

A LEGAL TRANSPLANTATION BY THE RULE OF LAW, COMPARATIVE STUDY, LEGAL CULTURE AND HISTORY

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Abstract

Legal transplantation introduces foreign laws or institutions into a legal system without considering the existing legal culture, a process that poses significant challenges. When borrowing occurs through complete assimilation, these challenges are particularly evident. This research aims to develop a theoretical framework for legal transplantation through the lens of path dependence, a framework that can address the challenges that arise from the historical development of legal systems. To accomplish this aim, a systematic literature review (SLR) was conducted. This entailed the selection and analysis of articles published between 2019 and 2024 that focused on specific subjects, including legal transplantation practices, legal path dependence practices, and law creation from legal history. The articles were obtained from the Scopus database, which is a widely recognized global journal database. The results indicate that the development of a theoretical framework for legal transplantation by path dependence encompasses legal discussions and the rule of law by the judiciary in the home country, considering the challenges posed by recent cultural structures. The article elucidates the pivotal role of path dependence in legal system development through legal transplantation, while also underscoring its limitations and its manifestation in different countries.

1. INTRODUCTION

Legal transplantation refers to the process of adopting legal principles, rules, or institutions from one legal system and incorporating them into another. This transfer can occur between countries, regions, or even within the same jurisdiction but across different areas of law. Legal transplantation aims to leverage existing legal frameworks to enhance or reform legal systems, often to address gaps, improve efficiency, or promote legal harmonization. Key considerations include cultural compatibility, adaptability, enforcement mechanisms, and the preservation of core legal principles during the transplantation process. Path dependence is the idea that past decisions and problems influence current legal decisions¹. It is challenging to transfer legal systems from different cultures, such as civil, common, religious, or secular law, as the options for legal transplantation are limited by the past. This concept is complex and difficult to convey due to its various interpretations. The research focuses on the need for legal transplantation, which can be thin or thick and may not consider political ideology or levels of democracy. Therefore, legal transplantation can bridge gaps, align with international standards, and boost economy growth, but challenges include cultural differences, skill development, and public awareness. The objective is to impose constraints on state actors, establish norms for the creation of law, and promote stability and consistency.

Legal transplantation in a legal system involves importing legal principles, rules, or institutions from one jurisdiction into another to address specific legal needs or to enhance the existing legal framework. This process can occur through formal legal reforms, treaties, or judicial decisions. Legal transplantation aims to improve legal systems by incorporating successful practices from other jurisdictions, adapting them to fit the local context, and promoting legal harmonization. Key aspects include ensuring compatibility, preserving core legal principles, addressing enforcement mechanisms, and promoting gradual adaptation to facilitate the integration of transplanted legal elements effectively. Typically, it encompasses a more expansive range of ideas pertaining to specific governmental structures, economic models, and human rights frameworks². The fundamental distinction between thick and thin thinking is that the former strives to maintain a separation between political morality and law, whereas the latter aims to integrate them. Undoubtedly, the legal system's delineation between thin and thick conceptions may be subject to scrutiny. It is, in fact, far from perfect. Regardless, these concepts might be able to adequately address the debates over path dependence and transplantation's legal restrictions. Also, the difference between thin and thick ideas matters when dealing with potentially authoritarian institutions. Specifically, the interpretation offered in this article relies heavily on the difference between the attitude toward political morality and legal formalism. Therefore, this research aims to develop a theoretical framework for legal transplantation by path dependence by analyzing a systematic literature review of publications from 2019-2024. The study focuses on the merging of various legal systems and the philosophical discussion surrounding this topic, despite its extensive scope.

Legal transplantation in a legal system is important for various reasons. It can expedite legal reform by importing established legal principles and institutions, saving time and resources in developing new laws from scratch³. Meanwhile, transplanting successful legal practices from other jurisdictions can improve the

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- 1 Ashley Deeks, "The Judicial Demand for Explainable Artificial Intelligence," *Columbia Law Review* 119, no. 7 (2019): 1829–50, <https://www.jstor.org/stable/10.2307/26810851>." making it difficult to identify how and why the algorithms reach particular decisions, recommendations, or predictions. Yet judges are confronting machine learning algorithms with increasing frequency, including in criminal, administrative, and civil cases. This Essay argues that judges should demand explanations for these algorithmic outcomes. One way to address the "black box" problem is to design systems that explain how the algorithms reach their conclusions or predictions. If and as judges demand these explanations, they will play a seminal role in shaping the nature and form of "explainable AI" (xAI)
 - 2 Lorna McGregor, Daragh Murray, and Vivian Ng, "International Human Rights Law as a Framework for Algorithmic Accountability," *International and Comparative Law Quarterly* 68, no. 2 (2019): 30–43, <https://doi.org/10.1017/S0020589319000046>. such as transparency, provide an important baseline, but are insufficient to address the (potential
 - 3 Frederick Schauer, *The Politics and Incentives of Legal Transplantation*, First (Cambridge, MA: Harvard University Press, 2000), <http://nrs.harvard.edu/urn-3:HUL.InstRepos:39526299%0ATerms>.

efficiency and effectiveness of the legal system in addressing emerging challenges^{4,5}. It helps promote legal harmonization and consistency, especially in areas where uniformity across different jurisdictions is desirable, such as international law or trade agreements. Therefore, by implementing best practices and improving the knowledge of legal professionals within the system, legal transplantation is one way to establish institutional capacity. It makes it possible to include contemporary legal concepts and techniques to match changing society demands and international trends. Legal transplantation bridges gaps in the legal system, promoting innovation and cross-border cooperation, fostering a just and fair legal system. Legal transplantation by path dependence involves adopting legal systems from one country based on historical precedent and existing legal frameworks. This process can streamline reforms, promote consistency, and facilitate modernization, but may also create challenges like cultural clashes and conflicts.

As demonstrated by the literature review above, legal transplantation is the process of transferring legal systems or concepts from one jurisdiction to another. The concept of path dependence is that past decisions and events can have a lasting impact on current actions, leading to a steadfast reliance on current legal frameworks, even if they are not the most effective or efficient. The reception and adjustment of legal systems when they are transferred from one location to another can be influenced by the phenomenon of path dependence in the context of legal transplantation, regardless of whether these systems are well-suited for the new environment. This influence is a result of the weight of historical precedent or inertia. Meanwhile, this article focuses on numerous possible legal transplantations in Indonesia. In fact, Indonesia has enhanced its system of governance and safeguarding of rights by assimilating aspects of constitutionalism from nations with a well-established constitutional structure. Essentially, a legislation that is valid in another country or has international applicability may be adopted and executed inside the legal framework of the Indonesian state. In order to be recognized at a national level, a positive state law must first be implemented via state legislation. In essence, any international laws, whether they are bilateral or regional, may only be enforced inside a country by the creation of a new legal product in the form of a law, which is considered positive law. State laws in Indonesia undergo legislative procedures before being enacted by the President and published in the state gazette for implementation within the authority of the Indonesian state.

