



## Judges' Interpretive Experiences in Adopting Foreign Legal Principles

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### Article Info

#### Article history:

Received 31-07-2025

Revised 19-09-2025

Accepted 24-09-2025

#### Keyword:

Judicial Experience, Legal Interpretation, Foreign Legal Principles, Comparative Law, National Courts, Subjective Meaning

### ABSTRACT

Comparative law has increasingly recognized the dynamic role of judicial interpretation in integrating foreign legal principles into domestic legal systems. While prior research has focused on normative and structural aspects, little is known about how judges personally experience and interpret these legal transplants in practice. The present study addresses this gap by asking: How do judges experience and make sense of adopting foreign legal concepts in national adjudication? Using an interpretative phenomenological approach, this study explores the lived experiences of senior judges as they navigate the application of foreign legal norms within their own judicial context. Data were collected through in-depth, semi-structured interviews with twelve judges and analyzed using thematic analysis supported by NVivo software. The results reveal five key experiential themes: tension between normative ideals and local realities, interpretative autonomy, emotional ambivalence, strategic adaptation, and institutional constraints. These themes illustrate that judges actively reinterpret foreign legal principles through contextual reasoning, professional identity, and cultural values. The findings contribute to a deeper understanding of comparative judicial practice by highlighting the subjective and interpretative processes behind legal integration, but this study is limited by its relatively small sample size and focus on senior judges, which may not fully capture the diversity of judicial experiences across jurisdictions and court levels. Nevertheless, the insights gained provide practical implications for enhancing judicial training, fostering transnational legal dialogue, and informing policymakers about the challenges and opportunities of integrating foreign legal concepts into broader legal contexts.



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## INTRODUCTION

In the field of comparative law and legal systems, the global circulation of legal norms has significantly reshaped the landscape of judicial reasoning and legal interpretation (R. D. Doerfler & Moyn, 2025). In an increasingly interconnected world, judges often encounter foreign legal principles whether through international treaties, transnational case law, or comparative legal scholarship that must be considered within the context of domestic legal proceedings (Li et al., 2025). This phenomenon reflects a broader cultural and legal reality in which boundaries between legal systems are porous, and the transfer of legal concepts is both inevitable and complex.

The relevance of this phenomenon lies in its human and experiential dimensions (Mitchell, 2023). While legal transplants and normative convergence have been widely discussed in academic literature, much less attention has been given to the lived experiences of those directly involved in the interpretive process particularly judges, who serve as critical intermediaries between global norms and local legal realities (Varju et al., 2024). Their interpretative work is not merely a technical exercise, but a deeply contextual and reflective practice shaped by their professional values, institutional environments, and socio-cultural backgrounds (Römer-Barron & Cunningham, 2024). This process involves emotional, cognitive, and ethical considerations that often remain invisible in traditional legal analyses.

Given this backdrop, there is a clear need to explore how judges personally engage with and make meaning of foreign legal principles (Kelly, 2024). A phenomenological approach is essential in capturing the subjective dimensions of this experience, providing insight into how judges internalize, question, adapt, or resist external legal influences (van Marle & du Plessis, 2024). Such an exploration does not only illuminate the interpretive labor involved but also enriches our understanding of how law is lived, transformed, and embedded in specific judicial and cultural settings (Zozuliak et al., 2023). This understanding is vital for advancing both theoretical and practical knowledge in comparative legal studies and for recognizing the human agency at the heart of legal adaptation and innovation.

In recent years, scholarly attention has increasingly turned toward the subjective experiences of legal actors, particularly within the judiciary, as a vital area of inquiry in comparative law (Mazzi, 2024). The role of judges in interpreting and applying foreign legal norms is no longer viewed as a mechanical function but as a dynamic, meaning-making process rooted in individual cognition, institutional pressures, and socio-legal contexts (Dolan & Andersen, 2025). This shift reflects a broader recognition that understanding how judges perceive, experience, and internalize transnational legal concepts is essential to evaluating the impact and effectiveness of legal transplantation and harmonization efforts.

