Metaphors in Arbitral Awards
A Corpus–assisted Discourse Analysis across Legal Traditions

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Abstract

This article investigates the use of metaphors in arbitral awards, examining how these figurative expressions become embedded in legal reasoning and shape decision-making. Drawing on the pervasive role of metaphors in everyday language (Lakoff and Johnson 1980, 3; Semino 2008, 1) and legal discourse (Winter 1989, 1222), the study acknowledges the influence of legal traditions on linguistic choices in arbitration texts (Gotti 2008, 232). It situates its analysis within the broader framework of genre theory, emphasizing the intrinsic link between legal discourse and its institutional and professional contexts (Bhatia, Garzone and Degano 2012, 1; Fairclough and Wodak 1997, 276).

Using a corpus-assisted discourse study (CADS) (Partington, Duguid and Taylor 2013, 10; Goźdź-Roszkowski 2021, 1517), this research employs quantitative and qualitative methods to analyze arbitral awards drafted in English and sourced from the Jus Mundi database. The corpus, covering awards rendered between 2008 and 2023, is divided into two subcorpora reflecting the legal systems governing the arbitration: one consisting of awards governed by the laws of civil law countries (Italy, France, Switzerland) and the other by the laws of common law countries (UK, US, Hong Kong, Singapore).

The study identifies key conceptual metaphors and examines how their usage reflects and reinforces the distinct legal cultures of civil law and common law systems. Findings reveal differences in metaphorical framing of legal principles and procedures, highlighting the nuanced interplay between metaphor and legal culture. By exploring how metaphors shape the discourse and interpretation of arbitration procedures, this research contributes to a deeper understanding of the intersection between legal language and cultural traditions.

1. Introduction

Metaphors are a fundamental feature of everyday language, deeply ingrained in how we think, speak, and understand the world. As Lakoff and Johnson observe, "[o]ur ordinary conceptual system, in terms of which we both think and act, is fundamentally metaphorical in nature" (1980, 4). This means that much of our everyday thinking is structured in terms of metaphors, often operating beneath our awareness. In this way, metaphors shape not only the language we

use but also our actions, decisions, and overall understanding of reality, influencing how we perceive the world around us.

Given that law regulates nearly every aspect of human life, it is no surprise that metaphor is also a vital component of legal language (Kordic 2023, 1640; Winter 1989, 1222). In the legal domain, metaphors are instrumental in shaping and communicating how the law is perceived, interpreted, and applied across different jurisdictions. Their ability to simplify and illuminate complex or abstract concepts (Mancuso 2023, 2157) makes them an indispensable element of legal discourse.

Metaphors are regarded as "constitutive of legal reasoning" (Morra, Rossi and Bazzanella 2006, 141), a perspective reinforced by Klinck's assertion that "legal reasoning is itself metaphorical" (1991, 360-361). As a matter of fact, legal reasoning often relies on an inductive process grounded in analogy,[1] drawing parallels between similar cases or situations to reach conclusions. Judges, in particular, often employ metaphors as persuasive devices in the courtroom, enhancing their ability to convey arguments effectively and influence decisions (Kordic 2023, 1644).

Building on the Conceptual Metaphor Theory developed by Lakoff and Johnson (1980), this study aims to explore the role of conceptual metaphors in arbitral awards, which, akin to judgments, present the arbitrator's or the arbitral tribunal's decision and serve as the definitive conclusion of arbitration proceedings (Bhatia and Lung 2012, 1). By examining how metaphors convey legal concepts rooted in civil law and common law traditions, the study highlights how these linguistic tools enhance the interpretation, communication, and application of complex legal principles and concepts across various legal contexts.

The analysis is based on a corpus of arbitral awards drafted in English and sourced from Jus Mundi's[2] extensive database, covering awards rendered between 2008 and 2023. Recognizing that metaphors are inherently shaped by cultural contexts (Kordic 2023, 1646), this study emphasizes the enduring impact of cultural differences on the reasoning articulated in arbitral awards governed by civil law or common law, demonstrating how distinct legal traditions shape

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[1] As Smith states, "[a] metaphor, by definition, is an analogy. By providing an apt metaphoric analogy, the writer helps to communicate the substance of his or her argument to the audience" (2007, 935).

[2] Historically, the confidential nature of arbitral awards rendered them largely inaccessible, leaving this area of legal discourse "a relatively unexplored genre" (Bhatia, Garzone and Degano 2012, 1). Over the past decade, however, there has been a growing trend toward transparency, with more arbitral awards being published to support both legal development and academic inquiry (Mourre and Vagenheim 2023, 265; Resnik, Garlock and Wang 2020, 612; Bhatia 2010, 468). This shift was further accelerated by the introduction of Jus Mundi in 2019, an AI-driven legal research platform that has revolutionized access to legal materials through its collaboration with leading arbitral institutions and professional associations. By breaking down barriers to information, this technological innovation has not only democratized legal knowledge but also opened new pathways for the analysis of legal language and its underlying data (Bhatia 1993; Swales 1990).

linguistic choices. This perspective aligns with the view that texts and genres are deeply embedded within their institutional and professional frameworks (Bhatia, Garzone and Degano 2012, 1). Legal discourse, molded by its socio-cultural and institutional context (Fairclough and Wodak 1997, 276), exhibits variation across legal systems. By employing corpus linguistics, this study reveals that arbitral awards incorporate conceptual metaphors that convey culturally specific legal concepts, reflecting the legal traditions from which they originate.

