



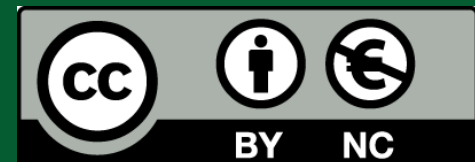
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# Cognitive metaphors and legal concepts

PART 2:

Abstract legal concepts as conceptual metaphors

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# Typology of legal metaphors

Expressions like “to break the law” or to “to bend the law” are manifestations of the basic metaphor of “law (an abstract artefact) as a physical object.”

A compelling experiment concerning the role of metaphor in cognition was conducted by Thibodeau and Boroditsky (2011). It concerned the concept of “crime.” The authors argued that when we conceptualize “crime” and when we reason about solving criminal problems, our cognitive processes depend on metaphorical simulation (Thibodeau, Boroditsky 2011).

# Typology of legal metaphors

One of the basic kinds of metaphors are orientational metaphors, like “more is up” and “power is up” (Santana, de Vega 2011; Schubert 2005). These basic metaphors are omnipresent in thinking about law. The “highest” court is the court on the top of the hierarchy; it does not mean the building of this court is the highest or that the factor relevant in selecting judges to the highest courts is their height. Similarly, the “highest” legal act is the constitution. The legal system consists of norms that are “lower” and “higher” in the metaphorical sense: the “lower” norms must be consistent with the “higher” ones. These metaphors shape the legal system and legal reasoning in an unconscious way.

# Typology of legal metaphors

Typology of metaphorical legal concepts:

## 1) implicit/explicit

implicit: the "source" concept not visible in the linguistic expressions; metaphor *sensu stricto*, e.g. „law is a physical object”, „crime is a virus” etc. (fully unconscious mapping?)

explicit: the "source" concept visible in the linguistic expressions, e.g. „intellectual property is property (of physical objects)”; „higher court” - „more is up”

# Typology of legal metaphors

Typology of metaphorical legal concepts:

## 2) strong/weak

discussion concerning the embodiment: strong or weak?

strong: metaphorical simulation based on multimodal simulations

weak: metaphorical simulation based on less abstract concepts'  
processing

# Typology of legal metaphors

Typology of metaphorical legal concepts:

## 3) inferential/mimetic

inferential: mapping

mimetic: institutional mimesis (Roversi 2015); conceptual mimesis; e.g. corporations  
as *res ex distantibus*

*There are also abstract legal concepts that seem not to be metaphorical!*

**There is not just one type of conceptual metaphors in law! Mapping is a multidimensional and not universal mechanism!**

# Towards representational pluralism in explaining the processing of legal concepts

We need both theoretical and representational pluralism in the theories of legal concepts!

Theoretical: different perspectives, weak embodiment

Representational: modal and amodal representations



# Conclusion: perspectives of cognitive legal studies

Paradigmatic examples of attitudes towards the relation between cognitive science and legal philosophy (including the theory of legal concepts):

- ▶ “pessimism”
- ▶ “optimism”
- ▶ “moderate pro-naturalism”

THANK YOU!



recognise