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Global Precedents and National Approaches:

Diffusion of Memory Laws Across the EU

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Abstract

International law exists in part to foster some feeling—or at least the appearance—of "global" norms: ideas or practices viewed as essential across national borders and in spite of cultural differences. Indeed, the isomorphic pull of human rights institutions is such that the norms put forth often reach a state of assumption wherein compliance cannot be rationally contested. Nonetheless, world events continue to take on particular meanings in particular contexts. It is therefore unsurprising that when global norms concerning the protection of Holocaust memory are fitted at the local level, it is not always a streamlined process. Once a global precedent is set, do national laws tend to converge or deviate from it/each other? This paper first positions memory protection as a growing global norm, then explores broader questions through an analysis of the isomorphic diffusion of memory laws in the aftermath of the Holocaust with a particular focus on the European Union's 2008 Framework Decision to unify such legislations. I conclude that memory laws (because they derive from a global model) simultaneously converge and (because they are localized to diverse national contexts) also deviate from each other. This points to the idea that although isomorphism plays an essential role in the diffusion of memory norms, it does not lead to homogeneity. Ultimately, this paper sheds light on the complicated narrative surrounding domestic implementations of international norms: a site where conceptions of the universal (global) and the particular (national) often go head to head over the role of Holocaust memory on some of its most contentious territory.

Global Precedents and National Approaches: Diffusion of Memory Laws Across the EU

In response to the rapid process of globalization, international institutions have fostered some feeling—or at least the appearance—of "global" norms: ideas or practices viewed as essential across national borders and in spite of cultural differences. The isomorphic pull of human rights institutions in particular is such that the norms put forth often reach a state of assumption wherein compliance cannot be rationally contested. Nonetheless, the world events that precipitate and inform human rights norms take on particular meanings in particular contexts. It is therefore unsurprising that when global norms concerning the protection of memory are fitted at the local level, it is not always a streamlined process.

In this paper, I first establish the protection of memory as a global norm and then examine its trajectory through traditional movement of norm diffusion theories in order to make the case that memory laws are rising to the status of a global norm in the first place. Further analysis examines the following core inquiry: once a global precedent concerning memory is set, do national laws tend to converge or deviate from it and each other? Do they diffuse in the form of general, guiding principles or hard and strict models, as outlined by Weyland (2009)? When changes do occur through the process of isomorphism, are they self-contained first-order changes, or fundamentally paradigm-altering (Hall 1993)? I explore these broader questions through an analysis of the diffusion of memory laws in the European Union.[2] Of primary interest is the EU's 2008 decision to unify genocide denial bans across member nations. Finally, the concluding sections shed light on Poland's controversial 2018 addendum to its existing law

[2] Coined by France in the 2000s, "memory law" became the colloquial way to refer to legislations that penalize Holocaust denial and/or the justification, denial, or minimization of other crimes against humanity. I use the term "memory law" to encompass the full range of legislations concerning the past. Both "genocide denial" and "Holocaust denial" refer to specific subsets of memory laws, which I also employ where appropriate (following Koposov 2018).

against Holocaust denial: a political gesture that opens new areas of inquiry into the policing of memory in some of its most contentious territory.

GLOBAL NORM DIFFUSION

Shared norms--states' acceptance *or* resistance of them--have become fundamental to the operation of the international system (Dixon 2017). But how do they rise to this all important status in the first place? This section briefly explores the questions of *where* global norms come from, *why* states endorse them at all, and addresses existing theories of *how* norms are adopted in order to outline the trajectory of memory laws along these lines of diffusion.

What is a Norm?

The oft-cited definition of a norm comes from Katzenstein, and reads as follows: norms are "collective expectations for the proper behavior of actors with a given identity" (1996). In the present case, the actors are nation-states, and the given identity is EU member-state. Norms are also inherently prescriptive and morally charged (Finnemore & Sikkink 1998). At their core, they exist as a tool to facilitate the smooth operation of society (Martinsson 2011), from the micro level (e.g. homeowners' associations requiring adherence to rules and regulations) to the macro--in this case, the international collective that is the European Union.

The decision to adopt norms (or not) automatically engages with the sense of "oughtness" that norms inhabit (Florini 1996). Norms matter on a global scale because legitimized norms are adopted into institutions, and thus shape states' behavior (Thomson 1993). As outlined in the sections below, a great number of states have adopted the norm of memory protection through law. While the focus of this paper is on the specific diffusion of memory laws across Europe, the "memory boom"--of which memory laws are just one small component--is not limited to this

continent or to the EU alone.[3] Outside of Europe, Canada and Rwanda have memory law or memory law-adjacent standards in place (Canadaian Supreme Court Case *R v. Zundel* 1992; Kelley 2017). Nation states like the United States who do not have such provisions in place must justify the primacy of other norms (e.g. freedom of expression) in order to explain their nonconformity (Kahn and Vile 2017).[4] Because dialogue in either direction requires states to position themselves around it, I label the protection of memory as a rising global norm.

Where Do Global Norms Come From?

International law includes a series of conventions implemented by nation states for the purpose of political organization and cooperation toward the goal of peaceful coexistence (Weatherall 2015): a task all the more challenging and all the more essential in an increasingly globalized world. At the global level, norms typically emerge in response to a problem or crisis (Martinsson 2011)--such as expectations for protecting sovereignty and for outlining the conditions where its violation is called for. Once they are deemed effective or legitimate, the diffusion of norms across states begins in earnest.

Finnemore and Sikkink outline what they deem the life cycle of an international norm, comprised of three stages: norm emergence, norm cascade, and internalization. Norm emergence is marked by the presence of norm entrepreneurs: "agents" with "strong notions about appropriate or desirable behavior in their community" (1998:896). Norm entrepreneurs operating in the global sphere often work with or through national/international organizations who take on norm promotion at an institutional level. These individuals and organizations then work in tandem to engage state actors. A norm reaches a "threshold or tipping point" when a "critical

[3] The memory boom refers to a rise in the significance of memory studies in academia and beyond, and in general to a confrontation with past events (see for example Rosenfeld 2009; Winter 2006; Arnold de-Simine 2013).
[4] Also note that this matches Risse and Sikkink's argument surrounding the denial of a human rights norm, which rarely occurs in the form of "open rejection of human rights" and is instead most often expressed in terms of reference to an allegedly more valid international norm" (1999:24)

mass" of states have adopted it. What exactly constitutes a critical mass of states varies by issue and depends upon which states are players, but Finnemore and Sikkink propose that this typically requires the action of at least a third of the states in a given system. On the other side of the tipping point lies stage two: norm cascade, characterized by rapid regional or international adoption of a norm led by the process of socialization defined above. Finally, internalization occurs when a norm becomes "so widely accepted" that it obtains a "taken-for-granted quality" which makes "conformance with the norm almost automatic" (1998:904). Sections below detail how memory laws likely fall along the norm cascade stage of this spectrum, as I argue that they have not quite reached the level of universal acceptance required of internalization. On the contrary, their implementation is often rife with debate, best exemplified by the years-long negotiation process leading up to the European Framework Decision of 2008.