Legal transplantation can be facilitated by the use of positive, customary, or Islamic law, particularly in cases involving human rights. This procedure involves the transplantation of a country's legal system, laws, and institutions to another. One approach to addressing human rights issues is to adopt or adapt legal frameworks from one jurisdiction to another. The G30S/PKI 1965 case, which took place in Indonesia in 1965, led to substantial human rights violations. Legal transplantation should be considered when current legal procedures have failed to adequately address human rights issues or deliver justice for victims. To address the current issues, it may be necessary to adopt human rights laws from other legal systems or even adopt international standards. Reconciliation settlements are often used in cases where there have been previous human rights violates, with the aim of facilitating rehabilitation and progress towards reconciliation. While reconciliation promises may assist victims and society in moving forward, they do not provide absolute justice. To ensure that any agreements made during reconciliation comply with international standards of justice and human rights, legal transplantation principles is possibly used. When evaluating the possibility for legal transplantation in instances like the G30S/PKI 1965, it is crucial to address the relevant legal considerations. An essential aspect of this process is to assess the extent to which the legal frameworks selected adhere to the regulations and norms of the jurisdiction in which they are implemented. In order to ensure the adherence to the rule of law and the proper implementation of this method, it is imperative that due consideration be given. Ultimately, if alternative judicial systems are unable to effectively address urgent human rights concerns, legal transplantation. may play a crucial role in bringing about substantial change. By incorporating human rights, responsibility, and justice into the legal transplantation process, it is possible to discover more efficient

4 Hao Yu, "On the Path of Legal Transplantation in the Era of Legal Interpretation," *International Journal of Frontiers in Sociology* 4, no. 12 (2022): 47–52, <https://doi.org/10.25236/ijfs.2022.041209>; Alexis Laurent et al., "Progenitor Biological Bandages: An Authentic Swiss Tool for Safe Therapeutic Management of Burns, Ulcers, and Donor Site Grafts," *Methods in Molecular Biology* 2286 (2021): 49–65, https://doi.org/10.1007/7651_2020_296.

5 P Małkosa, "Organ Procurement in Poland: Legal and Medical Aspects," *Transplantation Proceedings* 52, no. 7 (2020): 2015–25, <https://doi.org/10.1016/j.transproceed.2020.01.120>.

solutions to complex legal issues.

Another example, Indonesia has established a Human Rights Court to address serious human rights violations and restore security and peace. Law Number 26 of 2000 established this court, based on Article 104 paragraph (1) of Law Number 39 of 1999 concerning Human Rights. The Rome Statute, signed by 125 countries in 1998, aims to establish the International Criminal Court (ICC) or International Criminal Court (MPI) in Indonesia. The principles adopted by Indonesia include individual criminal responsibility, not state responsibility, and supporting efforts to find the truth through courts or reconciliation. The ICC Statute is used by the UN to prosecute and try violators of serious crimes, such as genocide, crimes against humanity, war crimes, and aggression. The MPI/ICC Statute has specific and universal principles, including the principle of *nullum crimen sine lege*, *nulla poena sine lege*, non-retroactive principle, individual criminal responsibility, commanders/superior accountability, non-expiry principle, exclusion in responsibility, and presumption of innocence. The application of the International Criminal Court's jurisdiction must comply with the principle of admissibility, which requires a serious unwillingness to exercise national jurisdiction or inability to do so.

The legal system of Indonesia has been shaped by several influences throughout its history, including Islamic law⁶, customary law⁷, and the legal system established by the Dutch⁸. The legal system of Indonesia is based on the legal system that was established during the period of Dutch colonial rule. Indonesia's legal system has adopted the civil law system, political structures, and particular legal ideas that the Dutch established during their colonization of Indonesia⁹. This effect is particularly evident in the domains of administrative law, criminal law, and civil law. Indonesia's legal system integrates components of Islamic law, also known as Sharia, due to its significant Muslim population¹⁰. It includes not just the field of family law but also inheritance law and particular aspects of criminal law in areas where Islamic law is implemented. The indigenous and rural communities of Indonesia place great significance on customary law. The state recognizes the importance of specific customary rules and practices to support local governance and the settlement of conflicts¹¹. Indonesia has embraced adopting legal principles and norms from international legal instruments, effectively integrating them into the structure of international law. Global treaties about trade, human rights, and the environment have substantially impacted domestic legislation and governmental strategies. The legal traditions of Indonesia have been shaped by a diverse range of cultural and historical circumstances, leading to a distinctive amalgamation that these external influences have impacted.

It's important to note that any legal transplantation should be done carefully, taking into account the specific needs and context of the receiving country to ensure successful implementation. Therefore, legal transplantation through path dependence is indispensable, as it acknowledges the historical evolution of legal systems and the necessity of preserving continuity and coherence in legal frameworks when introducing them to new environments.

Related to this issue, five previous studies with the same topic have been identified. The first study by Mousourakis George entitled "Comparative Law and Legal Traditions: Historical and Contemporary Perspectives" found that the examination of the impact of past legal judgments on the development of legal

6 Hasyim Sofyan Lahilote, "Legal Transplant in the Substance of the Authority of Religious Courts in Indonesia," *Journal of Law, Policy and Globalization* 93, no. 50 (2020): 135–42, <https://doi.org/10.7176/jlpg/93-14>.

7 Yohanes Firmansyah et al., "Elaboration, Collaboration, and Contribution of Traditional Law in Indonesian National Legal System," *International Journal of Social Science and Religion (IJSSR)* 2, no. 1 (2021): 1–21, <https://doi.org/10.53639/ijssr.v2i1.37>.

8 Bart Jansen, "The Juridical Disclosure of Ethics in the Netherlands and Indonesia," in *The Juridification of Business Ethics*, First (Cham: Springer Nature Switzerland, 2023), 41–66, https://doi.org/10.1007/978-3-031-39908-4_3.

9 Bart Jansen, "The Juridical Disclosure of Ethics in the Netherlands and Indonesia." In *The Juridification of Business Ethics*, First., 41–66. Cham: Springer Nature Switzerland, 2023. https://doi.org/10.1007/978-3-031-39908-4_3.

10 Hasyim Sofyan Lahilote, "Legal Transplant in the Substance of the Authority of Religious Courts in Indonesia," *Journal of Law, Policy and Globalization* 93, no. 50 (2020): 135–42. <https://doi.org/10.7176/jlpg/93-14>. "Legal Transplant in the Substance of the Authority of Religious Courts in Indonesia."

11 Yohanes Firmansyah et al., "Elaboration, Collaboration, and Contribution of Traditional Law in Indonesian National Legal System," *International Journal of Social Science and Religion (IJSSR)* 2, no. 1 (2021): 1–21, <https://doi.org/10.53639/ijssr.v2i1.37>.

systems and the resulting implications for contemporary legal transplantation is a primary focus of historical analysis.¹² When adopting laws from a jurisdiction with a similar or diverging legal framework, it is crucial to consider factors such as the context, objectives, and feasibility of implementing the proposed actions. Aligning legal principles, traditions, and cultures is essential when relocating to a jurisdiction with similar legal systems, such as civil law. Banakar's viewpoint underscores implementing laws from countries with similar legal backgrounds is more convenient and practical due to common legal principles and structures¹³. Werner Menski's analysis highlights the challenges and opportunities of transplanting legal principles between civil law and common law systems¹⁴. When transferring laws, it is essential to scrutinize disparities in legal principles, concepts, and practices to ensure seamless incorporation and compliance with legal obligations. Additionally, exceptional circumstances must be given due consideration when transferring laws, and it is possible to overcome these challenges by meticulously scrutinizing, modifying, and reconciling the circumstances. This ensures that laws are implemented in a manner consistent with the inherent principles and values of the recipient legal system.