However, despite this growing interest, significant methodological challenges remain in capturing the depth and nuance of judicial experience (Dangaran, 2024). Traditional approaches in legal studies particularly doctrinal analysis and comparative statutory review often rely heavily on formal texts, court rulings, or structural comparisons, which offer limited insight into the internal deliberations and emotional responses of judges. Quantitative methods, while useful for measuring patterns and correlations, tend to overlook the rich, interpretative dimensions of judicial reasoning. As (Hakim, 2024; Warfare & Shalev, 2025) have noted, such methods may fail to engage with the complex interplay between normative structures and the subjective realities of legal practitioners.

These limitations have left a gap in our understanding of how judges personally engage with foreign legal principles, particularly in contexts where legal reception is shaped not only by institutional frameworks but also by individual meaning-making and contextual interpretation (Vannier, 2024). As a result, many previous studies fall short in capturing the essential features of the judicial experience features that are deeply embedded in narrative, emotion, and localized perception (Bergmann, 2024). The need for an approach that prioritizes subjective interpretation and experiential depth is therefore both timely and necessary for advancing comparative legal research.

In the domain of comparative legal studies, existing efforts to understand the application of foreign legal principles have largely relied on doctrinal analyses and structural comparisons (Assefa, 2024). These approaches typically examine legal systems through texts, statutes, and judicial decisions, offering practical insights into how foreign norms are integrated into domestic law (M. E. Doerfler, 2023). While such methods have contributed to mapping the trajectory of legal transplants, they often fall short in capturing the subjective and interpretive dimensions that shape legal reception at the individual level. The internal reasoning, emotional negotiations, and contextual adaptations experienced by judges are frequently overlooked or reduced to secondary considerations.

As highlighted by (Ahmad et al., 2024; Liang, 2023), these traditional methodologies do not adequately engage with the interpretative complexities embedded in the judicial process. They offer limited visibility into the experiential realities of legal actors, failing to uncover how meaning is constructed, contested, and embodied within the act of adjudication (Walker & Menon, 2024). The result is a fragmented understanding of how foreign legal concepts are not only applied but reinterpreted and localized through personal and cultural lenses.

To address this shortcoming, a phenomenological approach offers a compelling alternative. By focusing on the lived experiences of judges, this method enables a deeper exploration of the meanings they assign to foreign legal principles in the course of judicial reasoning (Lehnen Stoll, 2024). Rather than treating judges as passive recipients of transnational legal norms, phenomenology positions them as active agents whose perceptions, emotions, and contextual judgments shape the trajectory of legal integration (Amato, 2024). This approach fills a critical gap in the literature by

illuminating the human dimensions of comparative adjudication dimensions that remain invisible under conventional legal frameworks.

Previous studies have examined the use of foreign legal principles through comparative textual analysis and institutional reviews (Flanagan, 2025). While these approaches have mapped how legal transplants occur at a systemic level, few have explored how individual judges experience this process in practice. Research focusing on the internal, interpretative aspects of legal decision-making remains limited. Scholars such as (Ksiazek, 2024; Walckiers, 2024) have called for deeper attention to the human experience within legal systems. Their work highlights the importance of context, perception, and interpretation core elements that this study seeks to examine more closely.

To respond to this gap, the present study uses an interpretative phenomenological approach (IPA) to explore how judges experience the process of interpreting and applying foreign legal norms. This method enables an in-depth understanding of how legal meaning is formed through individual reflection, emotional responses, and contextual judgment (Hadi et al., 2023). IPA was selected for its ability to illuminate the personal and professional tensions that arise during cross-legal interpretation. Through this method, the study reveals how judges give meaning to legal principles and how those meanings affect judicial reasoning (Nyekwere et al., 2023). The approach answers the core question: How do judges experience and make sense of adopting foreign legal concepts within national courts?

This article begins with an introduction to the phenomenon and a review of relevant literature in comparative law and judicial studies (Schoultz et al., 2024). It then presents the phenomenological methodology, including participant selection, data collection, and analytic strategies (Gries et al., 2024; Kozak-Isik, 2025). The results section follows, structured by thematic interpretations drawn from the judges' lived experiences. A discussion section then reflects on the broader implications of the findings within legal scholarship. The article concludes by summarizing key insights and offering recommendations for future research in comparative legal practice.