Why Do States Adopt Norms?

The explosive expansion from a national to a global scale set into motion by globalization has required a shift in priorities *away* from sovereignty toward a set of "nation-transcending" ideals (Levy and Sznaider 2006). In the aftermath of the world wars, global norms like those enshrined by human rights and international law proliferated (Boyle and Meyer 1998). Today, states' legitimate standing is now based in part on their conformity to such norms. Human rights norms in particular--enshrined in the principles of both international humanitarian law and international human rights law--have reached this level of incontestability wherein compliance cannot be rationally contested (Levy and Sznaider 2006). The maintenance of legitimacy on these grounds is a primary reason that states conform to international law in the first place.

While some states endorse norms from a place of normative belief in the importance of their content (Risse & Sikkink 1999), others adopt them from a place of sheer strategy: as

"window dressing" or purely in order to sustain or enhance global reputation (Hafner-Burton and Tsutsui 2005; Ginsburg et al 2008). Finnemore and Sikkink (1998) highlight the importance of external and internal pressure on states: a key focus of the paper at hand. More specifically, membership in a particular category of states (in this case, the European Union) is likely to enhance the pressure to comply with certain norms once they have risen to that critical tipping point as outlined above. It becomes expected that in-group members will fall in line in order to maintain their standing within the community. John Meyer sums it up best when he describes one particular effect of globalization: "one achieves strong status as a rational [state] actor by becoming much like everyone else" (2000:238).

Mechanisms of Diffusion: How Norms Spread

DiMaggio and Powell's institutional isomorphism (1983) provides a useful lens to examine the transnational diffusion of norms. Isomorphism refers to similarities across institutions and the processes through which they arise or diffuse across place (Farquharson 2013). Originally conceived in the framework of organizational sociology, the concept of isomorphism has since been applied to institutions on a global level (Beckert 2010). Global norms like the protection of memory become institutionalized through the process of isomorphic diffusion across nation states (Hafner-Burton and Tsutsui 2005). Because the specific implementation methods differ by state, we expect some level of variation as norms diffuse across place. Still, adjustments made at the local level are typically based upon the original design (Weyland 2005). Therefore, in terms of memory laws, legislations likely converge in some ways and differ in others, but in most cases, the spirit or intent of the original model is followed. As Koposov shows in his crucial work on the subject, however, this begins to change as Eastern European countries introduce versions of memory laws that fundamentally deviate

from their predecessors (2018). Theories of diffusion offer a particularly useful lens to examine these shifts. In this paper, I am specifically interested in exploring the diverse types of isomorphism at play.

There are three categories of institutional isomorphism, each of which applies to the transnational diffusion of norms. In *mimetic isomorphism*, organizations or states look to each other to determine the best next action, particularly in times of uncertainty. Most often, new or less secure states/institutions will mirror more established ones. *Coercive isomorphism* occurs in the context of a power imbalance, either in the literal imposition of policy, or softer pressure from powerful states (DiMaggio and Powell 1983; Gilardi 2013). Finally, *normative isomorphism* occurs as a play for legitimacy, such as when policy experts advocate new norms that are then widely adopted (Farquharson 2013; Dobbin, Simmons, and Garrett 2007). In sum, policy makers often follow the lead of other states--sometimes by election, sometimes by force, especially in the case of incontestable human rights norms.

Once norms are enshrined as policy, they present new structural questions: linguistic, legal, and otherwise. Are normative policies passed on in their original form from nation to nation or are they carefully re-examined and adjusted with each new implementation? In his work on the Latin American social sector, Kurt Weyland outlines two general frameworks of adoption: principles and models. According to Weyland, a principle offers a general guideline with several design options: more of an "overall direction" than a specific course. On the other hand, models offer a more concrete carbon-copy format. Weyland argues that principle adoption is the much more common route in the cross-national diffusion of policies given the complexity of sociopolitical issues at play (2009). Complementary to Weyland's model/principle framework is Peter Hall's policy paradigm: a frame of standards that outlines a policy's intents, modes to

achieve its goals, and a reflection of the issue it means to address. He delineates between so-called "normal policy making," where changes that are made are small, and contained within the paradigm at hand (first-order change), and more fundamental changes that "alter the paradigm itself," which he calls third-order change (1993).

Finally, in spite of the expected acceptance of human rights norms, local context plays a significant role in the shaping and actual adoption of global norms (Acharya 2004). The process of localization is especially relevant to the subject matter at hand: not just global norms, but the norm of memory protection in particular: a concept that varies intensely by place. Extending these theories to the realm of global norms and memory laws, I expect to see that diffusion of norms around memory protection most often take form as principles, and changes that occur are more likely to be first order changes, again until they begin to confront more complicated histories as they spread outside of Western Europe.

Wherefore Norms of Memory Protection?

David Westbrook views globalization as a process that facilitates "new contexts, new social spaces...new hierarchies" (qtd on Twining 2006:507). Certainly, World War II (and more specifically, the Holocaust) shook the world into a new context with new hierarchies, which include attention paid to nascent global risks: genocide,[5] the resurgence of fascism, and more recently: the *denial* of crimes constituting a threat to democratic order. Along with these global events come new norms, standards, and institutions designed to respond to them.

In addition to newly-formed laws against genocide itself came the norm of accountability: an expectation that states will accept responsibility for past wrongs (Barkan 2000), as well as a norm protecting the dignity and rights of victims of such crimes. In this environment, write Daniel Levy and Natan Sznaider, law becomes a "medium of collective

[5] Not a *new* risk but newly named & criminalized by the UN Genocide Convention, 1948.

memory" (2010:18), as courtrooms increasingly adjudicate historical events and states adopt memory laws to protect certain historical truths against those who would minimize or deny them.