In addition, the second study by Toby S Goldbach entitled "Why Legal Transplants?" found that, in the interim, comparative legal research indicates that conducting research that compares legal systems from other jurisdictions may assist in comprehending the ways in which the historical development of these systems affects the approval and modification of legal frameworks.¹⁵ Furthermore, the third study by Rizky Hadiwidjayanti and Liza Prihandhini entitled "Notary Responsibility for Legal Smuggling in the Issuance of Absolute Deed of Power of Attorney for Sale and Purchase of Land," found that case studies have also demonstrated that by analyzing specific examples of legal transplantation, it is possible to determine how path dependence has impacted the success or challenges encountered during the establishment of new legal systems.¹⁶ Next, the fourth study by Hao Yu entitled "On the Path of Legal Transplantation in the Era of Legal Interpretation," found that the policy implications of legal transplantation are the primary focus of the policy analysis study, with a particular emphasis on path dependence.¹⁷ It examines the potential for prior actions to either facilitate or impede the implementation of new legal frameworks. Lastly, the fifth study by Agung Iriantoro entitled "The Notary Law Politics in The Notary Position Act," is conducted within the domain of institutional studies to investigate the influence of institutions on the transmission of legal systems, with a focus on the impact of path dependence on the development of legal systems in a variety of contexts.¹⁸ It is crucial to develop a comprehensive understanding of how path dependence influences the originality of legal transplantation by critically scrutinizing and integrating the research conducted in these specific domains, thereby offering important perspectives to this particular area of research. Legal transplantation involves transferring laws or systems between nations to modernize and promote harmonization, addressing legal loopholes, promoting human rights, and fostering economic stability and peace. Thus, the research question is relied on how the theoretical framework for legal transplantation by path dependence is developed.

Legal transplantation is a method that involves importing foreign legal systems to improve a country's legal framework. However, it presents challenges. This article proposes a theoretical framework for legal

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- 12 Mousourakis George. *Comparative Law and Legal Traditions: Historical and Contemporary Perspectives*. *Comparative Law and Legal Traditions: Historical and Contemporary Perspectives*, 2019. <https://doi.org/10.1007/978-3-030-28281-3>.
 - 13 Mariana Motta Vivian, "Law, Justice and Reza Banakar's Legal Sociology," *Onati Socio-Legal Series* 11, no. 1 (2021): 1–29, <https://doi.org/10.35295/osls.iisl/0000-0000-0000-1169>.
 - 14 Pupu Sriwulan Sumaya, Yusriadi, and Sukirno, "Reconceptualization Wewengkon Land of Kasepuhan Cirebon Based on Justice (Werner Menski Analysis)," *Res Militaris* 12, no. 2 (2022): 3383–99.
 - 15 Toby S Goldbach. "Why Legal Transplants?" *Annual Review of Law and Social Science* 15 (2019): 583–601. <https://doi.org/10.1146/annurev-lawsocsci-101518-042617>.
 - 16 Rizky Hadiwidjayanti and Liza Prihandhini, "Notary Responsibility for Legal Smuggling in the Issuance of Absolute Deed of Power of Attorney for Sale and Purchase of Land," *Pena Justisia: Media Komunikasi Dan Kajian Hukum* 22, no. 1 (2023): 23–36, <https://doi.org/10.31941/pj.v22i1.2288>.
 - 17 Yu Hao, "On the Path of Legal Transplantation in the Era of Legal Interpretation." *International Journal of Frontiers in Sociology* 4, no. 12 (2022): 47–52. <https://doi.org/10.25236/ijfs.2022.041209>.
 - 18 Agung Iriantoro, "The Notary Law Politics in The Notary Position Act," *Jurnal Akta* 9, no. 3 (2021): 290–301, <https://doi.org/10.15575/ijni.v6i2.6227>.

transplantation by path dependence, considering legal history and recent cultural structures. The research aims to address these challenges and assess the current state of the legal system. Legal historians use this method to compare legal regulations and institutions, analyzing similarities and differences, considering factors like religion and historical records. Understanding history is crucial for examining inconsistencies and facilitating legal transplantation. In addition, path dependence ensures consistency in legal conceptions and judgments, preserving cultural norms and precedents. It enhances decision-making, reduces uncertainty, and accelerates legal problem resolution. Furthermore, legal systems can adapt to changing social, economic, and political conditions, promoting the rule of law. From these perspectives, path dependence benefits organizations, people, and enterprises by providing a clear framework for understanding rights, obligations, and consequences. It also enhances convergence by assimilating previous court decisions, cultural customs, and procedures. Consequently, the discussion of this research is focused on the lens of the umbrella of legal discussions and the rule of law by judiciary in the home country with consideration of difficulties in the form of recent cultural structures. The article highlights the significant influence of path dependence on legal system development through legal transplantation, but also highlights its limitations and its manifestation in different countries.

2. METHOD

This research employs a systematic literature review (SLR) to examine published works pertaining to legal transplantation practices, legal path dependence practices, and law creation from legal history. Systematic literature reviews (SLRs) in this article possessed significant reasons in legal research. SLRs in this article aims to provide a comprehensive analysis of existing legal literature on a specific topic¹⁹, offering a thorough understanding of the current state of knowledge and identifying gaps in research²⁰. By synthesizing and evaluating existing legal literature, this article enables the legal researchers to make evidence-based decisions and recommendations in legal practice, policy development, or academic discourse. It employs rigorous and transparent methods to minimize bias in the selection and analysis of legal literature, enhancing the reliability and credibility of research findings. Through systematic review processes, this article identifies trends, patterns, and inconsistencies in legal literature, contributing to a deeper understanding of legal issues and concepts. By summarizing and synthesizing relevant legal literature, this article presents valuable support for legal arguments, helping researchers strengthen their positions with a robust foundation of existing knowledge. It guides the development of research questions, methodologies, and approaches by highlighting gaps in knowledge and areas where further investigation is needed within the legal field. Thus, SLRs in this article plays a crucial role in informing policy development and reform by synthesizing research findings and providing insights into the implications of legal issues on policy outcomes. Conducting an SLR saves resources by systematically organizing and analyzing existing legal literature, preventing duplication of efforts and ensuring a comprehensive review of available knowledge. It promotes transparency in legal research by clearly documenting the search process, inclusion criteria, and analysis methods, enhancing the reproducibility and reliability of research outcomes. By synthesizing and summarizing legal literature, this research contributes to the advancement of knowledge in the legal field, facilitating further research and scholarly discourse on important legal topics. In data selection process of this article, the Scopus database is utilized as a reference service, and full-text articles undergo PRISMA analysis, including identification, filtering, eligibility, acceptance, feasibility visualization, and meta-analysis feasibility. Pertinent ideas are considered in the examination.

2.1. Eligibility Screening and Assessment

In the process of systematic planning using Publish and Perish 8 with the categories of legal transplantation practices, legal path dependence practices, and legal transplantation practices influenced by path dependence, the following results were obtained. Table 1 presents the results of systematic planning using Publish and Perish 8 on the Scopus database between 2019 and 2024.

19 Jacob Krüger et al., "Search. Review. Repeat? An Empirical Study of Threats to Replicating SLR Searches," *Empirical Software Engineering* 25, no. 1 (2020): 627–77, <https://doi.org/10.1007/s10664-019-09763-0>.

20 Hannah Snyder, "Literature Review as a Research Methodology: An Overview and Guidelines," *Journal of Business Research* 104 (2019): 333–39, <https://doi.org/https://doi.org/10.1016/j.jbusres.2019.07.039>.

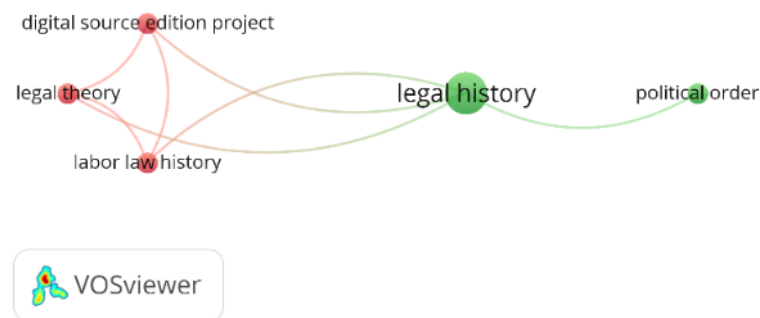
Table 1. The results of the systematic planning using Publish and Perish 8 on the Scopus database between 2019 and 2024 are presented below.