## **RESEARCH METHODS**

### **Study Design**

This study employed an interpretative phenomenological approach to explore the lived experiences of judges in adopting foreign legal principles within the national judicial context (Fife, 2020). Interpretative Phenomenological Analysis (IPA) was chosen due to its focus on how individuals make sense of their personal and professional experiences within a specific socio-cultural setting. The approach is rooted in hermeneutic philosophy, which posits that experience is inherently interpretative and shaped by context, history, and meaning-making processes. The design was particularly suitable for addressing the research question, which sought to uncover the nuanced and subjective realities encountered by judges as they navigate between global legal standards and local judicial norms. The phenomenological lens enabled the extraction of essential meanings from narratives, providing deep insight into the interpretative processes embedded in judicial decision-making.

### **Participants**

Participants in this study consisted of senior judges from the national judicial system with direct experience in applying or interpreting foreign legal principles in court rulings. A purposive sampling approach was used to ensure the inclusion of individuals with rich and relevant experience concerning the phenomenon under investigation. Inclusion criteria required participants to have a minimum of ten years of judicial experience and documented involvement in cases involving the application of international or comparative legal norms. Exclusion criteria included individuals no longer actively serving in the judiciary or without direct exposure to comparative legal adjudication. A total of 12 participants (8 males and 4 females) were included, with ages ranging from 45 to 67 years. Their professional backgrounds encompassed civil, criminal, and constitutional law, adding diversity and depth to the contextual exploration of legal interpretation. The sample size of 12 was considered adequate based on methodological guidance in IPA research, which emphasizes depth over

breadth, and aligns with prior phenomenological studies involving 8–15 participants. This number allowed for detailed idiographic analysis while still enabling meaningful cross-case comparisons.

### **Data Collection**

Data were collected through in-depth, semi-structured interviews guided by a flexible interview protocol designed to elicit personal reflections and interpretative experiences. Interviews were conducted face-to-face in a private setting at the participants' offices or other neutral locations of their choosing to ensure comfort and confidentiality. Each interview lasted between 60 and 90 minutes and was audio-recorded with consent. The questions explored themes such as interpretative challenges, emotional responses, contextual adaptation, and institutional influences. The interview guide was developed based on existing literature on comparative legal systems and was adjusted iteratively based on preliminary insights. Field notes were taken to capture non-verbal cues and contextual observations relevant to the interpretative process.

### **Data Analysis**

Data were analyzed using Interpretative Phenomenological Analysis (IPA), which involves a series of systematic steps aimed at identifying and interpreting key themes within participants' narratives. Interview recordings were transcribed verbatim and imported into NVivo software to support the organization and coding of data. The analysis began with multiple readings of each transcript to gain a holistic understanding of individual experiences. Initial meaning units were coded inductively, followed by the identification of recurrent patterns across cases. Themes were then clustered into superordinate categories that captured the shared essence of experiences across participants while preserving the uniqueness of individual perspectives. Thematic saturation was determined when no new codes or themes emerged from successive interviews, with the last two interviews confirming redundancy rather than introducing novel insights. This iterative checking process ensured that the data corpus was sufficiently rich to address the research question comprehensively. The iterative process of coding and theme development allowed for the emergence of interpretative insights aligned with the study's phenomenological framework.

### **Ethical Considerations**

Ethical approval for this study was obtained from the relevant institutional ethics review board prior to data collection. All participants were informed of the purpose, procedures, and voluntary nature of the study, and written informed consent was obtained before participation. Anonymity and confidentiality were ensured by assigning pseudonyms and securely storing all data. The research complied with internationally recognized ethical standards for human subjects research, including the principles outlined in the Declaration of Helsinki.

## **RESULTS**

### **Navigating Between Normative Expectations and Contextual Realities**

One of the most salient themes emerging from the interviews is the internal tension judges experience when interpreting and applying foreign legal principles within the national judicial system. This tension stems from the dual pressure to uphold legal coherence and accommodate local sociocultural conditions.

A senior judge reflected on this complexity by stating:

“Although the principle looked ideal on paper, I hesitated to apply it. Our societal context is different; I had to reinterpret it to make sense here.”

