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# Rhizomatic Networks in Legal Transplants: Interconnected Interpretations of Legal Concepts Across Jurisdictions

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## ABSTRACT

This article proposes a rhizomatic model of legal concept evolution, highlighting how language, cognition, culture, and legal

frameworks interact to shape meaning in transplanted concepts across jurisdictions.

## KEYWORDS

legal transplants, rhizomatic networks, cultural models, cognitive models, language

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## I. Introduction

The present study addresses a long-standing problem in comparative law: how legal concepts change meaning as they move across jurisdictions. Traditional models of legal transplants often overlook the complex interplay of linguistic, cognitive, cultural, and legal factors that shape the final content of travelling legal concepts. This article proposes a rhizomatic approach to capture the multidirectional interactions among these factors that influence the evolving image of post-transplantation concepts. It also outlines the structure of this multidimensional framework.

The rhizomatic theory proposed by Gilles Deleuze and Félix Guattari<sup>1</sup> has been applied across various disciplines to explain complex, non-hierarchical, and interconnected systems. It has been used not only in philosophy but also in cultural studies<sup>2</sup> and organizational theory<sup>3</sup>, among others, to illustrate how ideas, structures, and practices evolve through non-linear

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<sup>1</sup> Gilles Deleuze and Félix Guattari (1987).

<sup>2</sup> Stephen B. Crofts Wiley and J. Macgregor Wise (2019: 75–97).

<sup>3</sup> Robert Chia (1999: 209–227); Shih-wei Hsu (2022: 101–232); Scott Lawley (2005: 36–49).

pathways. The theory's applications may also extend to the field of law, particularly in comparative law, where it provides a compelling framework for understanding the transfer and adaptation of legal concepts across jurisdictions. In this process, legal ideas may be conceptualized as individual rhizomes that, upon crossing jurisdictional boundaries, undergo transformation—sometimes subtle, sometimes profound—to align with local legal traditions, linguistic structures, and cultural expectations. Much like rhizomes in nature, these concepts do not follow a single, predetermined trajectory; instead, they branch out in multiple directions, reshaping legal landscapes and generating new legal ideas as they take root in different jurisdictions.

Let us illustrate this process with an example. In this model, Concept 1, originally associated with Jurisdiction 1, migrates to Jurisdiction 2, where it evolves into Concept 2. The latter may retain some resemblance to Concept 1, but it may also develop characteristics that render it significantly distinct. This transformation occurs as the transplanted concept adapts to a new legal and cultural environment, which may differ substantially from that of its origin. Furthermore, Concept 2—now a post-transplantation concept—may, in turn, influence the legal landscape of Jurisdiction 3, giving rise to Concept 3. As before, this newly emerging concept may bear similarities to Concept 2 but will also be shaped by its own contextual factors. The influence of Jurisdiction 3's legal framework, linguistic conventions, and cultural expectations may further distance Concept 3 not only from Concept 2 but also from its original form, Concept 1.

At this stage, the diffusion of legal ideas may still appear to follow a tree-like structure, with concepts branching out sequentially rather than evolving in a truly rhizomatic manner. A rhizomatic framework, however, entails unpredictability, multidirectional influences, and interconnectivity. If we introduce additional elements into the model, its structure shifts away from a hierarchical pattern and toward a rhizomatic network. To illustrate, our initial model assumes a linear progression: Concept 1 influences Concept 2, which in turn gives rise to Concept 3. However, we cannot assume that Concept 3 is shaped solely by Concept 2; Concept 1 may also exert a direct influence on Concept 3. In this modified model, Concept 3 emerges as a product of both Concept 1 and Concept 2, creating a web of interconnections rather than a simple chain of transmission.

In an even more intricate model, the flow of influence is no longer unidirectional. Concept 3 may also shape the development of Concept 1

and Concept 2, introducing feedback loops that are central to the rhizomatic theory. This reverse impact can take multiple forms: for instance, legal scholarship or judicial decisions concerning Concept 3 may later inform the interpretation and application of Concept 1 and Concept 2 within their original jurisdictions. Such recursive interactions exemplify the dynamic, non-hierarchical nature of rhizomatic networks in legal transplants.

While the above approach provides a valuable framework for explaining the transplantation of legal ideas—how they travel from one jurisdiction to another—we propose an alternative model in which the interconnected elements of a rhizomatic network are not the traveling concepts themselves. Instead, our focus shifts to the various influences that shape how these transplanted ideas are interpreted within different cultural, cognitive, linguistic, and legal contexts. In this perspective, these factors, rather than the concepts alone, form the core of the rhizomatic network. This approach offers a compelling explanation for the divergent interpretations of legal concepts by emphasizing the individual cognitive backgrounds of legal interpreters, cultural considerations, linguistic structures, and, crucially, the legal framework within which a transplanted concept operates. In our model, all these elements coalesce into a dynamic network of interconnected rhizomes that collectively shape the reception and application of transplanted legal ideas.

