

OPEN PEER REVIEW

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

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Received: 2024-11-07	Revised: 2024-12-20	Accepted: 2024-12-28	Published: 2025-01-01
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1. Round 1

1.1. Reviewer 1

Reviewer:

The phrase “Balynska explains, memory functions as a semiotic instrument...” would be clearer if you briefly summarize how this semiotic function operates in legal mechanisms—perhaps with an example of a law embodying such a function.

The claim that “these laws become not only legal instruments but also political tools of memory governance” is powerful but requires clarification: What distinguishes a legal from a political tool in this context?

The final claim, “Critics of memory laws often raise concerns...,” introduces critical voices but could engage more deeply with the normative dilemma—should law arbitrate historical truth?

In the statement “In South Africa, for example, the Truth and Reconciliation Commission...” please clarify whether the legal mandate is comparable to punitive memory laws or if it’s conceptually distinct. This would prevent conflation of very different legal regimes.

The Bandera laws are mentioned, but the paragraph could benefit from elaboration on how heroization intersects with international human rights standards. Do these laws face legal challenges?

The sentence “These laws often act as tools of collective identity formation...” should be supported by at least one empirical example from a case study, preferably outside Europe to ensure regional balance.

The phrase “simultaneously facilitate reconciliation and exclusion...” is strong but requires analytical unpacking—perhaps distinguish short-term reconciliation from long-term exclusionary effects.

The statement on the Polish “Holocaust Law” lacks reference to the international legal critique or the amendment that softened its punitive provisions. Consider including this to reflect legal developments.

Authors revised the manuscript and uploaded the document.

1.2. Reviewer 2

Reviewer:

The sentence “This inquiry necessitates a multidisciplinary perspective...” could be expanded by briefly stating how each discipline contributes. For instance, how does memory studies inform legal interpretation?

The article references Halbwachs and Nora, yet does not critically assess the implications of transferring collective memory theory into legal domains. A sentence reflecting on the theoretical tensions would enrich this section.

The sentence “From an instrumentalist perspective...” would benefit from an example contrasting instrumentalist and symbolic uses of the same law—e.g., the French Gayssot Act.

The sentence “Japan offers a contrasting case...” refers to “legal silence.” It would be helpful to cite specific legal frameworks or absences (e.g., lack of hate speech laws) to ground this contrast empirically.

The comparison between the Gayssot Act and the U.S. First Amendment is compelling, but could benefit from specifying the legal standard in the European Court of Human Rights concerning freedom of expression and memory laws (e.g., *Perinçek v. Switzerland*).

Authors revised the manuscript and uploaded the document.

2. Revised

Editor’s decision: Accepted.

Editor in Chief’s decision: Accepted.