Although they largely descend from the Holocaust, memory laws were not implemented in its immediate aftermath. Between the late 1980s and the late 2010s, however, nearly thirty European countries implemented some form of domestic legal provision prohibiting the denial of certain crimes, ranging from laws specific to the Holocaust (e.g. Austria, France, and Germany) to laws that prohibit the disputation of crimes against humanity more generally (e.g. Portugal and Switzerland). The content of "denial" itself can take many forms, including the outright denial of mass murder or events in the first place, debating or minimizing the numbers impacted, arguing that deaths that did occur were the result of something else (e.g. famine), equating victims of genocide to casualties of war, or alleging that the deniers' member group "also suffered huge losses" during a 'mutual' conflict (Gorton 2015:422). Penalties for the denial or minimization of the crimes outlined in various legislations across Europe range from fines to prison sentences to--perhaps most creatively--mandatory museum attendance (Hungarian cases in 2013 [Huffington Post 2013] and again in 2017 [Hawkins 2017). In the sections below, I will trace how the timeline of the memory law boom maps onto Risse and Sikkink's norm cascade as nations scrambled to adhere to the rising global norm of memory protection.

Existing Approaches to Memory Law Research

The current literature on memory laws spans the disciplines of history, human rights, law, and political science, and encompasses a range of central themes. Among these are legal analyses highlighting the different types of provisions that exist. For example, some legislations are embedded into existing prohibitions against hate speech or incitement to violence, whereas others are written as separate and specific to the issue of negationism (Holocaust or genocide

denial). Still others encompass or even solely penalize the justification of such crimes (see example of Spain, Koposov 2018:90). Another widely addressed comparative issue is that of scope, particularly examinations of whether a specific legislation refers to the Holocaust alone or whether it includes additioinal crimes against humanity: e.g. communist crimes or the Armenian genocide [Pech 2011; Lechtholz-Zey 2012; Koposov 2018].

One of the most popular among existing approaches to memory law research are those that pit memory laws "against" protections of free speech (see for general analysis on the subject Heinze 2006; Kentridge 1996; McGonagle 2001, and for academic opinion against: Dworkin 2006 and Garton Ash 2007). The right to freedom of expression, as enshrined in both the International Covenant on Civil and Political Rights (1966) and the European Convention on Human Rights (1950), is commonly hailed as the quintessential individual right: the cornerstone of a successful democracy. In the ground-setting European Court of Human Rights case *Handyside v. UK* (1976), this protection is also extended to ideas "that offend, shock or disturb the state or any sector of the population" (§48). In many places, the protection of free speech is so resolute that Holocaust deniers label themselves "martyrs" to the ideal of free expression (Ranki 1997: 25).

Still, the right outlined by ICCPR Article 19 and European Convention on Human Rights Article 10 is not absolute. As Ranki points out, on the side opposite of free expression is the right to protection that belongs to those at the receiving end of hateful speech. All states express some limits to freedom of expression in circumstances where it comes head to head with other norms of public interest (e.g. hate speech, incitement to violence) [Pech 2011]. Restrictions are allowed to exist so long as they are defined by law, have a legitimate aim, and are necessary in a democratic society (Council of Europe, Section 1 Article 10). These are, of course, far from

self-evident conditions. The Court thus grants a wide latitude for the nation state to determine what exactly constitutes "necessary" to its particular democratic society (Gorton 2015). Differences in interpretation thus lead to some of the variation between state legislations based on their particular past involvement with the Holocaust and related events.

Nikolay Koposov's comparative history of memory laws is by far the most extensive treatment to date (2018). The central argument in his comparative historical account is that the nature of memory laws have shifted alongside their expansion, specifically as they moved from their origins in Western Europe to Eastern European states. He stresses that once Eastern European states (with an emphasis on Russia) began implementing memory laws, they privileged the protection of national narratives rather than the unified common memory that was the goal of the EU. The research at hand is further affirmation of this argument from the perspective of sociology, with the novel inclusion of diffusion theories and analysis of Poland's 2018 provision.

CURRENT STUDY

Like Koposov, the focus of this paper is what he calls the "hard core" of memory laws: those that criminalize statements about the past (2018).[6] I seek to expand upon existing research by emphasizing the role of international pressure in the diffusion of memory laws as a global norm. This research also brings a distinctly sociological treatment to the forefront in its focus on sociological theories of diffusion, as a complement to existing historical and legal works.

The above sections establish memory protection in the form of memory laws as a rising global norm. The following sections more specifically address the isomorphic diffusion of memory laws in the European Union, including direct examination of whether the existing

[6] As opposed to "peripheral" laws such as those that recognize state symbols and holidays, commemorative events, the naming of institutions, memorialization, etc (Koposov 2018:6).

provisions are similar or even identical, or whether they deviate to a large extent. In order to explore these questions, I analyze translations of existing legislations from a sample of nation states, and move on to a discussion of the European Union's 2008 decision toward the unification of laws surrounding statements about the past. Finally, I consider how Poland's 2018 legislation deviated from the existing global norm to further expand a new paradigm alongside Russia and other Eastern European countries.[7] Again, while the purview of the current research is purposefully limited to diffusion in EU member states, the norm of memory protection is expanding beyond the borders of Europe to Africa and to Canada, thus justifying the use of global norm language.

RESULTS

Memory Laws: History and Content

As mentioned above, memory laws did not proliferate in the immediate aftermath of the Holocaust. Instead, it was in the 1970s and afterward that a "Holocaust-centered memory regime" began to bloom (Koposov 2018:76). Perhaps unsurprisingly, the first two nation states to legally enshrine prohibitions addressing Holocaust denial were Germany and Israel: in 1985 and 1986, respectively, although Germany's legislation made significant evolutions before establishing its more traditional denial ban in 1994.[8] This later version (printed below) took on the more well-known version of a "memory law," and references "Section 6 subsection (1) of the Code of Crimes against International Law," which denotes acts of genocide. Yet it is France whose 1990 model begets the title of "Classical Memory Law," the one that "set the standard for

[7] For an extensive treatment of the Russian case, see Koposov's Chapter 5 (Memory Laws in Yeltsin's Russia) and 6 (Memory Laws in Putin's Russia) dedicated to its particular evolution (2018).

[8] Germany's first inclusion of the Holocaust--the provision known as *Auschwitzluge* (Auschwitz-Lie)--was limited to denial of the Holocaust that amounted to incitement to hatred: a now-common feature of the policies of neighboring countries. The updated version in 1994 put the state "in the position of the complainant," thus moving away from the assumption that only Jews were affected and instead implying that "the German state itself and its historical record" were implicated by denial of the Holocaust (Douglas 1995:102).

several international agreements and national laws," many of which followed in its immediate footsteps (Koposov 2018:82). Of particular significance is the fact that France's Gayssot Act is the first to reference the International Military Tribunal, a nod which would be repeated by many other legislations to come. By the mid 1990s, memory laws had risen to the level of a "pan-European trend" (2018:89): falling much in line with Risse and Sikkink's norm cascade.