No	Category	Number	Citation Number by 2024
1.	Legal transplantation practices	154	1587
2.	Legal path dependence practices	5	41
3.	Law creation from legal history	78	293
Total		237	1921

Source: processed data by the author on March 10, 2024

A total of 237 legal transplantation practices, path dependence practices, and law creation from legal history were analyzed by researchers. The data were gathered in a Mendeley Reference Manager folder and exported as RIS data. The results were then visualized using VosViewers. **Figure 1** presents the results in the visualization form:

Figure 1. The Results in The Visualization Form



Source: processed data by the author on March 10, 2024

Research on legal transplantation practices, path dependence, and law creation from legal history is linked to digital source edition projects, legal theory, labor law history, and political order, highlighting the importance of legal history in legal transplantation.

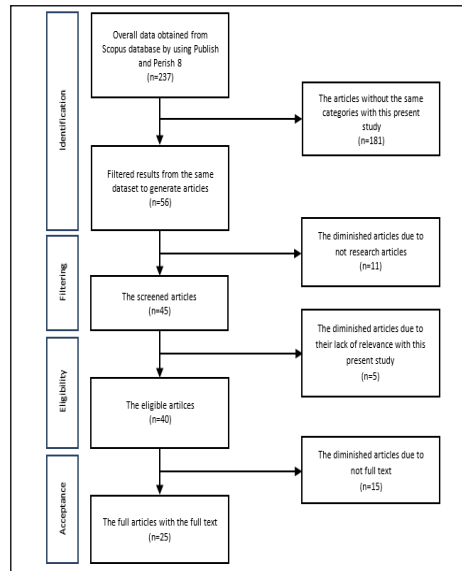
2.2. Pinpoints for Inclusion and Exclusion in Article Selection for SLR Investigation

The systematic literature review (SLR) method employs five primary stages for the selection of literature: 1) The chosen publication data consists of full text articles, excluding book reviews, theses, dissertations, book chapters, or proceedings; 2) The selection of the full text articles is limited to those published within the last 5 years (2019-2024) and covers the categories determined by the researchers, namely legal transplantation practices, legal path dependence practices, and law creation from legal history; 3) When conducting the investigation, the researchers exclusively rely on globally sourced data, specifically the Scopus database, which is a reputable journal with a strong reputation; 4) the researchers utilize specific applications such as Publish or Perish 8, Mendeley reference management, and VosViewer to facilitate the precise search for full text articles; 5) to obtain comprehensive global data on the three main themes mentioned above, researchers have opted to use the Scopus database for their search for the full text articles.

2.3. PRISMA Analysis

The process of searching for scientific publications was divided into several categories. These included legal transplantation practices, legal path dependence practices, and law creation from legal history. Based on the data presented in **Figure 2**, which illustrates the inclusion and exclusion criteria for literature selection, the PRISMA analysis process can be described as follows:

Figure 2. PRISMA Analysis connected to The Inclusion and The Exclusion in Literature Selection



Source: processed data by the author on March 10, 2024

A search was conducted on the Scopus database and a comprehensive worldwide database to analyze legal transplantation practices, path dependence practices, and law creation from legal history. A total of 237 articles were identified, but 181 were deemed irrelevant. Following the application of filters, 56 articles were examined, with 11 excluded due to non-research articles and 15 excluded due to irrelevance. A total of 30 articles with significant text were identified and converted into RIS format.

2.4. Data Configuration

The researchers obtained data from the Scopus database, which yielded a total of 237 articles. To narrow down the results, the researchers conducted filtering and identification based on the themes and keywords that had been previously determined. A total of 25 full-text articles were identified that matched the categories and full-text articles. **Table 2** presents the filtering results based on the matched themes, keywords, and full-text articles.

Table 2. The Filtering Results based on Matched Categories and Full Text Articles.

No	Category	Number
1.	Legal transplantation practices	15
2.	Legal path dependence practices	3
3.	Law creation from legal history	7
Total		25

Source: processed data by the author on March 10, 2024

3. FINDINGS

Legal transplantation can be facilitated by a theoretical map that encompasses path dependence in the home country and contemporary cultural structures. The relationship between formal legality and political morality is essential as legal systems adjust to evolving power structures. As a result, the discourse surrounding this research is centered on the legal discourse and the rule of law as interpreted by the judiciary in the country of origin, with an emphasis on the challenges posed by contemporary cultural structures. The article acknowledges the substantial impact of legal transplantation by path dependence for developing the theoretical framework through the lens of legal transplantation practices, legal discussion, and the rule of law, while also emphasizing its limitations and its manifestation in various countries. A total of 25 relevant and complete journal articles were identified through the PRISMA Analysis by Mendeley Reference Manager. These articles were published between 2019 and 2024 on the Scopus database. The articles were categorized according to their respective fields of study, with the number of authors, year of publication, title, method, and country of research also provided.

3.1. Legal Transplantation Practices

The term “legal transplantation” refers to the transfer of a legal system from one nation to another, often through the process of migrating rules or legal systems,^{21 22 23}. This concept is crucial in the debate on legal transplantation and path dependence²⁴. The idea of legal transplantation is not about emulating it word for word, but rather accepting it in general and recognizing its importance in building legal systems²⁵. When one’s own legal system is shaped by an external model, it becomes more similar to that model, leading to a shift in the law²⁶. This shift in law can have various interpretations, particularly in legal sectors related to commercial activities like leasing, factoring, and franchising. The investigation of legal transplantation

- 21 Shih Ning Then and Dominique E. Martin, “Transitions in Decision-Making Authority at the End of Life: A Problem of Law, Ethics and Practice in Deceased Donation,” *Journal of Medical Ethics* 48, no. 2 (2022): 12–17, <https://doi.org/10.1136/medethics-2020-106572>; Paulina Mąkosa et al., “Organ Procurement in Poland: Legal and Medical Aspects,” *Transplantation Proceedings* 52, no. 7 (2020): 15–25, <https://doi.org/10.1016/j.transproceed.2020.01.120>; Alexis Laurent et al., “Progenitor Biological Bandages: An Authentic Swiss Tool for Safe Therapeutic Management of Burns, Ulcers, and Donor Site Grafts,” *Methods in Molecular Biology* 2286 (2021): 49–65, https://doi.org/10.1007/7651_2020_296.
- 22 Jarosław Czerwiński et al., “The Current Status of Organ Donation and Transplantation in Poland. Poltransplant Activity,” *Transplantation Proceedings* 54, no. 4 (2022): 37–47, <https://doi.org/https://doi.org/10.1016/j.transproceed.2022.02.053>; Y. Alhawari et al., “Religious Denomination Influencing Attitudes towards Brain Death, Organ Transplantation and Autopsy—a Survey among People of Different Religions,” *International Journal of Legal Medicine* 134, no. 3 (2020): 03–12, <https://doi.org/10.1007/s00414-019-02130-0>.
- 23 P W Winkler, “Germany Has a High Demand in Meniscal Allograft Transplantation but Is Subject to Health Economic and Legal Challenges: A Survey of the German Knee Society,” *Knee Surgery, Sports Traumatology, Arthroscopy* 30, no. 7 (2022): 52–57, <https://doi.org/10.1007/s00167-022-06889-5>; Z Li, “The Reform of the Legal System in the Late Qing,” *Journal of Modern Chinese History* 16, no. 1 (2022): 50–70, <https://doi.org/10.1080/17535654.2022.2101792>; A Lewis, “Allied Muslim Healthcare Professional Perspectives on Death by Neurologic Criteria,” *Neurocritical Care* 33, no. 2 (2020): 47–57, <https://doi.org/10.1007/s12028-020-01019-w>.
- 24 A Wall, “Medical Standards Are Aligned with Normothermic Regional Perfusion Practices and US Legal Standards for Determining Death.” *American Journal of Transplantation*, 2022. <https://doi.org/10.1111/ajt.17114>.
- 25 M Labuschaigne, “The Ethicolegal Framework Relevant to Human Faecal Microbiota Transplants in South Africa: Part 1. A Legal Vacuum,” *South African Medical Journal* 110, no. 8 (2020): 12–15, <https://doi.org/10.7196/SAMJ.2020.v110i8.14563>; T Vilchik, “Areas for Further Improvement of Legislative Regulation of Patients’ Rights in Ukraine,” *Wiadomosci Lekarskie (Warsaw, Poland : 1960)* 72, no. 7 (2019): 24–30, https://api.elsevier.com/content/abstract/scopus_id/85071280230; S A Deutsch, “For Victims of Fatal Child Abuse, Who Has the Right to Consent to Organ Donation?,” *Pediatrics* 146, no. 3 (2020), <https://doi.org/10.1542/PEDS.2020-0662>.
- 26 N Noori, “Transplanting Good Practices in Smart City Development: A Step-Wise Approach,” *Government Information Quarterly*, 2023, <https://doi.org/10.1016/j.giq.2023.101802>; E F Hutchinson, “The Law, Ethics and Body Donation: A Tale of Two Bequeathal Programs,” *Anatomical Sciences Education* 13, no. 4 (2020): 12–19, <https://doi.org/10.1002/ase.1922>; A O Affdal, “Impact of Legislation and Public Funding on Oncofertility: A Survey of Canadian, French and Moroccan Pediatric Hematologists/Oncologists,” *BMC Medical Ethics*, 2020, <https://doi.org/10.1186/s12910-020-00466-6>.