Our discussion unfolds as follows. First, we examine the transplantation process itself, highlighting the various levels and directions in which it occurs (Section 2). Next, we introduce the proposed rhizomatic network, identifying the key elements that shape the evolution of post-transplantation legal concepts. In this section, we also outline the characteristics of the network that, in our view, justify its classification as rhizomatic in nature (Section 3). We then analyse the individual components of our rhizomatic network in greater detail, beginning with linguistic influences (Section 4), followed by cognitive factors (Section 5), the cultural landscape (Section 6), and finally, the legal framework (Section 7), which serves as the structural foundation shaping transplanted legal concepts. In the final section (Section 8), we synthesize these elements into a cohesive whole, demonstrating their interconnections and interdependencies. We illustrate how the network operates through multidirectional interactions between its components, reinforcing its rhizomatic nature.

To understand how these interconnections operate in practice, the next section turns to the notion of legal transplantation, which provides

the broader framework within which our rhizomatic model will later be situated.

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## II. Legal transplantation

The transplantation<sup>4</sup>, dissemination, or circulation<sup>5</sup> of legal concepts is not a novel phenomenon and has been extensively studied<sup>6</sup>. In its narrower sense, a legal transplant is generally understood as the borrowing or transfer of laws, legal institutions, legal concepts, or legal principles from one jurisdiction to another<sup>7</sup>. The motivations behind such transplants vary<sup>8</sup>, as do the factors driving the process<sup>9</sup> and the mechanisms through which it occurs<sup>10</sup>. Additionally, while the specific objects of transplantation may differ<sup>11</sup>, this article will collectively refer to them as “legal concepts”<sup>12</sup>.

It can be argued that legal transplants have historically been one of the most significant and recurrent sources of legal change in the Western world over the past millennium. The borrowing of legal norms and substantial portions of legal systems is a well-established practice. Legal history is marked by an extensive degree of borrowing, with lawmakers frequently relying on foreign models, often with minimal modifications, rather than crafting entirely new legal frameworks. Few statutes—particularly codes—are entirely original in the sense that they are developed independently without significant reliance on foreign law<sup>13</sup>.

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<sup>4</sup> The term was first used by Alan Watson (1974). On the appositeness of the term ‘legal transplant’, see Esin Örüçü (2002: 205).

<sup>5</sup> The term was suggested by Edward M. Wise (1990: 1).

<sup>6</sup> Alan Watson (1993). For subsequent explanations of Watson’s view on legal transplants, see William Ewald (1995: 489) and John W. Cairns (2013: 637).

<sup>7</sup> Mathias Siems (2022: 288).

<sup>8</sup> These may include economic reasons, etc.: see Mathias Siems (2018: 104-105); Holger Spamann (2009: 1813).

<sup>9</sup> These factors range from the presence of foreign draftsmen in the legislative process to the educational backgrounds of the authors who cite foreign sources: Holger Spamann (2009: 1823, 1825-1826).

<sup>10</sup> These may include citations of foreign court decisions (see Mathias Siems 2018: 104-105) or citations of foreign sources in legal treatises (see Holger Spamann 2009: 1826).

<sup>11</sup> For diverse objects of legal transplants see Mathias Siems (2018: 104-105).

<sup>12</sup> Legal concepts also include, for example, the idea of having limited companies without the initial share capital, or with a very limited share capital, as well as the so-called corporate opportunities doctrine, thoroughly explored by Martin Gelter and Geneviève Helleringer (2018: 92).

<sup>13</sup> Edward M. Wise (1990: 5).

Classic examples of legal transplants include the adoption of concepts developed by German legal scholars into the legislation of numerous jurisdictions worldwide<sup>14</sup>. Another well-documented instance is the influence of German legal codes on Japanese legislation, such as the Japanese Code of Civil Procedure of 1890<sup>15</sup>. Similarly, the reception of the Napoleonic Civil Code in the Duchy of Warsaw in 1808 exemplifies this process<sup>16</sup>. Furthermore, common law principles spread globally following the era of colonization<sup>17</sup>. Perhaps the most renowned case of legal dissemination, extensively examined by Alan Watson, is the gradual transmission of Roman law throughout continental Europe<sup>18</sup>.

The transplantation of legal concepts, as described above, follows a horizontal trajectory, involving the movement of legal concepts between jurisdictions at the same level<sup>19</sup>. However, a broader interpretation of “legal transplant” encompasses a wider range of scenarios in which legal concepts traverse legal systems, extending beyond cross-national transfers<sup>20</sup>. Some authors claim that one should also distinguish ‘transplants across subject areas’ or ‘transplants between subject matters within a jurisdiction’<sup>21</sup>. Additionally, in this more expansive sense, transplantation includes the incorporation of legal concepts from EU legislation into the domestic laws of Member States<sup>22</sup>, as well as the migration of norms from international law into national legal frameworks<sup>23</sup>. Thus, legal transplantation can be conceptualized as occurring in both horizontal and vertical dimensions. Horizontally, legal concepts travel across different jurisdictions at a comparable level or across subject areas within a jurisdiction. Vertically, they may flow downward from a supranational legal system into individual

<sup>14</sup> A notable example is the concept of *Rechtsgeschäft*. See Nikolaos A. Davrados (2020: 1119, 1129).

<sup>15</sup> Hiroshi Oda (2012: 18).

<sup>16</sup> Józef Szonert (1958: 89).