The timeline of these provisions also adheres to Weyland's description of waves of diffusion given that they occur in a "distinctive geographic pattern" (2009:262). A memory boom certainly did diffuse from one nation to another, and with great speed: nearly thirty nation states in a span of thirty years have implemented some form of memory law into their national legislations. The first wave after Israel, Germany, and France included Austria in 1992, then Belgium, Spain and Switzerland, all in 1995. Shortly thereafter came Luxembourg (1997), Poland (1998), Lichtenstein (1999), the Czech Republic and Slovakia (2001), and Romania (2002). In 2003, the Council of Europe introduced the Additional Protocol to the Convention on Cybercrime, which encouraged "the criminalisation of acts of a racist and xenophobic nature committed through computer systems" (including Holocaust denial).[9] This provision allowed states to make reservations that allowed the option to *not* apply the protocol "in whole or in part" [Pech 2011:42]. In spite of the effectively optional nature of this protocol, a number of states passed laws in line with its contents. These were Macedonia and Slovenia (2004), Andorra (2005), and Portugal (2007).

The year 2008 marked a major turning point: the passage of the European Union's Framework Decision.[10] While some precedent had been set by the 2003 Protocol on Cybercrime,

[9] The 2003 Additional Protocol to the Convention on Cybercrime includes the following: "Distributing or otherwise making available, through a computer system to the public, material which denies, grossly minimizes, approves or justifies acts constitiung genocide or crimes against humanity, as defined by international law and recognized as such by final and binding decisions of the International Military Tribunal" (Koposov 2018:93).

[10] Legislates against the following acts: (c) publicly condoning, denying or grossly trivialising crimes of genocide, crimes against humanity and war crimes as defined in Articles 6, 7 and 8 of the Statute of the International Criminal

the Framework Decision was the first to mandate criminalization without the right to abstain from the provision (Pech 2011). The passing of the Framework Decision brought about another boom across EU member states and beyond. Among the newly adopted laws were Albania's in 2008, Latvia's and Malta's in 2009, Hungary's, Lithuania's, and Montenegro's in 2010, and Cyprus in 2011. The four most recent participants are Greece--which in a particularly mimetic move "reproduces the wording of the Framework Decision"--and Russia (both in 2014), Spain (again) in 2015, and finally, Italy in 2016 (Koposov 2018:97).

Memory laws by state.

While many of the prohibitions' English translations appear generally similar, a handful of them are nearly identical in terminology. Koposov postulates that later legislations largely followed the structure of France's 1990 Gayssot Act.[11] I find that in terms of the language itself, many closely resemble the Austrian model (whose language Germany follows in its 1994 update), and add France's nod to the international tribunal. A short list of the most similar provisions is below:

- *Austria*, 1992: "Whoever denies, grossly plays down, approves or tries to excuse the National Socialist genocide or other National Socialist crimes against humanity…will be punished ...with imprisonment from one to up to ten years, and in cases of particularly dangerous suspects or activity, be punished with up to twenty years imprisonment" (Verbotsgesetz-novelle 1945/1992, translation in Lechtholz-Zey 2012:3).

Court, directed against a group of persons or a member of such a group defined by reference to race, colour, religion, descent or national or ethnic origin when the conduct is carried out in a manner likely to incite to violence or hatred against such a group or a member of such a group; and (d) publicly condoning, denying or grossly trivialising the crimes defined in Article 6 of the Charter of the International Military Tribunal appended to the London Agreement of 8 August 1945, directed against a group of persons or a member of such a group defined by reference to race, colour, religion, descent or national or ethnic origin when the conduct is carried out in a manner likely to incite to violence or hatred against such a group or a member of such a group [Council Framework Decision 2008/913/JHA]

[11] "Whoever should have disputed...the existence of one or many crimes against humanity, as they were defined in Article 6 of the Statute of the International Military Tribunal...shall be punished with [one year imprisonment and a fine]" (Koposov 2017:85).

- *Germany*, updated 1994: "Whoever publicly or in a meeting approves of, denies or downplays an act committed under the rule of National Socialism(...)shall be punished with imprisonment for not more than five years or a fine" (in Koposov 2018:89).
- *Belgium*, 1995: "Whosoever [publicly] denies, grossly minimizes, attempts to justify or approves of the genocide committed by the German Nationa-Socialist regime(...)shall be punished by a prison sentence of eight days to one year, and by a fine" (in Koposov 2018:89).
- *Luxembourg*, 1997: "Whoever...contested, minimized, justified, or denied the existence of one or of many crimes against humanity, as defined by Article 6 of the Statute of the International Military Court...shall be punished with imprisonment from eight days to six moths and with a fine" (Criminal Code Article 457-3 in Koposov 2018:91).
- *Czech Republic*, 2001: "The person who publicly denies, puts in doubt, approves or tries to justify Nazi or communist genocide or other crimes of Nazis or communists will be punished by prison of 6 months to 3 years" (Law Against Support and Dissemination of Movements Oppressing Human Rights and Freedoms in Lechtholz-Zey 2012:5).

In addition to these similarities, though, a number of distinctions demand attention. For example, although Israel's provision was one of the pioneering legislations, it nevertheless "could not serve as a model for other countries" because its language and motivation are so particular to the Israeli tradition (Koposov 2018:82). Additionally, although Austria's provision largely follows the language of its neighbors, its consequences are particularly stringent in comparison to any other: whereas most of the prohibitions include a fine and/or imprisonment of 1-5 years maximum, Austria's indicates imprisonment of up to ten years, or twenty for "particularly dangerous" cases (Lechtholz-Zey 2012).

As mentioned above, a number of provisions exclusively reference the Holocaust, while others refer to crimes against humanity or genocide more generally. This is an essential distinction, and nations have their own historical/contextual reasons for adhering to one or the

other model. France, for example, had a number of failed attempts to include the Armenian genocide in its provision before finally succeeding. Others (Switzerland, Liechtenstein, Portugal, Slovenia, Andorra, Greece, and Cyprus) succeeded outright in its inclusion (Koposov 2018: 101).