The article is organized as follows: after a general introduction on metaphors within the legal domain (§2), a brief overview of arbitration in civil law and common law traditions is provided in order to highlight differences in procedural and cultural approaches (§3). The methodology section (§4) describes the corpus of arbitral awards analyzed, the tools and criteria for identifying metaphors, and the methodological approach employed. The results section (§5) presents quantitative and qualitative findings, highlighting key metaphorical patterns and their variations across legal traditions. The discussion interprets these findings, linking them to differences in legal culture, reasoning, and communication. The conclusion (§6) summarizes the insights gained and suggests directions for future research.

2. Law and metaphors

Metaphor emerged as a significant focus of research during the final decade of the twentieth century, spurred by Lakoff and Johnson's influential 1980 book *Metaphors We Live By*. In this work, metaphor is portrayed as a fundamental process that permeates our speech, thought, and actions, serving as "a basic means to understand the world around us" (Lakoff and Johnson 1980, 7). Their Conceptual Metaphor Theory revolutionized the understanding of metaphor by shifting the focus of its study from a purely linguistic phenomenon to a cognitive and conceptual framework. Central to this theory is the idea that metaphor is not merely a rhetorical device but a fundamental mechanism of human thought. Through metaphor, individuals understand abstract or complex concepts by mapping them onto more concrete or familiar domains of experience. As Black states, metaphors "use the better known to elucidate the less known" (1962, 240).

Conceptual metaphors operate through systematic mappings between a source domain and a target domain, allowing multiple aspects of the source to inform the understanding of the target. A clear illustration of this is the metaphor "life is a journey," where life (the target) is understood in terms of a journey (the source) (Demjén and Semino 2017, 1; Lakoff and Johnson 1980, 266). Within this metaphorical framework, individuals are likened to travelers, goals are conceptualized as destinations, and obstacles represent impediments along the path. Such systematic mappings highlight the structured nature of metaphorical thought and its ability to provide coherence across related ideas.

Beyond its cognitive foundations, Conceptual Metaphor Theory has significant implications for understanding language and culture. The metaphors people use reveal underlying cognitive patterns and cultural values, as different languages and societies may conceptualize similar ideas through distinct metaphors. This variation arises because:

> Our ability to think in metaphors is intrinsic to being human and, therefore, is universal; however, metaphor cannot be dissociated from the complex and socially acquired beliefs, knowledge and world view(s) intrinsic to our belonging to and interacting within one or several communities. (Caballero 2017, 193)

This diversity illustrates how metaphors are shaped by the intersection of shared human experiences and the distinct cultural frameworks that give them meaning. This perspective invites a closer examination of specific metaphors across languages and cultures. Through this lens, metaphors can be seen as a window into the cultural values, priorities, and worldviews of a community (Chiu and Chang 2011, 879).

Metaphors hold significant importance in the discourse of lawyers and legal practitioners. Historically, however, they have not been regarded as particularly significant in the context of legal language[3] (Bozovic 2024, 405; Culley and Salter 2004, 348). This assumption stemmed from the belief that legal language is rigid and precise, leaving no room for elements like figurative language that might compromise its accuracy. However, research conducted in the last few decades has proved that metaphors are pervasive in legal English and that metaphoric thinking can have significant influence on legal realities (e.g., Fischer-Lescano 2020; Cloutier 2019; Smith 2007; Berger 2007; Joo 2001). Specifically, metaphors appear to be particularly prevalent within legal reasoning as they play "an important, if largely implicit, role in both supplementing and facilitating communication within courts" (Culley and Salter 2004, 349).

Through metaphors, "abstract creations are often made more concrete by means of a metaphor that presents them as objects or as living entities" (Richard 2014, 3), making legal notions easier to understand and remember. Furthermore, in the legal field, metaphors are particularly effective because they create vivid imagery and serve as mnemonic devices, helping lawyers retain and recall key legal concepts more effectively. This effectiveness arises from the ability of metaphorical expressions to activate mental representations of abstract ideas, thereby shaping reasoning and interpretation (Landau, Sullivan and Greenberg 2009).

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[3] Culley and Salter (2004, 353) argue that, traditionally, the common law judiciary has viewed metaphors as mere rhetorical devices – essentially, figurative expressions that do not contribute to the precise definition of legal meaning. This is because it was widely assumed that metaphors "operate merely as a 'literary embellishment' and therefore add little of substantial worth to legal doctrine" (Culley and Salter 2004, 354).