<sup>17</sup> This, in turn, made for the creation of the so-called mixed jurisdictions, South Africa, Quebec, Malta, the Philippines, Puerto Rico and Louisiana being notable examples (Vernon V. Palmer 2012). See also J.E. Cote (1977: 29).

<sup>18</sup> Alan Watson (1991).

<sup>19</sup> Mathias Siems (2022: 288-289); Mathias Siems (2018: 103-119).

<sup>20</sup> Mathias Siems (2022: 289).

<sup>21</sup> Vanessa Casado-Pérez and Yael R. Lifshitz (2022: 933).

<sup>22</sup> For example, rules on pre-contractual information or unfair contract terms can be regarded as concepts developed at the European level in terms of consumer protection.

<sup>23</sup> For instance, concepts expressed in the United Nations Convention on Contracts for the International Sale of Goods (adopted 11 April 1980, entered into force 1988) have become part of the legislation of the countries that ratified it.

jurisdictions, such as when an EU-level concept is incorporated into Member States' legislation or when international treaty provisions are embedded in domestic law. Conversely, legal transplants may also occur in an upward direction, where legal concepts originating in national jurisdictions are embraced at the supranational level, as seen in instances where domestic legal principles inform EU or international law<sup>24</sup>.

As demonstrated, legal transplantation typically involves the formal incorporation of a legal concept into a legislative framework, whether through voluntary adoption or external imposition. However, transplantation can also occur informally, influencing judicial practice or private transactions without being codified in statutory law.

Regardless of the mode of transplantation, once legal concepts move beyond their original boundaries, they begin operating within new legal systems—expressed in different languages and embedded in distinct cultural and cognitive contexts. As a result, their migration often entails reinterpretation and adaptation within the receiving environment. In this process, legal concepts shed their exclusive ties to their place of origin and integrate into a new legal, linguistic, cultural, and cognitive framework. Ultimately, the evolution of transplanted legal concepts is shaped by a complex interplay of legal and extra-legal factors, reflecting not only the characteristics of the adopting legal system but also the broader socio-cultural realities in which they function, as well as the individual cognitive backgrounds of those involved in drafting legislation and interpreting the law. Legal concepts do not merely migrate across jurisdictions; they also traverse cultures, languages, and cognitive perspectives.

This jurisdictional, cultural, cognitive, and linguistic shift has the potential to reshape the essence of a legal concept, leading to its modification or, at the very least, altering perceptions of it before and after transplantation. These influences converge into a dynamic network of interconnected rhizomes that collectively shape the reception and application of transplanted legal ideas. The structure of this network is outlined below.

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<sup>24</sup> For example, the concept of breach of contract found in the United Nations Convention on Contracts for the International Sale of Goods is borrowed from common law: Beata Gessel Kalinowska vel Kalisz (2017: 789, 803).

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### III. Proposed rhizomatic network

It is reasonable to assume that language plays a crucial role in shaping the final content of a transplanted legal concept. As the primary medium for conveying meaning, language often differs from that in which the concept was originally articulated. While language itself remains a significant factor in shaping the post-transplantation concept (a topic we will return to later in Section IV), other elements also contribute to its ultimate meaning. These factors interact with language, forming a rhizomatic network—a web of interdependent elements that collectively influence the concept’s interpretation.

Some of these elements are individual in nature, shaped by the personal perspectives of those engaged in drafting legislation and interpreting the law. Drawing from cognitive linguistics, we refer to these as cognitive models—a term we will define more comprehensively later in this article (Section V). For now, it suffices to note that cognitive models are inherently personal, influenced by individual experiences.

Conversely, other elements within this rhizomatic network are shared mental constructs that reflect the values and beliefs prevalent within a culture or social group. These are known as cultural models. While we will later provide a more detailed definition (Section VI), at this point, it is important to emphasize their collective nature and their intrinsic connection to cognitive models. The relationship between the two is dynamic: cognitive models shape cultural models, just as cultural models influence cognitive models. In fact, we may justifiably argue that the cognitive models of individuals within a given cultural group constitute parts of a broader cultural model. This interdependence exists because individual cognitive models do not develop in isolation—they emerge within a cultural framework that embodies shared values and convictions. Thus, it is not solely cognitive models that influence cultural models; the process is reciprocal. This two-directional exchange aligns with the rhizomatic theory of Deleuze and Guattari. However, within the proposed rhizomatic network, influence is not merely bidirectional but multidirectional, as additional key elements—such as language and legal norms—come into play. These include national legislation, EU law, and international law, all of which contribute to shaping the transplanted legal concept.

With this foundational understanding in place, we now turn to a closer examination of the individual elements within our proposed rhizomatic

network, beginning with language. Language stands at the entry point of this network, as it is through language that transplanted legal ideas are expressed and initially perceived. The next section explores this linguistic dimension in greater depth.

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## IV. Language

The role of language within the rhizomatic network cannot be overstated. While language is often considered the sole vehicle for expressing legal concepts<sup>25</sup>, it is important to recognize that legal ideas can also be conceived without language. Although much of our thinking is facilitated by language, it can be argued that, at least in some cases, thought can occur independently of linguistic structures<sup>26</sup>. While language remains a crucial means of articulating these ideas, we must acknowledge that legal concepts can also be expressed visually—a trend that is gaining traction in some jurisdictions, even if it is not yet universal<sup>27</sup>.

