

The Role of Legal Imagination in Comparative Jurisprudence – the Case of Jewish and Islamic Legal Thought

What conceptual tools and attitudes are needed for comprehending foreign legal systems? What perspectives are useful for that purpose?

My paper will illustrate an answer to the above questions by using the method of comparative jurisprudence. Comparative jurisprudence as a methodological approach utilizes legal philosophy for better understanding of foreign legal systems. It asserts that conceptual understanding is the best way to grasp a foreign legal system. Consequently, it suggests that the main object of comparative legal studies should neither be the *law in books* nor the *law in action*, but rather the *law in minds* – the legal consciousness of its participants.

I advocate this approach in comparative studies of Jewish and Islamic legal thought. Particularly, I will call attention to the use of 'legal imagination' as a key concept in studies of comparative jurisprudence, arguing for its importance by using examples from my paper and from my current study on the semantics of belonging in pre-modern legal thought.