subverts the concept of law's character and its association, highlighting interdependent linkages beyond national boundaries. Despite being a complex and paradoxical topic, legal transplantation still occurs in the real world of modern legal systems.

3.2. Legal Discussion

Legal transplantation often involves discussions about path dependence. Typical reactions to this problem involve questions about the characteristics of legal assumptions and the validity of decisions based on previous cases²⁷. Although individuals engaged in legal transplantation are knowledgeable about and evaluate various forms of route dependence, it is customary to seek out distinctions. The legal debate objective is to assess history's worth and relevance as a tool for explaining legal transplanting before considering route dependence. This investigation will be preceded by path dependence. Path dependence is a suitable term to describe the most important social events and specific legal issues are anticipated to have enduring effects. Legal transplantation makers can discern the various forms of route dependence by comparing reactive sequences and the differentiation of self-enforcing sequences.

The findings of this study indicate that the fundamental premise of this concept is that past events influence present outcomes. Legal transplantation refers to transferring concepts, institutions, and laws from one jurisdiction to another. This approach gives rise to several significant legal concerns. Ensuring the compatibility of transplanted legal components with the receiving legal system is an effective strategy for preventing disputes and fostering harmonization. Modifying transplanted laws to align with the social and cultural norms of the receiving jurisdiction while reintroducing fundamental legal principles. When discussing the implementation of transplanted laws, it is crucial to consider factors such as compliance procedures, enforcement agencies, and legal remedies. Examining the receiving system's particular legal customs and procedures to determine the correct understanding and implementation of imported laws.

Several considerations are necessary to guarantee compatibility, avoid conflicts, and facilitate harmonization when moving legal elements across different jurisdictions. To carry out this research effectively, it is crucial to thoroughly comprehend the legal traditions, cultural norms, and values of both the receiving and providing countries. To improve acceptance and integration, the legal aspects of the transplant must align with the cultural norms of the recipient. This study discovered that assessing the capacity and organization of the receiving jurisdiction in terms of its institutional framework is crucial. It is necessary to guarantee the effective implementation and enforcement of the transplanted legislative elements. To include new legal notions, modifying existing institutional practices must be essential. Within the framework, it is crucial also to recognize any inconsistencies or disagreements between the legal elements that have been transferred and the existing legislative structure of the jurisdiction where they are being implemented. Modifications or amendments may be necessary to harmonize the two legal systems. Moreover, this study revealed that it is necessary to educate judges, government officials, and legal specialists via capacity-building programs to guarantee the effective transmission of legal elements. Public participation in the legal transplanting process may improve the changes' transparency, legitimacy, and acceptability. It can be achieved via consultations, awareness campaigns, and feedback mechanisms, all while ensuring public understanding and involvement. Thus, governments may improve the compatibility of transplanted legal components, reduce possible disputes, and foster harmonization of legal systems by considering these elements and adequately planning and organizing.

In Indonesia, a country known for its diversity encompassing various ethnic groups, religions, and customs, the existence of multiple legal cultures poses a challenge in achieving unity. This diversity often leads to problems. However, the national law, which incorporates elements from both local and adopted laws, serves as a means to address these issues. The living law in Indonesia is aligned with the values of the Indonesian people's philosophy of life, known as Pancasila, which serves as the fundamental principle. Additionally, the existing colonial legacy laws are still in force and are complemented by the adoption of internationally recognized laws that are deemed suitable and in harmony with Pancasila. In order for these measures to be

27 A Svetlicinii, "Cultural Heritage Divided by (International) Law: The Case of North Macedonia," *International Journal for the Semiotics of Law* 34, no. 3 (2021): 39–59, <https://doi.org/10.1007/s11196-021-09832-y>.

successful in enforcing and executing them, it is necessary to have institutional coherence and synergy among the law enforcement authorities.

Evaluating public reception and comprehension of implemented laws is essential to guarantee their legitimacy and effectiveness. This study investigates the possible enduring effects of legal transplanting on the country's governance, societal norms, and legal framework. By implementing feedback collection methods, it can effectively monitor the efficacy of transplanted law and make necessary adjustments to rectify any deficiencies or unintended repercussions. Developing mechanisms to resolve conflicts that may occur when transplanted laws conflict with the existing legal standards of the receiving jurisdiction. Creating a framework for the legal institutions and stakeholders in the receiving jurisdiction to effectively implement and enforce laws transferred from a different province or territory. In order to guarantee the enduring effectiveness of legal transplanting programs, it is crucial to foster continuous dialogue, assessment, and adaptation to changing conditions.

3.3. The Rule of Law

Path dependence is connected to the enforcement of legal principles by the courts in the country of origin. Any attentive individual will promptly observe this correlation. This item demonstrates the political practitioners' interest in establishing institutions by creating institutions. An explanatory model that considers the importance of historical factors and the establishment of political or legal institutions is unquestionably essential for legislative modifications. It is not possible to avoid or escape this necessity. This statement holds particularly true in the fields of development and regulatory affairs. Route dependence theory offers potential solutions to the issues that have hindered previous endeavors in legal reform and can enhance the system's efficiency in the future.

The findings of this study indicate that legal transplantation relies on the rule of law. This framework guarantees that the procedure aligns with principles of transparency, fairness, and accountability. Through the implementation of legal transplantation, we can enhance the clarity and predictability of the legal system, thereby improving the accessibility, comprehensibility, and uniform application of laws. The components of legal transplantation must guarantee that all individuals are treated equitably and without bias by the principles of non-discrimination and equality. In order to facilitate the legal transplantation process, it is imperative to establish mechanisms that guarantee transparency in decision-making, prevent the abuse of power, and enforce responsibility for the actions of individuals and organizations. Preserving the judiciary's autonomy in the receiving jurisdiction is essential to uphold the principles of legal governance and prevent any unwarranted interference in judicial proceedings. The laws transferred from one place to another must provide adequate protection for the rights and freedoms of individuals. These laws should safeguard citizens from arbitrary actions by the government and guarantee that everyone has equal access to the legal system. We must ensure that preserving essential legal concepts and institutions is not compromised in pursuing change. In order to accomplish this objective, legal transplantation should focus on ensuring the law's consistency and stability. The legal system is structured with checks and balances to prevent any entity from violating the law or accumulating excessive power. To enhance public trust in the justice system and bolster the rule of law, it is crucial to maintain transparent decision-making processes and actively involve stakeholders. Establishing robust compliance and enforcement mechanisms is essential for upholding the rule of law and ensuring transferred legislation's successful and uniform implementation. Legal transplantation should facilitate the development and adjustment of laws over time to address societal demands and changing situations while still upholding the principles of the rule of law.

