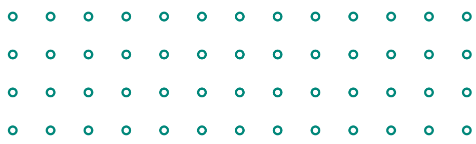

Perspectives

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Do Legal Theories Travel Freely?

Anthropophagy and the Fiction of Interpretive Symmetry

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ABSTRACT

Contrary to a commonly held presumption, legal ideas do not travel unchanged but are reworked as they move between legal cultures in response to local histories, institutions, and expectations of law. The anthropophagic metaphor drawn from Brazilian modernism illuminates this process as one of selective digestion and transformation, challenging assumptions of interpretive symmetry in comparative legal thought.

1 Legal theory frequently presents itself as a universal enterprise. Concepts, doctrines, and argumentative structures are often treated as if they carried meanings capable of travelling intact across legal systems and cultural boundaries. Differences in interpretation are commonly described as misunderstandings, local deviations, or imperfect applications of ideas whose core meaning is presumed to be stable and fully accessible everywhere.

2 What follows starts from a different premise. Law is not an abstract analytical system of norms hovering above social life. It is a cultural phenomenon, and legal meaning emerges from socially situated practices of interpretation. Concepts do not possess content independently of the communities that use them. They acquire meaning through shared experiences, institutional histories, professional training, and interpretive habits that are never neutral or universal.[1]

3 Once this is acknowledged, a crucial consequence follows: legal meaning cannot remain the same everywhere. Even when legal language appears identical, the ways in which texts are read, concepts are understood, and norms are applied vary across contexts. This variation is not a defect of legal reasoning. It is a structural feature of law itself.

4 The apparent stability of legal meaning is sustained not by semantic clarity, but by agreement within interpretive communities. Jurists who share similar educational backgrounds (thus forming an epistemic community),[2] similar professional trajectories, and institutional constraints tend to converge in their understandings of legal texts. What appears as consensus is, in fact, the product of shared epistemic backgrounds. Agreement emerges because members of a community have learned to see law in similar ways and to recognize certain questions as legally meaningful while disregarding others as irrelevant.

5 This perspective helps explain a familiar phenomenon in comparative law: why particular interpretations of foreign legal theories spread rapidly within some legal cultures while others do not. The reason is rarely that these interpretations are objectively superior or more faithful to an original meaning. Rather, they resonate with preexisting interpretive frameworks. They feel intuitive, coherent, and plausible within a given community. Other interpretations, equally meaningful elsewhere, may remain marginal, unintelligible, or simply uninteresting.

6 From this standpoint, legal translation cannot be understood as a purely linguistic exercise. Even when translation is formally accurate, conceptual equivalence remains elusive. Legal terms carry with them histories of institutional struggle, political conflict, and normative expectation that cannot be transferred intact. Identical words may activate profoundly different assumptions about authority, legitimacy, and justice depending on the social and political context in which they are used.

7 Now, comparative legal theory has often been tempted to adopt a corrective stance. Difference is framed as error; divergence becomes misinterpretation; comparison turns into an exercise in measuring distance from an original model. The implicit benchmark remains the presumed coherence and completeness of the theory in its place of origin. What deviates from that benchmark is treated as secondary, incomplete, or immature.

8 A different orientation is proposed here. Instead of corrective comparison, it advances a form of comparison grounded in curiosity. Rather than asking whether a foreign interpretation is correct or faithful, it asks what kinds of problems it is responding to, what forms of social complexity it seeks to manage, and what institutional expectations shape its use. From this perspective, difference is not a failure of understanding but a signal that legal theory is being put to work in a different world.

9 Many of the problems that legal theories encounter outside their original contexts were never imagined by their authors. Distinct histories of state formation, persistent social inequality, institutional fragility, overlapping normative orders, and conflicting experiences of democracy and legality reshape the questions that law is expected to answer. It is therefore unsurprising that theories change as they travel. To expect otherwise is to overlook the social conditions under which legal meaning is produced.