Given the diverse mediums through which legal concepts are conveyed, the central role of language as their primary medium is rarely disputed. Considering this crucial function, two additional points must be highlighted. First, language reflects external reality. Second, it can shape how we perceive that reality. When we say language reflects external reality, we mean it acts as a mirror for that reality<sup>28</sup>, whether it involves physical objects or abstract concepts. For instance, if certain objects are unknown in a particular culture, the language of that culture typically lacks terms for them. European languages may have words for specific objects that indigenous languages do not<sup>29</sup>,

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<sup>25</sup> Harold J. Berman (2016: 39); Karen McAuliffe (2016: 200); Jaakko Husa (2022: 43–44). This statement, however, is particularly true in Western culture, where written language is “an inherent constituent of law” and where “the relation between language and law is of a fundamental character”. However, this close relationship between law and written language does not necessarily extend to traditional cultures, such as Aboriginal or African cultures; see Jaakko Husa (2015: 46–47).

<sup>26</sup> David Crystal (2011: 13–14).

<sup>27</sup> Jay A. Mitchell (2018: 815); Sandeep Bajaj, Pintu Babu, Lipika Singla (2021: 61–69); Rob Willey, Tammy Tran, Lygie Hinkle, Ashley Matthews (2024); Bingyan Zana, Camilla Baasch Andersen, Lisa Toohey (2023: 4712–4726).

<sup>28</sup> Guy Deutscher (2011: 9 ff).

<sup>29</sup> For example, some indigenous languages may still lack words for objects like ‘computer’ unless these objects have become part of their cultural reality. Similarly, Western orchestral instruments such as the harpsichord or cello might not have specific terms in indigenous languages that do not have a historical tradition of using them.



and vice versa<sup>30</sup>. The same applies to abstract concepts: if a concept is unfamiliar in a culture, there is usually no corresponding term for it in the language<sup>31</sup>.

This principle holds true in law as well. If a legal concept exists within a legal system, there will be terminology to describe it. Conversely, if a concept is unfamiliar, there will be no term available<sup>32</sup>.

Recognizing that language reflects the concepts within a culture or legal system, we must also consider whether it shapes our perception of reality. This brings us to the theory of linguistic determinism, which later influenced the development of the Sapir-Whorf hypothesis. This hypothesis is often discussed within the broader framework of linguistic relativity (sometimes associated with the Boas-Jakobson principle<sup>33</sup>). It is generally accepted that while linguistic determinism lacks solid evidence, there are compelling reasons to believe that language influences our perception of reality, though it is not entirely deterministic. In short, the language we speak does not dictate our understanding of the world, but it does shape it. For instance, if a language lacks a specific term for a concept, this does not mean that its speakers are incapable of understanding or recognizing it. If linguistic determinism were absolute, the acquisition of new concepts would be impossible<sup>34</sup>. Yet, we know that speakers can learn and adopt unfamiliar concepts, even when their language initially lacks a corresponding term. This process often leads to the creation of new terms—a phenomenon known as linguistic change, typically driven by language contact<sup>35</sup>.

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<sup>30</sup> For example, the djembe, a West African drum, has no direct traditional counterpart in European languages.

<sup>31</sup> For example, some languages have words for emotions that do not have direct equivalents in others. This might suggest that speakers of certain languages experience these emotions in ways that are not explicitly recognized by speakers of languages that lack a corresponding term. However, the absence of a word does not necessarily mean that the emotion itself is unfelt or incomprehensible. The German word 'Schadenfreude' (pleasure derived from another's misfortune) has no direct equivalent in some languages, yet speakers of those languages are still capable of experiencing the emotion. This observation challenges the deterministic view that language fully dictates our perception of reality. It also has important implications for understanding how we grasp foreign legal concepts, even when our native language lacks specific terms for them— a topic we will revisit later in this discussion.

<sup>32</sup> See English terms such as 'equitable mortgage' or 'consideration', which lack direct terminological equivalents in most other European languages. This absence may, in principle, suggest a lack of underlying concepts among speakers of those languages.

<sup>33</sup> As used by Guy Deutscher (2011: 150).

<sup>34</sup> Guy Deutscher (2011: 150 ff).

<sup>35</sup> Anthony P. Grant (2019).

When applying this to legal ideas, the absence of specific terminology in a language often suggests that speakers may initially struggle with the underlying concepts. For instance, legal professionals whose native language is English will readily recognize the concept of ‘consideration’ in contract law. However, speakers of other languages without a common law background might find it challenging at first. This demonstrates how language influences the perception of legal realities: the lack of terminology typically implies an absence of direct conceptualization. Nevertheless, this does not mean that speakers are incapable of understanding new legal concepts. While language may shape their initial perception, it does not prevent them from grasping the meaning of a concept. They can learn and internalize these ideas, though their mental representation will inevitably be an approximation of the original, influenced by additional factors such as cognitive structures and cultural background, as we will explore further.