Luxembourg's 1997 law, while "almost verbatim" to the Gayssot Act's penalization clause, was the first to ban "denial of Nazi crimes *and of other genocides*" in the same legislation… "an approach that later became paradigmatic" in the EU and provides the structure for the 2008 FD discussed below (Koposov 2018:92, emphasis added). This example shows that in addition to between-nation isomorphism, international legislations also borrowed language from national provisions: providing evidence for a more multi-directional diffusion. Norms do not simply flow from international (global) to national (local). Instead, local provisions also inform the global model.

EU framework.

On November 27, 2008, The European Union published its Framework Decision (FD) concerning the unification of member states' existing denial bans: seven years after the German-led commission first proposed it (Pech 2011; Koposov 2018). The reasons for this time lapse are not sensational. The law needed unanimous approval: a tall order for any international legislation seeking to diffuse a norm among states with diverse legal cultures and priorities, let alone a law as controversial as this one, which required member states to "punish the act of publicly condoning, denying or grossly trivializing crimes of genocide, crimes against humanity and war crimes," so long as the crimes fall under the statute of the International Criminal Court (Bilefsky 2007; Pech 2011:40). While the 2003 Additional Protocol to the Convention of Cybercrime had set some international precedent, the controversy that accompanied the *optional*

protocol revealed a lack of consensus on the issue of genocide denial (Pech 2011). It follows logically that yet more outcry would accompany the binding Framework Decision.

Although many states already had provisions covering some or all of the aspects enshrined by the Framework Decision, the variation that did exist prompted the commission to facilitate an "EU-wide approximation" to unite both the national laws already in place and to compel those states that had none (2011:43).

A number of concessions were offered in order to facilitate its passing. These especially addressed those who had concerns about the FD's impact on the freedom of expression (Pech 2011). The final version eliminated the banning of Nazi symbols, widened its scope to include the prohibition of denial of crimes against humanity more generally, and added stipulations that criminalization would only be required in cases of incitement to violence (Bilefksy 2007; Pech 2011).

Some saw the eventual dilution of language as "inevitable" but ultimately harmless, retaining hope that the provision would nonetheless send "a strong political signal" against racism in Europe (Roscam Abbing qtd. in Bilefsky 2007). Others believed that the watering down of terms rendered the Framework Decision toothless and vague (Bilefsky 2007), arguing that its scope ought to have been considerably narrower in order to actually eradicate the threats to memory and dignity identified by the commission (Gorton 2015).

While the Framework Decision does encourage states to "go beyond the minimum requirements," it also necessarily allows for enforcement exactly *of* the bare minimum: a familiar double edged sword of human rights/IL enforcement. The "watering down" of the provision was necessary in order to facilitate its unanimous passing, but it is also possible that this allows for relativistic implementations that skirt around the intentions of the Framework Decision. Memory

laws in particular suffer from what Pech calls “line-drawing problems” (2011:36). Further testing the limits and--I argue--creating a new paradigm from which other nations have begun to take cue is Poland: an effective circling back of existing genocide denial laws to legislate other, more nationalistic narratives.

Still, only by allowing national laws to retain some precedence could the international framework exist in the first place. In this way, the international model actually serves to reinforce the central role of the nation state. Thus the global model aspirationally sets a tone for universalization, but national implementations of it ensure contextual variation reflective of divergent levels of commitment to the specific memory protection norms enshrined by the Framework Decision.

Overall, we can observe that while some (France, Austria/Germany) rise to the level of models from which other legislations borrow, memory laws generally diffuse in principle form. In other words, while the EU provisions largely resemble one other, there are nation-specific provisions contained in each. Most of the adaptations made from these models and the Framework Decision could be categorized as Hall’s first-order changes: incremental and still true to the original paradigm. However, third-order changes begin to show in those provisions that stretch the limits of the paradigm to include additional crimes and more nationalistic orientations of their own.

Poland’s Paradigmatic Shift.

As Lawrence Douglas hypothesized, memory laws often “reveal more about the state’s own sensitivities than about the history it seeks to protect” (1995:104). For Poland, that means defending itself against a particularly complicated Holocaust history rife with collaboration *and*

victimization.[12] By the end of the war, around six million Poles were killed, half of which were Polish Jews (Noack 2018). Poland remained a satellite of the Soviet government until 1989, which delayed a collective confrontation and laid the ground for a convoluted national education vis a vis the Holocaust as a whole: namely a conflation of Jewish and Polish suffering (Tobias 2018). In the midst of this entanglement there emerges another truth, which is that many Polish citizens also staunchly *resisted* Nazi occupation, forming underground militias like the Polish Home Army. Any legislative decision-making around this history promised to be less straightforward than its predecessors might have been.

Some Eastern European nations began to implement memory law or memory law adjacent legislations in order to prove their compatibility with the EU by the late 1990s and early 2000s, but there were also preexisting frameworks of de-communization in Poland and elsewhere that facilitated its inclusion of Nazi crimes (Koposov 2018:152). Poland had such historical precedent written into its 1997 constitutional ban of fascist, communist, or Nazism-related political parties and organizations. The early 1990s also saw a number of attempts to pass lustration (or de-communisation) acts before succeeding in 1997: a bill that set the tone for confronting communism through a process akin to vetting (Koposov 2018:154; Szczerbiak 2002; Kaj and Metzger 2008). Finally, in 1998, Poland implemented the first traditional memory law in Eastern Europe (Koposov 2018). While the legislation timeline did fall in line with the larger wave of memory laws in the 1990s, it also introduced some new substantive elements that would lay the groundwork for what was to come in Poland and elsewhere.[13]

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[12] While it certainly is not the case that Eastern Europeans were alone in their collaboration, it bears mentioning that the level of local involvement differs notably by historical accounts (Koposov 2018; see for one example Jan Gross's *Neighbors,* 2012).

[13] See for example Article 1.1 of Russia's 2014 Yarovaya Act which tacks onto its Gayssot-adjacent provision the "dissemination of knowingly false information on the activities of the USSR during the Second World War" and

While the 1998 Act does include the denial of Nazi and communist crimes, Koposov highlights an important addition that foreshadows its later nationalistic turn, and that is the reframing of misdeeds committed by law enforcement as offences "committed by individual functionaries rather than by the Polish state" as well as the crucial emphasis on crimes committed *against the Polish nation* (2018:162). In this light, we can see the beginnings both of self protection--an intention that differs from the Western European model of common memory--as well as a centering of Communist crimes that so dreadfully impacted Eastern Europe. While this is understandable in its own right, it does reveal a tendency to include the Holocaust "on the side," so to speak, becasue it happens to fit within the existing frame of communist crimes. Thus its motivation to include the Holocaust appears at least in part to appease and fit itself to the EU model. Also importantly, Poland did not replicate the nod to Nuremberg or other international tribunals modeled by the Gayssot Act, thus creating the first substantial deviation and a new model of its own from which other Eastern European countries would borrow. From this point forward, Eastern European countries would choose between either the Polish (e.g. the Czech Republic) or the French model (e.g. Slovakia) [Koposov 2018].