10 This dynamic can be conceptualized through the notion of anthropophagy, which literally means cannibalism and is used here to describe an epistemic and cultural practice through which foreign legal theories are ingested, metabolized, and re-signified within a different legal and cultural context. Rather than presupposing fidelity, equivalence, or interpretive symmetry between original and received meanings, anthropophagy offers a model of reception grounded in selective appropriation and transformation. To translate, from this perspective, is not to preserve an original content, but to incorporate it into a different normative and institutional body, where it is digested, reworked, and re-signified. Meaning survives travel not by remaining intact, but by being transformed.

11 Anthropophagy draws on its articulation in Brazilian modernism,[3] most famously formulated by Oswald de Andrade[4] in the Manifesto Antropófago, published in 1928.[5] The manifesto did not advocate cultural isolation, nor did it reject European intellectual traditions. On the contrary, it emerged as a critique of imitation and dependency. Its central claim was that cultural autonomy is achieved not through faithful reproduction of foreign models, but through their deliberate consumption and creative transformation.[6]

12 The manifesto's emblematic formula 'Tupy or not Tupy, that is the question' condenses this logic with striking clarity. The phrase is a deliberate parody of Shakespeare's *Hamlet* ('To be or not to be'). 'Tupy' is a reference to Indigenous Tupy (or Tupi) peoples, particularly the Tupynambá (or Tupinambá), historically described in early colonial sources as practicing ritual cannibalism.[7] By replacing 'to be' by 'Tupy', Andrade provocatively re-signifies a colonial trope that had long served to mark radical alterity. Rather than invoking indigeneity as an origin or essence, Brazilian Modernism reworks cannibalism as a critical metaphor.

13 By reworking William Shakespeare, Oswald does not seek to recover an original textual meaning or to universalize Shakespearean authority. Shakespeare is devoured. His cultural prestige is displaced, digested, and re-signified within a different cultural body. What emerges is neither pure Shakespeare nor a return to an imagined origin, but something new, produced through incorporation and transformation.

14 The expression functions here as a shorthand for the problem of travelling laws: it dramatizes the dilemma between uncritical adoption of foreign legal forms and defensive claims of authenticity. Within an anthropophagic framework, and against any illusion of interpretive symmetry, travelling legal theories pass through institutional, epistemic, and cultural forms of 'border control' that filter, translate, authorize, and transform legal knowledge as they move across contexts.

15 Anthropophagy thus operates through a metaphorical logic of eating and digesting. To consume the foreign is not to erase difference, but to metabolize it. Meaning is broken down, recomposed, and redirected toward new aesthetic, political, and normative purposes. Translation, in this sense, is never neutral transmission. It is a productive act that transforms both what is received and the body that receives it.

16 Read against the universalist expectations that continue to shape much of legal theory, anthropophagy offers an alternative grammar for understanding travelling legal theories. It refuses the assumption that theories should mean the same thing everywhere. Asymmetry, loss, and transformation are not pathologies to be corrected, but constitutive features of legal meaning.

17 This approach resonates with critical perspectives in comparative legal theory that have challenged the idea of pure or faithful reception. In this regard, the work of Diego López Medina is particularly instructive. In *Teoría Impura del Derecho* [Impure Theory of Law],[8] López Medina demonstrates that legal theories never travel as closed or coherent systems. They circulate through selective readings, institutional mediations, and strategic appropriations shaped by local academic fields and political contexts.

18 Rather than treating these processes as deficiencies or misunderstandings, they are constitutive of legal-theoretical production in peripheral and semi-peripheral contexts. What appears as impurity or deviation from a 'metropolitan' perspective emerges as the normal condition under which legal theory is produced elsewhere. Medina's analysis exposes the fiction of interpretive symmetry presupposed by classical comparative approaches and makes visible the asymmetries that structure the global circulation of legal knowledge.