Another example illustrates how linguistic differences affect our understanding of legal concepts. Consider the English term ‘conveyancing law’. This area of law has no direct equivalent in Polish as a result of which there is not corresponding term to describe it. Does this mean that Polish legal professionals are unable to grasp the concept? Not at all. Initially, they might find it challenging, but once they familiarize themselves with the definition, they can relate it to existing principles of property transfer in Polish law. This demonstrates that while the absence of specific terminology may create initial difficulties, it does not prevent comprehension. However, it does influence how we perceive that body of law. For English speakers, ‘conveyancing law’ may appear as a well-organized set of rules, complete with its own textbooks and legal framework. In contrast, speakers of other languages might view it as a less distinct collection of legal principles. This underscores how the language we speak structures our understanding of legal concepts, shaping how we categorize and interpret them. Yet, this influence is not deterministic. While language shapes our perception, it does not make understanding foreign legal concepts impossible. Instead, interpretation is influenced by cognitive (Section V) and cultural factors (Section VI), making it more nuanced and, at times, further from the original concept.

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## V. Cognitive models

Cognitive models are widely recognized constructs, especially in cognitive linguistics<sup>36</sup>. They refer to the internal mental representations individuals use to interpret and make sense of the world<sup>37</sup>. Developed through sensory experiences, these models function as frameworks for organizing knowledge. As noted in the literature, the term “*covers all the stored cognitive representations that belong to a certain field*”<sup>38</sup> and represents “*a cognitive, essentially psychological, view of stored knowledge about a certain domain*”<sup>39</sup>. Cognitive models are inherently individual in nature, as they are shaped by personal experiences and cognitive development.

In the legal realm, cognitive models help explain why legal concepts are understood differently by various individuals. These models refer to the mental schemas that lawmakers, judges, arbitrators, lawyers, legal scholars, and laypeople rely on to interpret and apply the law.

Cognitive models are shaped by a variety of factors, with legal education playing a central role. The training that legal professionals receive significantly influences the formation of these models, establishing foundational legal categories and preferred interpretive approaches. In addition to formal education, professional experience—such as engaging with specific types of cases—further refines cognitive models by reinforcing particular patterns of reasoning and interpretation. As a result, we can identify multiple cognitive models associated with key legal concepts such as ownership, liability, intent, negligence, fairness, and justice. These models shape how both legal professionals and laypeople perceive and apply legal principles, contributing to the diversity of legal interpretation across individual contexts.

As mentioned above, cognitive models play a role in establishing legal categories. Ungerer and Schmid explain that “*In every act of categorization, we are more or less consciously referring to one or several cognitive models that we have stored. Only in the very rare case when we encounter a totally unfamiliar object or situation will no appropriate cognitive model be available,*

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<sup>36</sup> Alan Cienki (2010: 175–181); Javier Valenzuela Manzanares (2014: 185–200).

<sup>37</sup> See also related notions such as ‘frames’ (as discusses by Alan Cienki 2010: 170–175) and ‘conceptual frames’ (as explained by Jan Engberg 2020: 271–272).

<sup>38</sup> Friedrich Ungerer and Hans-Jörg Schmid (2006: 49).

<sup>39</sup> Friedrich Ungerer and Hans-Jörg Schmid (2006: 51).

*but even then, we will presumably try to call up similar experiences and immediately form a cognitive model*<sup>40</sup>.

Consequently, when faced with a novel experience—whether an unfamiliar concept or an unknown cultural practice—comprehension can be challenging. However, individuals instinctively relate new experiences to pre-existing cognitive structures. A useful illustration of this phenomenon is the case of a foreign visitor in Britain attending a cricket match for the first time. Without a cognitive model for the game, they may struggle to understand the events on the field. Yet, they are likely to interpret what they see through familiar models—perhaps by drawing parallels with other sports, such as baseball. Thus, new experiences do not exist in a cognitive vacuum; rather, they are immediately placed within an existing framework that facilitates understanding<sup>41</sup>.

The same process applies when encountering an unfamiliar legal concept or practice. In such cases, individuals instinctively relate the new experience to a pre-existing cognitive structure. For example, a lawyer trained in a civil law jurisdiction, with no prior exposure to common law, may struggle to grasp the distinction between legal and equitable mortgages<sup>42</sup>. Without a ready cognitive model for these concepts, they are likely to interpret them through the lens of familiar legal constructs—perhaps by drawing parallels with similar security interests in their own legal system. Similarly, lawyers from a civil law background may initially find it difficult to understand the crystallization of floating charges, a concept that those familiar with English property law readily recognize<sup>43</sup>. In attempting to interpret it, a civil law-trained professional will likely relate it to a similar concept from their own legal tradition. However, this comparison can only offer an approximation, and the precise meaning of the concept may remain elusive.

From this discussion, we can conclude that cognitive models serve as lenses through which we perceive and interpret foreign legal concepts. These constructs are integral elements of the rhizomatic network, which, alongside other interconnected rhizomes discussed below, contributes to

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<sup>40</sup> Friedrich Ungerer and Hans-Jörg Schmid (2006: 51).

<sup>41</sup> Friedrich Ungerer and Hans-Jörg Schmid (2006: 51).

<sup>42</sup> Andrew Burrows (2007: 405–410).

<sup>43</sup> Andrew Burrows (2007: 453–454).

shaping the ultimate image of legal concepts as they traverse jurisdictional borders and emerge in new legal and non-legal environments.