3.4. Difficulties in the Form of Recent Cultural Structures

Legal transplantation is a complex subject, so it is crucial to differentiate between older and newer methods when discussing path dependence on legal change. While the study of legal history is of great significance, it is not feasible or necessary to encompass every event in the field. Alternatively, it should be structured into discrete chronological intervals and divisions²⁸. Culture substantially influences the decision-

28 Y Alhawari, M. A. Verhoff, H. Ackermann, and M. Parzeller, "Religious Denomination Influencing Attitudes towards Brain Death, Organ Transplantation and Autopsy—a Survey among People of Different Religions." *International*

making processes of institutions, thereby molding a society's enduring customs and behaviors, including its legal culture²⁹. The term "legal culture" refers to the distinct manner in which a system's customs, organizations, and standards influence the legal framework. An alternative perspective is the mindset and approach that perseveres in establishing a system of legal principles³⁰. Path dependence is a commonly accepted viewpoint that emphasizes the significance of decisions³¹.

The findings of this study indicate that the cultural frameworks of the country where a legal system originates present considerable obstacles to legal transplantation systems. Challenges or resistance may occur during the implementation process if the country's current cultural norms and values conflict with illicitly imported norms. The evolution of cultural customs can create obstacles in comprehending and embracing foreign legal concepts, potentially impeding the progress of incorporating and executing these principles. Therefore, evaluating the effectiveness of legal transplantation, an in-depth impact evaluation is needed. This involves collecting data on experts, communities, legislators, and legal professionals' opinions on the transplanted laws. Cultural norms, values, and traditions should be considered when comparing the transplanted laws to the recipient system. Tailoring the laws to the recipient country's context can help remove cultural barriers. Capacity development programs should be funded to educate judges, lawyers, and lawmakers on the transplanted legal instruments.

Legal institutions may incorporate pre-established cultural frameworks, which can result in opposition to change and complicate the assimilation of foreign laws. Transplanting new legal characteristics into recent cultural institutions may pose a more significant challenge due to the influence of power relations on legal proceedings. Ensuring consistent implementation of transplanted legal norms may be difficult if recent cultural changes impact the interpretation and enforcement of laws. In order to successfully implement transplanted laws, it may be necessary to devise strategies to overcome resistance and encourage compliance due to the potential challenges presented by contemporary cultural institutions. Recent changes in cultural norms may impact public perception of transplanted laws, potentially affecting their relevance and implementation in the host country. It is important to educate stakeholders and the general public about legal transplanting and its advantages to promote acceptance and compliance and address existing cultural structures. Contemporary cultural frameworks can lead individuals to antagonize legislative changes related to legal transplantation. Given the potential, it is imperative to devise strategies to surmount resistance and foster change. Updating transplanted legal elements to align with contemporary cultural institutions while maintaining their fundamental legal principles can pose a significant challenge. It necessitates researching numerous cultures and developing an understanding of their distinctiveness.

3.5. Discussion of Theoretical Framework for Legal Transplantation by Path Dependence

Due to the aim of this research, the research has a significant role in developing theoretical framework for legal transplantation by path dependence. Thus, the research question is relied on how the theoretical framework for legal transplantation by path dependence is developed. The connection between narrow political morality and more generalized formal legality is crucial as legal systems adapt to shifting political and economic power structures. While rigid definitions seek to unite morality with the rule of law by judiciary in the home country, instrumentalists seek to disentangle political morality from the law by highlighting its technical and procedural components. To right moral wrongs and shape national sovereignty, people go to instrumentalist notions like laws, which seek to accomplish ends like the common good or general welfare³².

Journal of Legal Medicine 134, no. 3 (2020): 1203–12. <https://doi.org/10.1007/s00414-019-02130-0>, "Religious Denomination Influencing Attitudes towards Brain Death, Organ Transplantation and Autopsy—a Survey among People of Different Religions."

29 Z Li, "The Reform of the Legal System in the Late Qing." *Journal of Modern Chinese History* 16, no. 1 (2022): 50–70. <https://doi.org/10.1080/17535654.2022.2101792>.

30 A Lewis, "Allied Muslim Healthcare Professional Perspectives on Death by Neurologic Criteria." *Neurocritical Care* 33, no. 2 (2020): 347–57. <https://doi.org/10.1007/s12028-020-01019-w>.

31 P Mąkosa, "Organ Procurement in Poland: Legal and Medical Aspects," *Transplantation Proceedings* 52, no. 7 (2020): 2015–25, <https://doi.org/10.1016/j.transproceed.2020.01.120>.

32 Laurent et al., "Progenitor Biological Bandages: An Authentic Swiss Tool for Safe Therapeutic Management of

Cultural pressure to distinguish between political morality, law, and legality has limited the scope of traditional legal philosophy³³. This myopic perspective stems from the common law's precarious underlying concept, which is responsive to precedent and path dependence. Over the course of a thousand years, a stable political structure was established as a result of the interplay between legal philosophy and legalist administration. Separation of powers and the possibility of major violations are highlighted by the need for an impartial and independent tribunal for the rule of law by judiciary in the home country.

Path dependence, which refers to the tendency for current decisions to be influenced by past events, is seen in the policies implemented by the United States, the United Kingdom, and Germany on the legal transplantation of people in their respective original countries. A notable feature of American law, especially in the areas of property law, contract law, and constitutional law, is the presence of path dependence in legal transplantation. One may argue that the US Constitution is a clear example of a legal document that has emerged due to a reliance on a certain path or course of action. The legal system of the United Kingdom has formed path dependence in subjects such as administrative law, contract law, and tort law. This is a result of the historical growth of the legal system and the impact of common law. The development of the rule of law and judicial precedent are interconnected expressions of this legal process. Germany's legal system, which is based on historical roots, shows path dependence in several sectors such as administrative, criminal, and commercial law. It follows the principles of civil law. An example that demonstrates the path-dependent legal growth via a legal transplant is the German Civil Code, also known as the *Bürgerliches Gesetzbuch*.

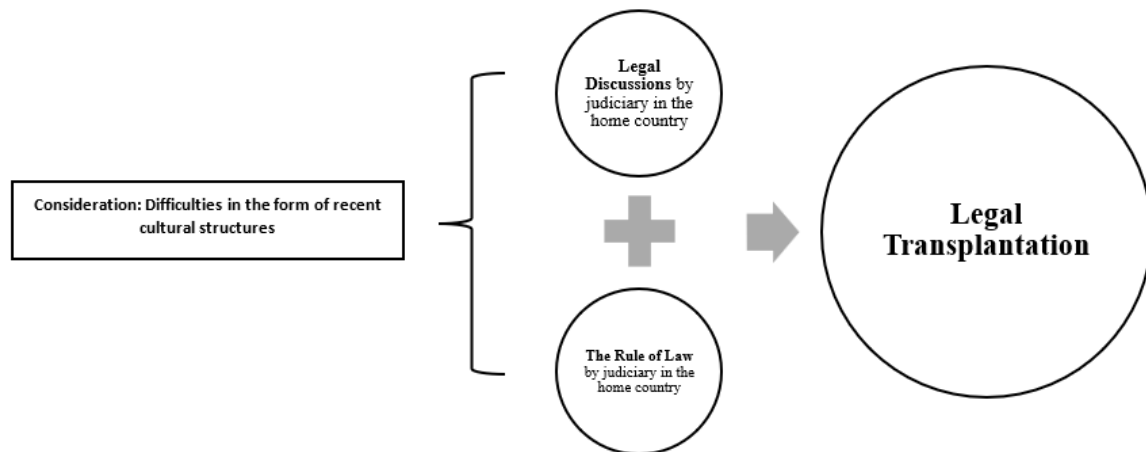
The political oppression of the nation led to the establishment of socialist laws and a new legal culture. An essential aspect of the previous socialist legal culture was hyper positive, which supported a preference for linguistic and logical interpretation and placed a heavy emphasis on the literal interpretation of legal transplanted. That is a crucial point to consider when discussing the variations in modern conceptions of the rule of law by judiciary in the home country. This cultural aspect of law was fundamental to the style of judicial reasoning that was characterized by an overemphasis on procedural formalities and an overreliance on legal formalities. At present, it is officially recognized that such a socialist law does not exist. However, when factors like path dependence and legal culture are considered, the picture takes on a different appearance.