Here we fast-forward to January of 2018, when as a measure toward defending "the good name of Poland," the state introduced an addendum to its existing law against Holocaust denial (1998) that would penalize claims of Polish state complicity in the genocide (Lou 2018).[14] The political manuever came about as a defense led by its far-right Law and Justice party against the common error on the part of the public and politicians of referring to the Nazi death camps as

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"public distribution of information expressing manifest disrespect toward society regarding Russia's days of military glory…" (Koposov 2018:292)

[14] The legislation reads: "Whoever claims, publicly and contrary to the facts, that the Polish Nation or the Republic of Poland is responsible or co-responsible for Nazi crimes committed by the Third Reich […], or for other felonies that constitute crimes against peace, crimes against humanity or war crimes, or whoever otherwise grossly diminishes the responsibility of the true perpetrators of said crimes – shall be liable to a fine or imprisonment for up to 3 years." (Bucholc and Komornik 2019).

"Polish death camps": a prevalent mistake due to the location of the six extermination camps in Poland during its occupation by Nazi Germany between 1939 and 1945. (Lou 2018; Bethke 2018). The updated provision--which Bucholc and Komornik call a "U-turn towards the past" imposed a fine or imprisonment for a person who accused the Polish *nation* of collaborating with Nazi Germany (2019). The word nation bears emphasis because--in an echo of the 1997 nod to crimes committed against the Polish nation--the provision specifically targets those who claim a collective Polish action. It does not necessarily bar dialogue about Polish *individuals* who may have committed heinous acts, although critics point to the vagueness of the provision's language to conclude that policing of more general claims could come under fire. In fact, we have seen exactly this situation arise on more than one occasion in the aftermath of the 2018 legislation, with accusations of slander put forth against journalist Katarzyna Markusz (Aderet 2021) and historians Barbara Engelking and Jan Grabowski (Gessen 2021).[15] A number of Holocaust museums and organizations including Yad Vashem and the Memory Studies Association issued a statement of support in the case of Engelking and Grabowski earlier this year, wary of the larger implications for silencing academic research and public discourse (MSA Executive Committee 2021; Charlish and Wlodarczak-Semczuk 2021).

The walkback.

It is important to note that social pressure is a key component of isomorphic coercion, such that "the likelihood that an actor will violate a norm decreases as the social pressure to conform increases" (Ring 2014:31). In their description of political change through norms, Risse and Sikkink highlight that a target nation must be sensitive to the pressures being administered: a sensitivity largely based on "international image" (1999:38). There is no question that Poland's global reputation was on the line in this case.

[15] This case in particular has invoked comparison to prior investigations of Polish-American Jan Gross in 2016.

Indeed, international response to the 2018 memory law was swift and severe, with Israel and the United States making particularly vocal contestations (Noack 2018). The *New York Times* reported in March of 2018--less than a month after the announcement of the legislation--that the European Commission had "threatened to strip Poland of voting rights" due to its actions, which they labeled a threat to democratic norms. The Commission gave Poland three weeks to reverse its legislation before it would take action (Kershner and Berendt 2018).

Social legitimacy has been established here and elsewhere as one of the primary motivators for state action concerning norms shared by members of a community (like the EU) [Katsumata 2011]. Coercive isomorphism ensured that a mere four months after the announcement of its questionable addendum, international news articles shifted from publications of the original breaking news to broadcasting that Poland was walking back the criminalization aspect of its legislation, although the non-criminal civil suit options would remain (Bucholc and Komornik 2019). In a perfect display of the strong role international pressure plays regarding global norms like the protection of Holocaust memory, Polish Prime Minister Morawiecki said that although "those who say that Poland may be responsible for the crimes of World War II deserve jail terms(...)we operate in an international context, and we take that into account" (Noack 2018). This is plainly coercive isomorphism on display.

CONCLUSIONS

When it comes to the adoption of incontestable global norms, I argue, localization is allowed *to a point*: but third-order changes of this kind apparently stretch the paradigmatic limit past its breaking point. Reaffirming Koposov's conclusion that Eastern European memory laws turned the Western European intention on its head in their centering of state protection from would-be harmful claims, Poland's more recent move once again signaled an abrupt departure

from the existing paradigm of protected Holocaust memory, and in so doing, created a model of its own.

The larger isomorphic diffusion of memory laws across Europe can be viewed like a more intentional game of telephone,[16] with each new iteration borrowing heavily from the original model, but occasionally adding a new component that will be picked up by the next regional wave of states. Unfortunately, the newest model is the nationalistic one. Indeed, as of January 2020, Lithuania is following that path for itself as it begins drafting legislation to prohibit claims of *Lithuanian* collaboration in the Holocaust, following a meeting with Polish legislators over their "common challenge" of historical memory (Liphshiz 2020; JTA and Liphshiz 2020). Certainly, a recent rise in populism is not limited to Eastern Europe (Moffitt 2016; Cox 2018). It is with an eye toward this worldwide trend that the current research remains urgent.[17]

Overall, we see all three categories of isomorphism at play in the diffusion of memory laws: (1) mimetic across the board, as states look to each other (and especially to early leaders in the area: France, Austria, Germany) in the adoption of policies, (2) normative in that nations were compelled to get on board with memory laws to maintain their legitimate standing in the European Union, and (3) coercive in the case of states like Poland who pushed boundaries in an apparently unacceptable direction. Still, in spite of the norm cascade that occurred across the 1990s and 2000s in particular, I would not conclude that the norm of memory protection has risen to the level of internalization, owing to its still-controversial and contested nature in Europe

[16] A popular "message transmission" game in which a group of children sit in a circle. The first child or person whispers a message or a phrase to the child next to them, then the second child whispers the same message (or an altered message, or what they thought they heard) to the next, and so on. The last child in the circle delivers the final message aloud, and it usually differs substantially from the original message.