This individual-level mechanism mirrors, on a broader scale, the cultural dynamics examined in the following section, where collective understandings of law come to the forefront.

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## VI. Cultural models

Cultural models are well-established constructs not only in cognitive linguistics but also in anthropology, sociology, psychology, and semiotics. They can be defined as shared mental constructs that embody the values and beliefs prevalent within a culture or social group. Like cognitive models, they serve as valuable analytical tools for explaining differences in perception and understanding across various domains of life. However, while cognitive models arise from individual cognitive frameworks, cultural models reflect broader, shared cultural patterns that shape how people collectively interpret the world around them<sup>44</sup>.

A useful way to illustrate the role of cultural models in shaping perception is through examples such as the concepts of ‘first meal of the day’ and ‘desk’. They demonstrate that while members of a given culture share similar cognitive models, those models may differ significantly from those of individuals in other cultural settings<sup>45</sup>. Divergences in conceptualization can also arise among speakers of the same language but from different linguistic communities. One study highlights that speakers of American English and those using New Englishes (such as Nigerian English) may conceptualize ‘food’ differently<sup>46</sup>. This suggests that even when a term is

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<sup>44</sup> Friedrich Ungerer and Hans-Jörg Schmid (2006: 51). The significance of cultural models in shaping human understanding is well illustrated by Clifford Geertz, who, in his seminal work “The Interpretation of Cultures”, described culture as “*a system of inherited conceptions expressed in symbolic forms by means of which men communicate, perpetuate, and develop their knowledge about and attitudes toward life*”. This perspective underscores the role of cultural models as fundamental frameworks through which individuals make sense of their experiences. See also Jan Engberg (2020: 272 ff).

<sup>45</sup> Friedrich Ungerer and Hans-Jörg Schmid (2006: 52–54). The influence of cultural models becomes particularly evident when comparing distant traditions, such as European versus traditional Japanese or Chinese cultures. Studies have shown, for instance, that the concept of ‘desk’ is perceived differently across these cultural groups.

<sup>46</sup> Friedrich Ungerer and Hans-Jörg Schmid (2006: 54–55).

expressed in the same language, it can evoke distinct associations across cultural contexts, ultimately describing slightly different concepts. The significance of cultural models in shaping conceptual understanding is further illustrated by an internet-based attribute-listing test. The study found that in the United States, the word ‘bus’ is most commonly associated with attributes such as ‘yellow’, ‘school’, and ‘kids/children’ whereas in Britain, it is more frequently linked with ‘red’, ‘public transport’, and ‘work’<sup>47</sup>. These differing associations lead to distinct conceptualizations of the same term across cultural settings.

In the legal field, we can distinguish cultural models of contracts, notaries, and arbitration agreements<sup>48</sup>. In fact, cultural models in law help explain the divergent perceptions of many legal concepts across different branches of law. These perceptions are shaped by various factors. Even in an era of globalization and transnational legal interactions, distinctions between legal cultures remain evident. For example, some legal systems exhibit a degree of insularity, while others are more open to foreign legal ideas and influences. This openness—or resistance—plays a crucial role in shaping the cultural models associated with legal concepts.

A particularly illustrative example is the judicial approach to arbitration agreements referring disputes to international arbitration tribunals. In legal systems characterized by openness, courts are more inclined to uphold and enforce such agreements. Conversely, in jurisdictions that are less receptive to foreign legal concepts, state courts may be more inclined to prioritize litigation and disregard arbitration agreements in favour of domestic adjudication. In fact, the practice of international commercial arbitration is one of the most compelling examples of how legal concepts are locally contextualized. While arbitration is often regarded as an inherently international mechanism, theoretically detached from local influences, the reality is more complex. In principle, one might expect that arbitration proceedings—regardless of the jurisdiction, governing law, or language used by arbitrators and disputing parties—would yield consistent outcomes in identical circumstances. However, the local context significantly shapes the arbitration process, influencing both the interpretation of

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<sup>47</sup> Friedrich Ungerer and Hans-Jörg Schmid (2006: 55).

<sup>48</sup> Roman Uliasz (2024).

arbitration agreements by state courts and the procedural decisions regarding their enforcement<sup>49</sup>.

Moreover, even when considered independently of local attitudes, arbitration itself follows a specific cultural model, predominantly shaped by the American legal tradition. This preference for a common law-oriented framework often disregards alternative dispute resolution models from other legal traditions. As a result, ongoing discussions explore ways to make international arbitration less Americanized and more inclusive, challenging the perception that arbitration remains “male, pale, stale”<sup>50</sup>.

Beyond concerns over arbitration’s American influence, the role of local legal culture in shaping arbitration should not be underestimated. Legal systems vary in their perception of arbitration: some regard it as the preferred method of dispute resolution, while others view it with scepticism, even if it is formally enforced in practice. This initial attitude toward arbitration impacts the likelihood of arbitration agreements being challenged in state courts. Notably, the practice of contesting arbitration agreements may arise even when arbitration is contractually agreed upon, as the enforceability of such agreements is not always absolute<sup>51</sup>.

