. On the other hand, the selective elevation of certain narratives can leave others in the shadows, deepening social fragmentation (Dunamalyan, 2025). Similarly, the heroization of figures like Stepan Bandera in Ukraine, as explored by Tserkovnyk, demonstrates how memory laws can create new exclusions, particularly for communities who experienced these figures not as liberators but as perpetrators (Tserkovnyk, 2024).

These tensions are exacerbated by the global challenge of reconciling universal human rights with national memory narratives. Human rights norms emphasize pluralism, inclusion, and the protection of minority voices. However, many memory laws are deeply embedded in national projects of identity formation that prioritize one interpretation of the past over others. Chekmazov and Uziyomova, in their comparative analysis

of Finland and Spain, point out that while some memory laws promote democratic values and collective healing, others entrench majoritarian narratives that conflict with international standards of equality and freedom (Chekmazov & Uziomova, 2022). The problem becomes particularly acute when legal penalties are imposed not for incitement or hate speech, but for mere disagreement with the state-sanctioned historical narrative. In such cases, as Barnes-Gilbert notes in her examination of historical representation in the U.S., the legal regulation of memory can perpetuate tropes and suppress complex, multi-vocal histories (Barnes-Gilbert, 2023).

Another critique concerns the authenticity and depth of historical understanding fostered by memory laws. Legal mandates, by their nature, impose binary categories of permissible and impermissible speech, which may inhibit critical engagement with the complexities of the past. Kurtaran argues that while historical memory is essential for national identity, it loses its transformative power when reduced to legally enforced slogans or simplified narratives (Kurtaran, 2024). The symbolic power of law may, in these instances, become a double-edged sword—affirming some truths while precluding deeper reflection and debate. Kirnosov similarly suggests that constitutionalizing memory risks converting collective remembrance into rigid dogma, rather than encouraging an evolving and contested discourse (Kirnosov, 2024).

Ultimately, the controversies surrounding memory laws point to a fundamental paradox: while law can be a powerful medium for promoting justice, accountability, and reconciliation, it can also be a mechanism of control, exclusion, and repression. The challenge lies in designing legal frameworks that recognize the ethical and political weight of historical memory without undermining the core democratic values of pluralism, free expression, and human dignity.

7. Implications for Reconciliation and Transitional Justice

Memory laws can play an important role in promoting long-term peace and justice, especially in societies emerging from violent conflict or systemic repression. By legally recognizing historical injustices, affirming the dignity of victims, and facilitating public

acknowledgment of past wrongs, such laws contribute to the broader aims of transitional justice. Abdurrahmani describes how the process of granting access to secret police files in Albania and enacting legal measures to preserve collective memory enabled a national reckoning with past human rights violations (Abdurrahmani & Abdurrahmani, 2024). These legislative efforts helped reconstitute civic trust and strengthened the moral foundation for democratic institutions. Similarly, Vasiliev, Uzhanov, and Pechatnova explore how memory laws with international dimensions can embed historical justice within transnational legal norms, amplifying their role in global human rights discourse (Vasiliev et al., 2024).

However, memory laws can also backfire, particularly when they are perceived as politically motivated, overly punitive, or suppressive of dissent. Myl's analysis of Rwanda's genocide ideology laws illustrates how the use of legal sanctions to control public speech about historical events can contribute to state legitimacy on one hand, but may also stifle political pluralism and reinforce authoritarian tendencies on the other (Myl, 2023). In such contexts, the credibility of memory law is undermined, and its potential for fostering reconciliation is compromised. Filimonova underscores this point in her discussion of Russian memorial activities abroad, noting that when memory laws are used to promote state-centric narratives internationally, they may provoke geopolitical tension rather than mutual understanding (Filimonova, 2023).

A key consideration in assessing the value of memory laws is their capacity to support plural memory rather than enforce hegemonic narratives. Colman emphasizes the importance of enabling diverse voices in the archival process and ensuring that legal frameworks governing memory do not exclude subaltern experiences (Colman, 2023). This inclusive approach is vital in post-conflict societies, where competing memories often coexist and where reconciliation requires acknowledgment of the full spectrum of suffering and responsibility. When law supports pluralistic remembrance—such as by protecting the rights of minority communities to commemorate their losses or by promoting inclusive curricula—it enhances the legitimacy and effectiveness of transitional justice.

On the contrary, when memory laws enforce a singular historical interpretation, they risk alienating

communities whose experiences are marginalized or denied. Korobitsyna's research on Russian society highlights how state-endorsed historical values can become instruments of ideological conformity, leaving little room for alternative voices (Korobitsyna, 2023). Such legal impositions not only fail to heal historical wounds but may also sow the seeds of future conflict by perpetuating exclusion.