[17] While outside the purview of the current paper, discussions concerning the utility of memory laws should continue to be taken up by experts who weigh them against and in combination with other measures such as education and curriculum building toward the goals of honoring the memory of victims and preventing future violent extremism.

and globally. However, the norms against genocide and the expectation of state accountability have become deeply enshrined, so the wider acceptance and eventual expectation of legal memory protection may follow. More essentially, though, we can see through the example of memory law diffusion that in spite of the unquestionable isomorphic pull of global human rights norms, they do not lead to total homogeneity.

As I have shown, differences across memory law provisions--although they derive language and sentiment from a shared global norm--also adhere to the specific cultural context of the state. Thus global norms serve as models for local legislations, but they also pass through a process of localization that contextualizes them to their immediate national setting. As an extension of this step, domestic laws inspired by global norms end up looking simultaneously similar and unique. This paper sheds light on the complicated narrative surrounding domestic implementations of international norms: a site where conceptions of the universal (global) and the particular (national) often go head to head over the role of memory.

REFERENCES

Acharya, Amitav. 2004. “How Ideas Spread: Whose Norms Matter? Norm Localization and Institutional Change in Asian Regionalism.” *International Organization* 58(2):239–75.

Aderet, Ofer. 2021. “Polish Journalist Quizzed by Police for Writing That Poles Were Involved in the Holocaust.” *Haaretz.Com*, February 7.

Anon. 2013. “Hungarian Holocaust Denier Sentenced To Visit Memorial And Journal About Experience.” *Huff Post*, February 2.

Barkan, Elazar. 2000. *The Guilt of Nations: Restitution and Negotiating Historical Injustices*. 1st edition. New York: W. W. Norton & Company.

Bethke, Svenja. 2018. “Poland Is Trying to Rewrite History with This Controversial New Holocaust Law.” *The Conversation*, February 16.

Beckert, Jens. 2010. “Institutional Isomorphism Revisited: Convergence and Divergence in Institutional Change - Jens Beckert, 2010.” *Sociological Theory*.

Bilefsky, Dan. 2007. “EU Adopts Measure Outlawing Holocaust Denial.” *The New York Times*, April 19.

Boyle, Elizabeth Heger, and John W. Meyer. 1998. “Modern Law as a Secularized and Global Model: Implications for the Sociology of Law.” *Soziale Welt* 49(3):213–32.

Bucholc, Marta, and Maciej Komornik. 2019. “The Polish ‘Holocaust Law’ Revisited: The Devastating Effects of Prejudice-Mongering.” *Cultures of History Forum*.

Charlish, Alan, and Anna Wlodarczak-Semczuk. 2021. “Polish Court Orders Historians to Apologise over Holocaust Book.” *Reuters*, February 9.

Council of Europe, 1950. The European Convention on Human Rights. (Rome). Retrieved May 30, 2013, from http://www.hri.org/docs/ECHR50.html#C.Art9

The Council of the European Union. 2008. *Council Framework Decision 2008/913/JHA of 28 November 2008 on Combating Certain Forms and Expressions of Racism and Xenophobia by Means of Criminal Law*. Vol. 328.

Cox, Michael. 2018. "Understanding the Global Rise of Populism." *Medium*. Retrieved April 21, 2021 (https://lseideas.medium.com/understanding-the-global-rise-of-populism-27305a1c5355).

DiMaggio, Paul J., and Walter W. Powell. 1983. "The Iron Cage Revisited: Institutional Isomorphism and Collective Rationality in Organizational Fields." *American Sociological Review* 48(2):147–60. doi: 10.2307/2095101.

Dixon, Jennifer M. 2017. "Rhetorical Adaptation and Resistance to International Norms." *Perspectives on Politics* 15(1):83–99. doi: 10.1017/S153759271600414X.

Dobbin, Frank, Beth Simmons, and Geoffrey Garrett. 2007. "The Global Diffusion of Public Policies: Social Construction, Coercion, Competition, or Learning?" *Annual Review of Sociology* 33(1):449–72. doi: 10.1146/annurev.soc.33.090106.142507.

Douglas, Lawrence. 1995. "The Memory of Judgment: The Law, the Holocaust, and Denial." *History and Memory* 7(2):100–120.

Dworkin, Ronald. 2006. "Even Bigots and Holocaust Deniers Must Have Their Say." *The Guardian*, February 13.

European Court of Human Rights. 1976. *Handyside v UK*.

Farquharson, Karen. 2013. "Regulating Sociology: Threshold Learning Outcomes and Institutional Isomorphism." *Journal of Sociology* 49(4):486–500. doi: 10.1177/1440783313504060.

Finnemore, Martha, and Kathryn Sikkink. 1998. "International Norm Dynamics and Political

Change." *International Organization* 52(4):887–917.

Florini, Ann. 1996. "The Evolution of International Norms." *International Studies Quarterly* 40(3):363–89. doi: 10.2307/2600716.

Garton Ash, Timothy. 2007. "A Blanket Ban on Holocaust Denial Would Be a Serious Mistake." *The Guardian*, January 17.

Gessen, Masha. 2021. "The Historians Under Attack for Exploring Poland's Role in the Holocaust." *The New Yorker*, March 26.

Ginsburg, Tom, Svitlana Chernykh, and Zachary Elkins. 2008. "Commitment and Diffusion: How and Why National Constitutions Incorporate International Law Symposium: Public International Law and Economics." *University of Illinois Law Review* (1):201–38.

Gilardi, Fabrizio. 2013. "Transnational Diffusion: Norms, Ideas, and Policies." Pp. 453–77 in *Handbook of International Relations*. 1 Oliver's Yard, 55 City Road, London EC1Y 1SP United Kingdom: SAGE Publications Ltd.

Gorton, Sean. 2015. "The Uncertain Future of Genocide Denial Laws in the European Union." *The George Washington International Law Review* 47:26.

Gross, Jan T. 2012. *Neighbors: The Destruction of the Jewish Community in Jedwabne, Poland*. Princeton University Press.

Hafner‐Burton, Emilie M., and Kiyoteru Tsutsui. 2005. "Human Rights in a Globalizing World: The Paradox of Empty Promises." *American Journal of Sociology* 110(5):1373–1411. doi: 10.1086/428442.

Hall, Peter A. 1993. "Policy Paradigms, Social Learning, and the State: The Case of Economic Policymaking in Britain." *Comparative Politics* 25(3):275–96. doi: 10.2307/422246.

Hawkins, Derek. 2017. "Holocaust Denier in Belgium Ordered to Visit Concentration Camps

and Write about Them." *Chicago Tribune*, September 25.