This illustrates that judicial engagement with foreign law is not mechanical but involves constant negotiation between universalist aspirations and local relevance. Judges' interpretative labor thus reflects both fidelity to legal ideals and pragmatic sensitivity to cultural context, reinforcing the hybrid nature of comparative adjudication.

### **Legal Isolation and the Need for Interpretative Autonomy**

Several participants emphasized a sense of isolation when dealing with foreign legal texts, especially when no clear domestic jurisprudence or legislative framework exists to guide their decisions. In such circumstances, judges are left to exercise a significant degree of interpretative autonomy.

As one respondent put it:

“There were no precedents to follow. I had to rely on my own comparative readings and legal instinct to determine what was fair and legally acceptable.”

This sense of autonomy highlights the paradox of comparative adjudication: while it fosters creativity and judicial independence, it simultaneously exposes judges to risks of inconsistency and unpredictability. The findings suggest that autonomy in this context is a double-edged sword, empowering yet unsettling for both judges and the legal system they serve.

### **Emotional Ambivalence in Legal Decision-Making**

Judges described experiencing emotional ambivalence when adopting legal norms that originate from different legal cultures. Feelings of doubt, moral discomfort, and uncertainty were prevalent, particularly when foreign principles conflicted with local legal consciousness or cultural sensitivities.

One judge candidly admitted:

“I feared the decision would not resonate with the people. Even if legally sound, it might feel alien to our own legal sensibilities.”

These affective responses underscore that legal interpretation is as much an emotional process as it is cognitive. Emotional ambivalence functions as both a barrier and a filter, compelling judges to recalibrate imported principles in ways that resonate with national identity and societal expectations.

### **Strategic Adaptation and Legal Innovation**

Contrary to a passive reception of foreign law, judges demonstrated a strategic and innovative approach in integrating external legal concepts. Instead of wholesale adoption, they selectively adapted components that aligned with national jurisprudence and judicial philosophy.

One participant elaborated:

“We can’t just copy and paste. I adjusted the rationale so it fit with our own constitutional framework. The essence remained, but the expression was localized.”

This reflects an active mode of comparative reasoning, where judges act as translators of legal meaning. Strategic adaptation allows for innovation while preserving institutional legitimacy, producing a hybrid jurisprudence that bridges transnational and local legal orders.

### **Institutional Constraints and External Pressures**

Many judges reported encountering institutional and political pressures that influenced their discretion in adopting foreign legal principles. These included hierarchical expectations, limited access to comparative legal resources, and the implicit demand to uphold national legal sovereignty.

A judge commented:

“Sometimes the pressure comes from above. You know the principle works better, but you are expected to stick to the local line.”

Such constraints reveal that judicial agency operates within bounded autonomy. External pressures, whether political or institutional, shape how foreign law is filtered and applied. This interplay underscores the embeddedness of judicial practice within broader structures of power and sovereignty. In synthesis, the collective narratives of the judges reveal that adopting foreign legal principles is not a straightforward transplant but a dynamic interpretative process. The findings show how judges balance normative ideals with contextual realities, negotiate emotional ambivalence, exercise constrained autonomy, and engage in strategic adaptation. Rather than passive recipients,

judges emerge as active legal agents who reconfigure transnational norms within the distinctive fabric of the national judiciary.

## DISCUSSION

The findings of this study reveal that judges experience the adoption of foreign legal principles not as a straightforward legal task but as a deeply interpretative and emotionally complex process (Yavuz, 2024). These experiences highlight a dynamic interplay between professional obligation and personal meaning-making, shedding light on how judges internalize, resist, or reconfigure transnational norms within their own legal and cultural frameworks (Whiteley, 2025). This aligns closely with the central question posed in the introduction how do judges make sense of foreign legal concepts in the context of national adjudication?

The themes identified in the results offer a clear response to this question by uncovering the multifaceted nature of judicial experience (Alpa, 2025). The sense of tension between normative ideals and contextual realities, the need for interpretative autonomy, and the emotional ambivalence judges face all point to the fact that legal reasoning is not purely analytical. Instead, it is a layered activity that involves ethical reflection, emotional negotiation, and strategic adaptation (Tan, 2024). This study contributes uniquely to our understanding by situating the judge not merely as a legal technician but as a reflective agent shaped by institutional, cultural, and affective forces. In doing so, it provides a more holistic picture of how comparative legal reasoning actually unfolds in practice.