19 It is against this background that the reception of canonical legal theorists becomes particularly illuminating. The circulation of a name is often taken as evidence of theoretical stability. Yet reception histories reveal a much more complex picture.

20 The Brazilian reception of Hans Kelsen offers a useful illustration. Kelsen's *Reine Rechtslehre* [Pure Theory of Law] did not travel to Brazil as a complete and transparent system. Its reception was delayed, fragmented, and institutionally mediated. The first edition of the *Reine Rechtslehre* was never translated into Portuguese, and the second only appeared in 1985, decades after its original publication and in a version translated by a Portuguese scholar, whose language choices rendered the text difficult for Brazilian readers. Yet Kelsen's influence was nonetheless significant, invoked across different political regimes and institutional settings.

21 Rather than describing this trajectory as a sequence of misunderstandings or misapplications, it is more productive to read it through the lens of anthropophagy. Kelsen's theory was not passively assimilated; it was actively digested and redeployed in response to local legal and political problems. The Brazilian reception of Kelsen thus offers an example of anthropophagic legal theory in action.[9]

22 In this sense, one might say, playfully but not inaccurately, that the German Kelsen (ˈkɛlzn̩) is not the same as the Brazilian Kelsen (ɛwˈsẽ). The difference in pronunciation is not merely phonetic. It gestures toward a deeper process of cultural and institutional recontextualization. What emerges is not a distorted or deficient Kelsen, but a theory transformed through use in a different social world.

23 From an anthropophagic perspective, this transformation is neither a flaw nor a misuse. It is precisely how theory lives. Legal theories do not succeed by preserving original meaning; they succeed by being reworked in response to new problems, new complexities, and new forms of social life. What a corrective comparative lens might label as error appears instead as creative legal imagination at work.

24 The concept of democracy offers a final illustration. Although the term circulates globally, its legal meaning varies widely. What democracy requires, how it relates to law, and which institutions it legitimizes depend on historical experience, collective memory, and social conflict. No context-free meaning can be recovered through correct interpretation alone.

25 Comparative legal theory, therefore, should not aspire to eliminate difference. It should observe it with curiosity. It should ask how meaning is produced, stabilized, and contested within particular contexts, and how legal theories are transformed as they travel.

26 This text advances an anthropophagic perspective on travelling legal theories: one that replaces corrective comparison with interpretive openness, semantic symmetry with contextual awareness, and abstract universality with culturally grounded critique. To use airport imagery, there is no reason to believe that travelling legal theories are exempt from passing through cultural customs control. Law does not mean the same thing everywhere, and from this perspective, it never should.

Notes

1 Shivprasad Swaminathan, ‘A Paradigm Shift in Common Law Theory’, interview granted to Bastian von Jarzebowski, *Max Planck Institute for Legal History and Legal Theory* website (6 September 2023) < https://www.lhlt.mpg.de/3492111/notice-23-08-23-project1> accessed 26 January 2026.

2 On ‘epistemic community’: The term is used here in the sense proposed by Thomas Duve to designate historically situated communities involved in the production, translation, and authorization of normative knowledge. Rather than being limited to jurists or state institutions, epistemic communities encompass diverse actors, practices, media, and forms of knowledge—explicit and implicit—through which normativity is produced and transformed. Legal history, understood as a history of normative knowledge, thus appears as a large-scale process of cultural translation across different epistemic communities and communities of practice. See: Thomas Duve, ‘Legal History as a History of Normative Knowledge’ (2022) 63 *Revista de Historia del Derecho* 1–60 (Buenos Aires: Instituto de Investigaciones de Historia del Derecho), online edition, ISSN 1853–1784 <http://revista.inhide.com.ar/index.php/historiadelderecho> accessed 26 January 2026.