Furthermore, while arbitration is based on mutual agreement, there are cases where one party is effectively compelled to arbitrate. This lack of genuine consent can later increase the risk of the arbitration agreement being challenged in court<sup>52</sup>. Importantly, neither pro-arbitration nor anti-arbitration tendencies necessarily stem from national arbitration legislation alone; rather, they are deeply embedded in the shared cultural model of arbitration within a given jurisdiction.

Cultural perceptions of law ultimately materialize within formal legal frameworks. Section VII therefore examines how these frameworks both reflect and reshape the cultural and cognitive patterns discussed thus far.

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<sup>49</sup> Roman Uliasz (2024); Roman Uliasz (2023: 124–138).

<sup>50</sup> Giorgio Fabio Colombo (2023: 166–167).

<sup>51</sup> Article II.3 of the United Nations Convention on the Recognition and Enforcement of Foreign Arbitral Awards (New York, 10 June 1958).

<sup>52</sup> Roman Uliasz (2023: 134–136).

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## VII. Legal framework

While extra-legal factors play a significant role in shaping a transplanted legal concept, the legal framework of the target jurisdiction is equally crucial. The ultimate form a transplanted concept takes depends on how it is incorporated into national legislation. The legal framework may introduce only minor modifications, or it may alter the concept so profoundly that it loses its connection to its original form. This transformation can result from the legislator's deliberate intent or from legislative oversight, often stemming from a lack of familiarity with the true substance of the concept. In any case, national legislation provides the decisive context for the reception and adaptation of migrating legal ideas.

The legal framework of a target jurisdiction encompasses more than just statutory law enacted by local legislative bodies. It also includes supranational influences, such as EU law (where applicable) and international law, including treaties and conventions—most notably, the Vienna Convention on the International Sale of Goods. Regarding EU law, its sources may shape national legislation indirectly by requiring legal reforms (as with directives) or may apply directly at the national level (as with regulations). Similarly, international law may also necessitate legislative changes or apply directly, depending on the jurisdiction's approach to its incorporation. In any scenario, EU law, international law, and domestic legislation collectively form a broader rhizomatic network that frames and influences transplanted legal ideas.

While the legal framework provides the formal structure through which transplanted legal concepts are incorporated, this article intentionally treats it in a more concise manner than other components of the rhizomatic network. The primary focus lies on the extra-legal elements—language, cognition, and culture—that precede and inform the process of legal codification. The legal framework, in this sense, represents the endpoint of those influences rather than their origin, serving as the arena where their combined effects become visible.



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## VIII. Interconnections and interdependencies between the rhizomes

Having examined the individual components of the rhizomatic network—language, cognition, culture, and legal frameworks—we can now trace how these elements interact. This synthesis brings the analysis full circle to the central question posed at the outset: how legal concepts evolve and transform as they move across jurisdictions.

In this section, we focus on the relationships between individual elements in our proposed rhizomatic network, beginning with the interconnections and interdependencies between cognitive models and cultural models. We have briefly mentioned that cognitive models are deeply shaped by the cultural environment in which individuals are raised and live. Culture provides the backdrop for experiences, enabling the formation of cognitive models. As a result, *“cognitive models for particular domains ultimately depend on so-called cultural models”*. Cultural models, in turn, *“can be seen as cognitive models shared by people belonging to a social group or subgroup”*<sup>53</sup>. In other words, while cognitive models are inherently individual, cultural models emerge as collectively shared cognitive structures within a given social or cultural group. These models encapsulate shared knowledge, beliefs, values, norms, and practices, shaping how individuals perceive the world, communicate, and behave. As two scholars explain, *“Essentially, cognitive models and cultural models are thus two sides of the same coin. While the term ‘cognitive model’ stresses the psychological nature of these cognitive entities and allows for inter-individual differences, the term ‘cultural model’ emphasizes the uniting aspect of its being collectively shared by many people”*<sup>54</sup>.

So far, we have seen that there is a bidirectional interaction between cognitive and cultural models. But what about other elements of the proposed rhizomatic network? Can language and legal frameworks also fit into this web? I believe they can. Let us start with the legal framework.

Law, often understood as a set of legal norms, is widely considered a product of specific cultural contexts. Essentially, law is a cultural phenomenon

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<sup>53</sup> Friedrich Ungerer and Hans-Jörg Schmid (2006: 51).

<sup>54</sup> Friedrich Ungerer and Hans-Jörg Schmid (2006: 52).

or an element of culture<sup>55</sup>. Therefore, cultural models significantly shape the content of legal norms within a legal system. In some cases, dominant cultural models in a jurisdiction can not only influence how legal concepts are interpreted but may also prevent certain concepts from being introduced into domestic legislation or hinder their practical application. Sometimes, a culture simply is not ready to embrace certain ideas, even if they are formally adopted.

A notable example is the promotion of ADR methods, such as mediation and arbitration, by several Polish Ministers of Justice. Despite legislative changes, the actual use of these methods remained minimal. Statistically, the number of mediations conducted in relation to the number of cases in which mediation could have been applied was low—ranging from 0.5 to 1.7 percent between 2013 and 2024—although the trend has been increasing<sup>56</sup>. This reflects a cultural reluctance to adopt this method of dispute resolution, despite formal endorsement.