For post-conflict societies considering the adoption of memory laws, several recommendations emerge. First, these laws should be grounded in broad-based consultation with victims, civil society, historians, and minority communities. Balynska notes that when memory is treated as a shared legal and cultural value, rather than a unilateral state narrative, it is more likely to support national cohesion and justice (Balynska, 2024). Second, memory laws should avoid criminalizing dissent or alternative interpretations unless they clearly incite violence or hate. Third, legal mechanisms should be flexible and revisable, allowing societies to evolve in their understanding of the past. Finally, memory laws should be integrated within broader transitional justice strategies, including truth commissions, reparations, and institutional reforms. As Dovhanych argues in the Ukrainian context, historical legal ideas must be mobilized in service of present-day justice and inclusion, not solely for political expediency (Dovhanych, 2023).

In conclusion, memory laws possess the potential to aid in reconciliation and support transitional justice, but their efficacy depends on careful design, democratic accountability, and a commitment to pluralism. When used judiciously, they can honor the past and build a more just future. When misused, they risk deepening divides and undermining the very ideals they claim to uphold.

8. Conclusion

Memory laws represent one of the most complex intersections between law, politics, and historical consciousness. These legal instruments are crafted not only to preserve or protect the past but to actively shape how societies remember and what narratives become institutionalized. In post-conflict and ideologically divided societies, memory laws have gained particular prominence as tools of reconciliation, nation-building, and, at times, political control. They influence the collective remembrance of traumatic events, the

recognition or silencing of specific communities, and the moral boundaries of national identity.

The typologies of memory laws—ranging from genocide denial laws and truth and reconciliation legislation to heroization statutes and heritage protection frameworks—illustrate the diversity of legal approaches to memory governance. These laws are often designed to affirm dignity, deter hate, and promote social cohesion. Yet, they are also capable of excluding minority voices, suppressing dissent, and institutionalizing narrow or politically expedient versions of the past. Their function depends not only on their content but also on the broader sociopolitical context in which they operate. In some countries, memory laws support efforts to come to terms with historical violence and build a more inclusive national identity. In others, they serve as tools for silencing opposition and reinforcing dominant ideologies.

Comparative analysis reveals that the consequences of legislating memory vary widely. In Eastern Europe, laws aimed at decommunization and national redefinition have both clarified national narratives and deepened societal divides. In Africa and Latin America, memory laws have facilitated truth-telling and judicial accountability, though they have also faced resistance from those concerned with their politicization. In Asia and the Middle East, the absence or strategic silence of memory legislation often leaves historical wounds unaddressed, perpetuating cycles of mistrust and erasure. These diverse outcomes underscore that there is no universal model for memory legislation; rather, each society must navigate the delicate balance between truth, justice, and reconciliation on its own terms.

Despite the potential benefits of memory laws, they are not without significant controversy. Critics point to concerns over freedom of speech, the instrumentalization of law for political purposes, and the exclusionary nature of state-sponsored narratives. The challenge lies in constructing memory laws that are not merely symbolic or repressive, but genuinely contribute to democratic dialogue and historical accountability. Laws that enable plural memory—allowing multiple narratives, including those of marginalized groups, to coexist—are more likely to support long-term peace and cohesion than those that impose a single, static version of history.

For societies emerging from conflict, memory laws should not be viewed as a panacea but as part of a broader transitional justice framework. Their design must be participatory, inclusive, and grounded in the principles of human dignity and historical integrity. Legal recognition of past injustices can serve as a foundation for civic trust and institutional legitimacy, but only when implemented with transparency and sensitivity to the complexities of memory. When memory laws are misused to silence, criminalize, or divide, they risk becoming obstacles to the very reconciliation and justice they claim to promote.

Ultimately, the use of law to shape historical consciousness will continue to be a vital issue in both domestic and international contexts. As the global community grapples with contested memories, rising authoritarianism, and the resurgence of historical revisionism, the question of how societies remember—and who gets to decide—remains deeply political and profoundly legal. The path forward requires a careful commitment to legal design that honors the past without imprisoning the future.

Authors' Contributions

Authors contributed equally to this article.

Declaration

In order to correct and improve the academic writing of our paper, we have used the language model ChatGPT.

Transparency Statement

Data are available for research purposes upon reasonable request to the corresponding author.

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Ethical Considerations

In this research, ethical standards including obtaining informed consent, ensuring privacy and confidentiality were observed.

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