3 Brazilian Modernism emerged in the 1920s as a heterogeneous cultural movement that sought to critically reconfigure Brazil’s relationship with European cultural, artistic,

and intellectual traditions. Rather than pursuing originality through isolation and mere reproduction, modernist authors emphasized rupture with academic imitation, selective appropriation of foreign forms, and the creative reworking of external influences in light of local historical and social conditions. For more information in English: ‘Modern Art Week and the Rise of Brazilian Modernism’, in *Brazil: Five Centuries of Change*, Brown University Library https://library.brown.edu/create/fivecenturiesofchange/chapters/chapter-5/modern-art-week-and-the-rise-of-brazilian-modernism/> accessed 26 January 2026.

4 Within the context of Brazilian Modernism, Oswald de Andrade played a central role as a polemical and programmatic figure, articulating modernism not as a search for authenticity in the past, but as a critical response to cultural dependency and asymmetrical forms of reception.

5 On Oswald de Andrade’s *Cannibalistic Manifesto* (1928): In his *Cannibalistic Manifesto*, Oswald de Andrade provocatively reimagines cultural exchange through the figure of ‘anthropophagy’, not as literal cannibalism but as a symbolic strategy of cultural digestion, transformation, and creative reappropriation of foreign influences. Positioned against both passive imitation of European norms and defensive nationalism, the manifesto argues that Brazil’s strength lies in its capacity to absorb and metabolize external forms in ways that produce original cultural expressions. This anthropophagic gesture became foundational to Brazilian Modernism as a critique of cultural dependency and a model of cultural translation.

6 For an English-language introduction and translation of Oswald de Andrade’s *Cannibalist Manifesto* (1928), see Leslie Bary, ‘Oswald de Andrade’s Cannibalist Manifesto’ (1991) 19(38) *Latin American Literary Review* 35–37; Oswald de Andrade and Leslie Bary, ‘Cannibalist Manifesto’ (1991) 19(38) *Latin American Literary Review* 38–47.

7 On Tupinambá ritual cannibalism: For anthropological and historical analyses of Tupinambá practices of ritual cannibalism and their social, temporal, and cosmological meanings, see Manuela Carneiro da Cunha and Eduardo Viveiros de Castro, ‘Vingança e temporalidade: os Tupinambás’ (1985) 10(1) *Anuário Antropológico* 57–78; see also the classic early modern account by Hans Staden, *Suas viagens e captiveiro entre os selvagens do Brazil* (São Paulo: Typographia da Casa Ecletica 1900) <https://digital.bbm.usp.br/handle/bbm/4833> accessed 26 January 2026, originally published as *Warhaftig Historia und beschreibung eyner Landtschafft der Wilden, Nacketen, Grimmigen Menschfresser Leuthen* (Marburg 1557) <https://digital.bbm.usp.br/handle/bbm/6639> accessed 26 January 2026.

8 Diego Eduardo López Medina, *Teoría impura del derecho: La transformación de la cultura jurídica latinoamericana* (Bogotá: Universidad de los Andes / Legis, 2004).

9 On the reception of Hans Kelsen in Brazil: Despite this delayed and mediated reception, Kelsen’s theoretical, juridical, and political influence in Brazilian legal culture is undeniable. Kelsen issued a legal opinion for the Brazilian Constituent Assembly of 1933, visited Brazil in 1949, and his theory was explicitly referenced in the preambles of Institutional Acts during the Military Dictatorship. In this period, legal positivism was, in some contexts, associated with authoritarian governance. At the same time, Kelsen also influenced the

democratic constitutional project culminating in the Constitution of 1988; as former Supreme Court Justice Moreira Alves noted, 'Kelsen was the origin of ideas currently held by the Supreme Federal Court'. Rather than assuming a linear or homogeneous reception, this article approaches Kelsen's legacy in Brazil as a process of selective implementation, reassessment, and creative reconfiguration shaped by local political and institutional conditions.

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