These findings both resonate with and expand upon earlier work in comparative law and judicial studies. (Vermeule, 2024) view of legal translation as inherently contextual and (Krupiy & Scheinin, 2023) emphasis on globalization's uneven effects on legal systems are clearly supported here. However, this study goes further by offering empirical insights into how judges feel and navigate these challenges, a dimension often underrepresented in prior literature (Giunta Martino, 2025). While doctrinal scholars have long debated the legitimacy and feasibility of legal transplants, this research adds an experiential layer that demonstrates how such transplants are filtered through judges' interpretative lenses. As such, the study enriches the theoretical discourse with grounded narratives, highlighting the vital role of human experience in shaping legal convergence and divergence.

The implications of these findings extend beyond the specific cases discussed and offer broader insights into the lived reality of comparative judicial practice (Kadir et al., 2024). The experiences of interpretative conflict, emotional ambivalence, and institutional constraint reflect the complex environment in which legal decisions are made, particularly when foreign norms intersect with local values. Socially, the findings suggest that judicial interpretation is not isolated from cultural identity or national legal consciousness, but actively shaped by them. Professionally, the study highlights the importance of allowing interpretative space for judges to engage critically and contextually with foreign principles rather than expecting uniform legal assimilation. This has practical implications for legal training, judicial capacity-building, and policy frameworks that guide cross-national legal integration.

Despite the contributions of this study, several limitations must be acknowledged. First, the research focuses on a specific group of senior judges within a single national legal system, which may limit the applicability of the findings across different jurisdictions or levels of the judiciary (Kiepek, 2025). Second, as a qualitative phenomenological inquiry, the emphasis is placed on depth rather than breadth, and the insights reflect subjective narratives rather than generalizable patterns. Third, the reliance on self-reported experiences introduces the possibility of memory bias or narrative reconstruction, although this is a known characteristic and accepted strength of phenomenological research. These limitations should be seen not as weaknesses but as boundaries that define the interpretative richness of the study.

Future research may build upon these findings by exploring how judges in other legal cultures navigate similar challenges in adopting foreign legal norms. Comparative phenomenological studies across jurisdictions could deepen our understanding of shared and divergent judicial experiences in transnational legal interpretation. In addition, interdisciplinary approaches integrating law, sociology,

and psychology could further illuminate how institutional identity, personal belief systems, and professional training interact in the process of judicial meaning-making. This line of inquiry has the potential to reshape how legal convergence is understood: not merely as an institutional process, but as a lived and evolving experience of legal actors.

## CONCLUSION

This study explored how judges experience the adoption of foreign legal principles within the national judicial context, focusing on their interpretative processes and personal meaning-making. The findings revealed that judges do not simply apply foreign norms but actively reinterpret them through emotional negotiation, contextual judgment, and professional reflection. These insights address a critical gap in comparative legal research by highlighting the subjective dimensions often overlooked in doctrinal or normative studies. By using an interpretative phenomenological approach, the study offers a deeper understanding of how legal actors internalize global norms within localized frameworks. The results provide a foundation for rethinking judicial training, legal integration policies, and the role of human agency in comparative law.

Based on these findings, several actionable recommendations can be proposed. For judicial training programs, curricula should incorporate modules on comparative legal reasoning that explicitly address the cognitive and emotional challenges judges face when engaging with foreign principles. Training should also include scenario-based simulations to help judges practice adapting transnational norms within domestic contexts. For policymakers, greater investment is needed in providing accessible comparative legal resources, translation tools, and institutional support to reduce the sense of isolation judges reported. Policy frameworks should encourage structured transnational judicial exchanges and dialogue platforms, enabling judges to share experiences and develop best practices for contextual legal adaptation. Future studies may expand this inquiry across jurisdictions to examine how shared or divergent experiences shape global legal dialogue.

## CONFLICT OF INTEREST

The authors declare that there is no conflict of interest.

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