Heinze, Eric. 2006. "Viewpoint Absolutism and Hate Speech." *The Modern Law Review* 69(4):543–82.

JTA, and Cnaan Liphshiz. 2020. "Following Poland's Lead, Lithuania Proposes Controversial Holocaust Law." *Haaretz*, January 17.

Kahn, Robert A., and John Vile. 2017. "Holocaust Denial." *The First Amendment Encyclopedia*, May.

Kaj, Magdalena, and Megan Metzger. 2008. "Justice or Revenge? The Human Rights Implications of Lustration in Poland." *Humanity in Action*. Retrieved April 21, 2021 (https://www.humanityinaction.org/knowledge_detail/justice-or-revenge-the-human-rights-implications-of-lustration-in-poland/).

Katsumata, Hiro. 2011. "Mimetic Adoption and Norm Diffusion: 'Western' Security Cooperation in Southeast Asia?" *Review of International Studies* 37(2):557–76. doi: 10.1017/S0260210510000872.

Katzenstein, Mary Fainsod. 1996. *The Culture of National Security: Norms and Identity in World Politics*. Columbia University Press.

Kelley, Thomas A. 2017. *Legislating Memory in Rwanda*. *SSRN Scholarly Paper*. ID 2916201. Rochester, NY: Social Science Research Network.

Kentridge, Sydney. 1996. "Freedom of Speech: Is It the Primary Right?" *The International and Comparative Law Quarterly* 45(2):253–70.

Kershner, Isabel, and Joanna Berendt. 2018. "Poland and Israel in Tense Talks Over Law Likened to Holocaust Denial." *The New York Times*, March 1.

Koposov, Nikolay. 2018. *Memory Laws, Memory Wars: The Politics of the Past in Europe and*

Russia. Cambridge: Cambridge University Press.

Lechtholz-Zey, Jacqueline. 2012. "The Laws Banning Holocaust Denial." *Genocide Prevention Now* 18.

Levy, Daniel, and Natan Sznaider. 2006. "Sovereignty Transformed: A Sociology of Human Rights." *The British Journal of Sociology* 57(4):657–76. doi: 10.1111/j.1468-4446.2006.00130.x.

Levy, Daniel, and Natan Sznaider. 2010. "The Ubiquity of Human Rights in a Cosmopolitan Age." Pp. 1–23 in *Human Rights and Memory*. Penn State University Press.

Liphshiz, Cnaan. 2020. "Lithuania Drafting Bill Exonerating Nation from Holocaust Crimes." *The Jerusalem Post*, January 4.

Lou, Michelle. 2018. "Poland Relents On Controversial Holocaust Law." *HuffPost*, June 27.

Martinsson, Johanna. 2011. *Global Norms: Creation, Diffusion, and Limits*. World Bank.

McGonagle, Tarlach. 2001. "Wresting (Racial) Equality from Tolerance of Hate Speech." *Dublin University Law Journal* 21–54.

Meyer, John W. 2000. "Globalization: Sources and Effects on National States and Societies." *International Sociology* 15(2):233–48. doi: 10.1177/0268580900015002006.

Moffitt, Benjamin. 2016. *The Global Rise of Populism: Performance, Political Style, and Representation*. 1st ed. Stanford University Press.

MSA Executive Committee. 2021. "Memory Studies Association Condemns Lawsuit against Holocaust Historians." *Memory Studies Association*. Retrieved April 21, 2021 (https://www.memorystudiesassociation.org/msa-condemns-lawsuit-holocaust-historians/).

Noack, Rick. 2018. "Poland's Controversial 'Holocaust Law' Set to Be Reversed after Global

Outcry." *Washington Post*, June 27.

Pech, Laurent. 2011. "The Law of Holocaust Denial in Europe." Pp. 185–234 in *Genocide Denials and the Law*, edited by L. Hennebel and T. Hochmann. Oxford University Press.

Ranki, Vera. 1997. "Holocaust History and the Law: Recent Trials Emerging Theories." *Cardozo Studies in Law and Literature* 9(1):15–44. doi: 10.2307/743405.

Ring, Jonathan Jacob. 2014. "The Diffusion of Norms in the International System." PhD, University of Iowa, Iowa City, Iowa, USA.

Risse, Thomas, and Kathryn Sikkink. 1999. "The Socialization of International Human Rights Norms into Domestic Practices: Introduction." Pp. 1–38 in *The Power of Human Rights*.

Rosenfeld, Gavriel. 2009. "A Looming Crash or a Soft Landing? Forecasting the Future of the Memory 'Industry.'" *The Journal of Modern History* 81(1):122–58.

Szczerbiak, Aleks. 2002. "Dealing with the Communist Past or the Politics of the Present? Lustration in Post-Communist Poland." *Europe-Asia Studies* 54(4):553–72.

Simine, Silke Arnold-de. 2013. "Memory Boom, Memory Wars and Memory Crises." Pp. 14–19 in *Mediating Memory in the Museum: Trauma, Empathy, Nostalgia*, *Palgrave Macmillan Memory Studies*, edited by S. A. Simine. London: Palgrave Macmillan UK.

Supreme Court of Canada. 1992. *R. v. Zundel*. [https://scc-csc.lexum.com/scc-csc/scc-csc/en/item/904/index.do]

Thomson, Janice E. 1993. "Norms in International Relations: A Conceptual Analysis." *International Journal of Group Tensions.* - 231:67–83.

Twining, William. 2006. "Diffusion and Globalization Discourse Symposium: Diffusion of Law in the 21st Century: Interaction and Influence." *Harvard International Law Journal* (2):507–16.

UN General Assembly, 1966. *International Covenant on Civil and Political Rights*, (16 December), United Nations, Treaty Series, available at: http://www.refworld.org/docid/3ae6b3aa0.html

Weatherall, Thomas. 2015. *Jus Cogens: International Law and Social Contract*. Cambridge University Press.

Weyland, K. (2005). Theories of Policy Diffusion Lessons from Latin American Pension Reform. *World Politics*, *57*(2), 262–295. https://doi.org/10.1353/wp.2005.0019

Weyland, Kurt. 2009. *Bounded Rationality and Policy Diffusion: Social Sector Reform in Latin America*. Princeton University Press.

Winter, Jay. 2006. "Notes on the Memory Boom." Pp. 54–73 in *Memory, Trauma and World Politics: Reflections on the Relationship Between Past and Present*, edited by D. Bell. London: Palgrave Macmillan UK.