The results of this research investigation indicate the existence of a path dependence for legal translation. This theoretical map encompasses the umbrella of legal discussions and the rule of law by the judiciary in the home country, taking into account the difficulties presented by recent cultural structures, as illustrated in **Figure 3**.

Burns, Ulcers, and Donor Site Grafts"; Then and Martin, "Transitions in Decision-Making Authority at the End of Life: A Problem of Law, Ethics and Practice in Deceased Donation"; Czerwiński et al., "The Current Status of Organ Donation and Transplantation in Poland. Poltransplant Activity"; Labuschaigne, "The Ethicolegal Framework Relevant to Human Faecal Microbiota Transplants in South Africa: Part 1. A Legal Vacuum."

33 Vilchik, "Areas for Further Improvement of Legislative Regulation of Patients' Rights in Ukraine"; Mąkosa et al., "Organ Procurement in Poland: Legal and Medical Aspects"; Deutsch, "For Victims of Fatal Child Abuse, Who Has the Right to Consent to Organ Donation?"; Noori, "Transplanting Good Practices in Smart City Development: A Step-Wise Approach."

Figure 3. Theoretical Framework for Legal Transplantation by Path Dependence



Source: processed data by the author on March 10, 2024

The practice of legal transplantation is becoming increasingly prevalent among state concerns, frequently in conjunction with practical consideration rules³⁴. The legal dynamic surrounding legal transplantation is one of evolution, with outcomes that are difficult to predict. Structural coupling states that systems are interdependent with their environments, and law is physically dependent on its location. Path dependence, both a legal transplantation perspective and a legal history perspective, is a significant factor. Path dependence research focuses on the development of institutions and generalizable explanatory models for legal transplantation. Institutions undergo gradual transformation when new regulations and frameworks are affixed to preexisting ones through layering. Proponents of path dependence theory believe that the past is significant because historical forces bind laws to repeat themselves. Legal reformers should read path dependence literature to understand the historical context of legal transplants. The interdependencies of the system across institutions are of crucial importance. In developing nations, changes have been unsuccessful in addressing path dependence processes, as people's attitudes and actions are resistant to change. Legal cultural adaptive behavior is essential for effective rule-of-law changes.

Figure 3 demonstrates that legal transplantation involves adopting legal systems or principles from one jurisdiction to another. The concept of path dependence suggests that historical choices and events can shape current decisions, leading to a continued reliance on existing legal structures even when they may not be the most efficient or effective. Legal transplantation involves adopting legal elements from one system to another, considering historical development and the existing legal framework in the receiving system. This process involves feedback mechanisms to assess the effectiveness of the transplanted legal elements and make necessary adjustments based on the specific needs and circumstances of the receiving system. Path dependence ensures that fundamental legal principles and values are preserved during the transplantation process, maintaining consistency and stability in the legal system. This research aims to understand how past decisions constrain or facilitate the adoption of new legal frameworks and contribute valuable insights to the field of legal transplantation.

34 A Lewis, "Allied Muslim Healthcare Professional Perspectives on Death by Neurologic Criteria." *Neurocritical Care* 33, no. 2 (2020): 347–57. <https://doi.org/10.1007/s12028-020-01019-w>; A Wall, "Medical Standards Are Aligned with Normothermic Regional Perfusion Practices and US Legal Standards for Determining Death." *American Journal of Transplantation*, 2022. <https://doi.org/10.1111/ajt.17114>; Czerwiński, Jarosław, Krystyna Antoszkiewicz, Aleksandra Woderska-Jasińska, Teresa Danek, Małgorzata Hermanowicz, Anna Łęczycka, Adam Parulski, et al. "The Current Status of Organ Donation and Transplantation in Poland. Poltransplant Activity." *Transplantation Proceedings* 54, no. 4 (2022): 837–47. <https://doi.org/https://doi.org/10.1016/j.transproceed.2022.02.053>; P Mąkosa, "Organ Procurement in Poland: Legal and Medical Aspects," *Transplantation Proceedings* 52, no. 7 (2020): 2015–25, <https://doi.org/10.1016/j.transproceed.2020.01.120>.

4. CONCLUSION

The legal culture of a country significantly influences the rule of law as determined by the judiciary. Furthermore, the development of legal culture is influenced by the country's legal history. This can result in difficulties within the legal system due to the existence of long-standing legal and cultural crossroads. Path dependence in the context of legal transplantation necessitates consideration of recent cultural structures and legal discourses. This research illustrates the limitations of legal transplantation and the necessity of historical context when discussing complex concepts such as the rule of law by the judiciary in a home country. While path dependence provides insights into the limitations of legal transplantation, it is not a solution for modifying the legal system or studying comparative law. Path dependence in legal systems is evident in common law countries like the UK and the US, where legal decisions and precedents build upon historical case law. Civil law systems like Germany codifies principles influenced by past legal traditions. Constitutional law in the US reflects path dependence in interpretation, judicial review, and fundamental rights. International law also reflects path dependence in shaping global legal frameworks and promoting consistency.

Future studies should address challenges related to legal transplantation by specific path dependence. In addition, comparative analysis of legal transplantation techniques across jurisdictions is crucial to align transplanted legal instruments with path-dependent traditions because it can potentially be addressed to identify trends, challenges, and successful approaches in this domain. Future studies can also explore the impact of legal transplantation on legal systems, institutions, social norms, and strategies for adapting legal frameworks to diverse cultural environments and incorporating path dependency concepts. Therefore, they should also consider the perspectives of stakeholders, including community people, academics, policymakers, and legal experts, to gain a comprehensive understanding of the process.

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6. CONFLICT OF INTEREST

No conflict of interest exists in this research manuscript article.