Another example is the initial resistance among Polish legal scholars to the concept of simplified companies with little or no share capital, similar to the German mini-GmbH. The idea faced significant pushback, reflecting a cultural model that associates companies with financial solvency guaranteed by a higher share capital. Even after Poland introduced the *prosta spółka akcyjna* (a simplified joint-stock company) with a share capital of just one PLN, the response remained largely negative, underscoring how deeply ingrained cultural models can shape legal perspectives<sup>57</sup>.

However, this influence works both ways. While cultural models shape legal landscapes, legal norms can also influence cultural perceptions, creating a dynamic interplay within the rhizomatic network. Over time, a jurisdiction's legal culture can mature and become more receptive to foreign concepts, even if these concepts initially clash with the prevailing culture. This shows a bidirectional relationship between legal frameworks and cultural models. A similar interconnectedness exists between legal frameworks and cognitive models, which are closely tied to cultural influences. As we navigate a legal environment, we internalize specific legal norms, which

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<sup>55</sup> Jan Engberg (2020: 272–273).

<sup>56</sup> <https://isws.ms.gov.pl/pl/baza-statystyczna/opracowania-wieloletnie/> (accessed on 14 March 2025).

<sup>57</sup> Joanna Kruczalak-Jankowska (2018: 27–28).

then become part of our cognitive framework. In this way, the legal structure we live within profoundly shapes our cognitive models.

It might be more challenging to observe how individual cognitive backgrounds influence the content of legal norms, but this relationship should not be overlooked. For instance, national legislative commissions that draft laws before they are passed by domestic parliaments can be influenced by the cognitive backgrounds of their members. For example, if members have been educated in a foreign country or are fluent in its language, they may naturally draw inspiration from that country's legislation. In Poland, for instance, it was common to model national laws on German law, particularly in private law, due in part to the educational and linguistic backgrounds of those drafting the laws. This example shows how the cognitive backgrounds of a relatively small group can significantly shape national legislation.

Finally, let us consider the last element of the proposed rhizomatic network: language. As we have discussed, language can shape our understanding of legal concepts, though it should not be seen in deterministic terms. There is a clear connection between language and legal norms, as words and linguistic structures form the building blocks of legal systems. Language expresses legal norms, and it is through language that we access these norms. However, this relationship is also reciprocal. Legal frameworks can influence language, particularly when foreign concepts or legal norms from the EU or international law are introduced, often necessitating the creation of new terms to describe previously unfamiliar concepts. This process is evident in the emergence of anglicisms<sup>58</sup> in the target language or the invention of neologisms when entirely new terms must be coined to capture legal concepts previously unknown in a given jurisdiction<sup>59</sup>.

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## Conclusions

In this article, we have explored the interconnected and interdependent nature of the factors influencing the evolution of legal ideas as they cross borders. This network of factors is rhizomatic, with each element connected

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<sup>58</sup> For example, 'leasing' in the Polish Civil Code, or 'timeshare' in the 2001 Polish Act on Timeshare. See also Jan Rudnicki (2017: 207).

<sup>59</sup> See generally Hans Galinsky (1980: 243); Ralph Keyes (2013: 59).

to and influencing the others in multiple directions. As we have seen, this network has no clear origin or endpoint, and no element functions in isolation. Rhizomatic theory therefore offers a valuable framework for understanding the diverse influences on the interpretation and application of legal concepts across jurisdictions.

When legal ideas are examined from a single perspective—whether linguistic, legislative, cognitive, or cultural—the picture remains incomplete. The rhizomatic approach fills these gaps by presenting these individual elements as parts of a dynamic and interwoven system. This multidimensional perspective reveals that meaning in law is not a fixed property of a text but an emergent product of multiple interacting forces. Legal transplants, in this sense, are not merely acts of borrowing; they are acts of re-creation in which linguistic, cognitive, and cultural translations—together with legislative frameworks—continuously reshape the transplanted concept.

From a theoretical standpoint, this model enriches comparative law by moving beyond hierarchical metaphors of influence—such as source and recipient or parent and offspring—and replacing them with a vision of continuous, reciprocal exchange. It invites scholars to trace feedback loops not only between legal concepts but also among the diverse factors shaping their final form: collective cultural patterns influence individual cognitive frameworks, which in turn reshape those cultural patterns; both affect language, while prevailing linguistic structures determine how legislation is articulated in codes. These codes, in turn, reshape language through the emergence of new terms. In this way, legal borrowing is reconceptualized as a process of mutual transformation rather than simple transfer.

For interpretive practice, the rhizomatic model suggests that lawyers, judges, and scholars should remain aware of the networks within which meaning is generated. Understanding how language, cognition, and culture interact can improve both statutory interpretation and comparative reasoning by revealing the hidden assumptions that shape legal understanding. It also underscores the importance of linguistic and cultural competence in cross-jurisdictional interpretation, where apparent equivalence of terms may conceal deep conceptual divergence.

Finally, the rhizomatic framework offers a forward-looking agenda for comparative legal research. It encourages interdisciplinary dialogue with linguistics, cognitive science, and semiotics to examine how legal meaning evolves through interaction rather than linear transmission. By acknowl-

edging the multiplicity of pathways through which legal concepts develop, we gain a more nuanced and realistic understanding of legal change—one that mirrors the complexity of the societies in which law operates.

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