REFERENCES

- Affdal, A O. "Impact of Legislation and Public Funding on Oncofertility: A Survey of Canadian, French and Moroccan Pediatric Hematologists/Oncologists." *BMC Medical Ethics*, 2020. <https://doi.org/10.1186/s12910-020-00466-6>.
- Alhawari, Y., M. A. Verhoff, H. Ackermann, and M. Parzeller. "Religious Denomination Influencing Attitudes towards Brain Death, Organ Transplantation and Autopsy—a Survey among People of Different Religions." *International Journal of Legal Medicine* 134, no. 3 (2020): 1203–12. <https://doi.org/10.1007/s00414-019-02130-0>.
- Czerwiński, Jarosław, Krystyna Antoszkiewicz, Aleksandra Woderska-Jasińska, Teresa Danek, Małgorzata Hermanowicz, Anna Łęczycka, Adam Parulski, et al. "The Current Status of Organ Donation and Transplantation in Poland. Poltransplant Activity." *Transplantation Proceedings* 54, no. 4 (2022): 837–47. <https://doi.org/https://doi.org/10.1016/j.transproceed.2022.02.053>.
- Deeks, Ashley. "The Judicial Demand for Explainable Artificial Intelligence." *Columbia Law Review* 119, no. 7 (2019): 1829–50. <https://www.jstor.org/stable/10.2307/26810851>.
- Deutsch, S.A. "For Victims of Fatal Child Abuse, Who Has the Right to Consent to Organ Donation?" *Pediatrics* 146, no. 3 (2020). <https://doi.org/10.1542/PEDS.2020-0662>.
- Firmansyah, Yohanes, Michelle Angelika S, Hanna Wijaya, and Yana Sylvana. "Elaboration, Collaboration, and Contribution of Traditional Law in Indonesian National Legal System." *International Journal of Social Science and Religion (IJSSR)* 2, no. 1 (2021): 1–21. <https://doi.org/10.53639/ijssr.v2i1.37>.
- Goldbach, Toby S. "Why Legal Transplants?" *Annual Review of Law and Social Science* 15 (2019): 583–601. <https://doi.org/10.1146/annurev-lawsocsci-101518-042617>.
- Hadiwidjayanti, Rizky, and Liza Prihandhini. "Notary Responsibility for Legal Smuggling in the Issuance of Absolute Deed of Power of Attorney for Sale and Purchase of Land." *Pena Justisia: Media Komunikasi Dan Kajian Hukum* 22, no. 1 (2023): 223–36. <https://doi.org/10.31941/pj.v22i1.2288>.
- Hutchinson, E F. "The Law, Ethics and Body Donation: A Tale of Two Bequeathal Programs." *Anatomical Sciences Education* 13, no. 4 (2020): 512–19. <https://doi.org/10.1002/ase.1922>.
- Iriantoro, Agung. "The Notary Law Politics in The Notary Position Act." *Jurnal Akta* 9, no. 3 (2021): 290–301. <https://doi.org/10.15575/ijni.v6i2.6227>.
- Jansen, Bart. "The Juridical Disclosure of Ethics in the Netherlands and Indonesia." In *The Juridification of Business Ethics*, First., 41–66. Cham: Springer Nature Switzerland, 2023. https://doi.org/10.1007/978-3-031-39908-4_3.
- Krüger, Jacob, Christian Lausberger, Ivonne von Nostitz-Wallwitz, Gunter Saake, and Thomas Leich. "Search. Review. Repeat? An Empirical Study of Threats to Replicating SLR Searches." *Empirical Software Engineering* 25, no. 1 (2020): 627–77. <https://doi.org/10.1007/s10664-019-09763-0>.
- Labuschaigne, M. "The Ethicolegal Framework Relevant to Human Faecal Microbiota Transplants in South Africa: Part 1. A Legal Vacuum." *South African Medical Journal* 110, no. 8 (2020): 812–15. <https://doi.org/10.7196/SAMJ.2020.v110i8.14563>.
- Lahilote, Hasyim Sofyan. "Legal Transplant in the Substance of the Authority of Religious Courts in Indonesia." *Journal of Law, Policy and Globalization* 93, no. 50 (2020): 135–42. <https://doi.org/10.7176/jlpg/93-14>.
- Laurent, Alexis, Corinne Scaletta, Murielle Michetti, Nathalie Hirt-Burri, Marjorie Flahaut, Wassim Raffoul, Anthony S. de Buys Roessingh, and Lee Ann Applegate. "Progenitor Biological Bandages: An Authentic Swiss Tool for Safe Therapeutic Management of Burns, Ulcers, and Donor Site Grafts." *Methods in Molecular Biology* 2286 (2021): 49–65. https://doi.org/10.1007/7651_2020_296.
- Lewis, A. "Allied Muslim Healthcare Professional Perspectives on Death by Neurologic Criteria." *Neurocritical Care* 33, no. 2 (2020): 347–57. <https://doi.org/10.1007/s12028-020-01019-w>.

- Li, Z. "The Reform of the Legal System in the Late Qing." *Journal of Modern Chinese History* 16, no. 1 (2022): 50–70. <https://doi.org/10.1080/17535654.2022.2101792>.
- Mąkosa, P. "Organ Procurement in Poland: Legal and Medical Aspects." *Transplantation Proceedings* 52, no. 7 (2020): 2015–25. <https://doi.org/10.1016/j.transproceed.2020.01.120>.
- Mąkosa, Paulina, Aleksandra Olszyńska, Katarzyna Petryszyn, Hanna Kozłowska, Ewa Tomszys, Anna Stoltmann, and Jolanta Małyszko. "Organ Procurement in Poland: Legal and Medical Aspects." *Transplantation Proceedings* 52, no. 7 (2020): 2015–25. <https://doi.org/10.1016/j.transproceed.2020.01.120>.
- McGregor, Lorna, Daragh Murray, and Vivian Ng. "International Human Rights Law as a Framework for Algorithmic Accountability." *International and Comparative Law Quarterly* 68, no. 2 (2019): 309–43. <https://doi.org/10.1017/S0020589319000046>.
- Noori, N. "Transplanting Good Practices in Smart City Development: A Step-Wise Approach." *Government Information Quarterly*, 2023. <https://doi.org/10.1016/j.giq.2023.101802>.
- Schauer, Frederick. *The Politics and Incentives of Legal Transplantation*. First. Cambridge, MA: Harvard University Press, 2000. <http://nrs.harvard.edu/urn-3:HUL.InstRepos:39526299%0ATerms>.
- Snyder, Hannah. "Literature Review as a Research Methodology: An Overview and Guidelines." *Journal of Business Research* 104 (2019): 333–39. <https://doi.org/https://doi.org/10.1016/j.jbusres.2019.07.039>.
- Sumaya, Pupu Sriwulan, Yusriadi, and Sukirno. "Reconceptualization Wewengkon Land of Kasepuhan Cirebon Based on Justice (Werner Menski Analysis)." *Res Militaris* 12, no. 2 (2022): 3383–99.
- Svetlicinii, A. "Cultural Heritage Divided by (International) Law: The Case of North Macedonia." *International Journal for the Semiotics of Law* 34, no. 3 (2021): 839–59. <https://doi.org/10.1007/s11196-021-09832-y>.
- Then, Shih Ning, and Dominique E. Martin. "Transitions in Decision-Making Authority at the End of Life: A Problem of Law, Ethics and Practice in Deceased Donation." *Journal of Medical Ethics* 48, no. 2 (2022): 112–17. <https://doi.org/10.1136/medethics-2020-106572>.
- Vilchik, T. "Areas for Further Improvement of Legislative Regulation of Patients' Rights in Ukraine." *Wiadomosci Lekarskie (Warsaw, Poland : 1960)* 72, no. 7 (2019): 1324–30. https://api.elsevier.com/content/abstract/scopus_id/85071280230.
- Vivian, Mariana Motta. "Law, Justice and Reza Banakar's Legal Sociology." *Onati Socio-Legal Series* 11, no. 1 (2021): 1–29. <https://doi.org/10.35295/osls.iisl/0000-0000-0000-1169>.
- Wall, A. "Medical Standards Are Aligned with Normothermic Regional Perfusion Practices and US Legal Standards for Determining Death." *American Journal of Transplantation*, 2022. <https://doi.org/10.1111/ajt.17114>.
- Winkler, P W. "Germany Has a High Demand in Meniscal Allograft Transplantation but Is Subject to Health Economic and Legal Challenges: A Survey of the German Knee Society." *Knee Surgery, Sports Traumatology, Arthroscopy* 30, no. 7 (2022): 2352–57. <https://doi.org/10.1007/s00167-022-06889-5>.
- Yu, Hao. "On the Path of Legal Transplantation in the Era of Legal Interpretation." *International Journal of Frontiers in Sociology* 4, no. 12 (2022): 47–52. <https://doi.org/10.25236/ijfs.2022.041209>.