The connection between metaphors and legal practice becomes particularly compelling when viewed through the lens of their cultural origins, as metaphors are deeply influenced by the legal systems and traditions from which they arise (Kordic 2023, 1646).[4] The use of metaphors in legal language is shaped by the culture and traditions of a particular legal system. Different legal systems develop their own metaphoric frameworks, often influenced by the society's values, history, and worldview. Understanding how metaphors are rooted in legal traditions allows for deeper insights into how laws and legal principles are interpreted and applied.

This dynamic interplay between metaphor, culture, and legal systems underscores the essential role that figurative language plays not only in shaping legal discourse but also in reflecting and perpetuating cultural values and societal structures embedded within legal traditions. By examining metaphors that permeate legal language, it is possible to gain a deeper understanding of how legal concepts are formed, communicated, and interpreted, ultimately revealing the ways in which law interacts with the lived experiences and worldviews of those it governs.

3. Civil law and common law approaches in arbitration: a procedural and cultural lens

Arbitration is a form of Alternative Dispute Resolution (ADR) described as a private system of adjudication where "[p]arties who arbitrate have decided to resolve their disputes outside any judicial system" culminating in "a final and binding decision, producing an award that is enforceable in national court" (Moses 2017, 1). As an increasingly significant mechanism for addressing global disputes, arbitration is distinguished not only by its flexibility but also by the considerable autonomy it grants the parties (Webster and Bühler 2014, 15). This contrasts with conventional litigation, where state-imposed procedural rules govern the process, and with

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[4] It is important to mention that since metaphors are deeply embedded in culture, they often pose significant challenges in the translation of legal texts. Metaphorical expressions and imagery rooted in different cultural contexts frequently reflect distinct conceptual frameworks within legal systems, increasing the risk of misinterpretation. Reiss and Vermeer (2013, 43) emphasize that legal translators must possess a deep understanding of cultural differences, highlighting this knowledge as an essential competency in the profession. Similarly, Chroma (2007, 197) introduced the expression 'cross-cultural traps in legal translation' to highlight the significance of cultural differences in the translation process. These differences inevitably encompass metaphors, which form an integral part of a nation's cultural heritage and linguistic identity. Expanding on this, Šarčević (1997, 13) outlines the essential competencies for legal translators, including proficiency in both the Source and Target languages, thorough understanding of the legal systems linked to each language, awareness of the disparities between their legal concepts, strong logical reasoning abilities, and keen cultural sensitivity to the nuances of both linguistic contexts.

other ADR methods, such as mediation or negotiation, which do not necessarily yield binding resolutions.[5]

In traditional court proceedings, the applicable law is generally determined by the jurisdiction in which the court operates. Conversely, in arbitration, the parties are free to determine the governing law through their contractual agreement (Moses 2017, 18). This means that, even when the arbitration panel comprises arbitrators from different legal traditions, the substantive law[6] applicable to the dispute remains the one chosen by the parties, rather than being dictated by the arbitrators' diverse backgrounds or the institution's location. Consequently, arbitration represents a departure from the strict procedural frameworks of litigation and a move towards a more hybridized process.

This flexibility in arbitration reflects a broader dynamic in dispute resolution, namely the interaction between differing legal traditions. While arbitration allows parties to avoid the automatic application of a specific jurisdiction's law, the influence of legal traditions remains significant. The world's two dominant legal families – civil law and common law systems (e.g., Kauffmann 2013, 36; Mattei and Pes 2008, 267; Schlesinger 1998, 390; Mattei and Monateri 1997, 2; Sacco 1991, 4; Cappelletti 1981, 381) – continue to shape how arbitrators interpret and apply the chosen law.

Civil law finds its roots in Roman law, particularly the *Corpus Iuris Civilis* compiled under Emperor Justinian (Garzone and Salvi 2007, 15). It is typically codified in comprehensive civil codes, which provide authoritative guidelines outlining individual rights and obligations (Siems 2018, 51). Courts in these systems apply the codes and general legal principles to address any gaps within the legal framework. In contrast, common law developed in England following the Norman conquest of 1066 (Kauffmann 2013, 36). Emerging from a feudal system of land ownership and formalized through 'writs,' it grew through judicial decisions, with judges

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[5] Arbitration shares certain features with court proceedings while also differing significantly from both litigation and other ADR methods like mediation and negotiation. It resembles court processes as both involve a neutral third party making a binding decision after reviewing evidence and arguments (Moses 2017, 1). Arbitrators, like judges, often have legal or specialized expertise, and the process follows structured steps such as pleadings, evidence presentation, and cross-examination. Arbitral awards, akin to court judgments, are enforceable under national and international laws, including the New York Convention of 1958 (Born 2001, 21). However, arbitration is more flexible, allowing parties to set rules on timelines, evidence, and arbitrator selection. Furthermore, it is often private and confidential (Bhatia, Garzone and Degano 2012, 2), unlike public court trials. Ultimately, in contrast to other ADR methods such as mediation or negotiation, which seek a mutually acceptable settlement, arbitration produces a binding decision (Moses 2017, 14), while still offering greater procedural freedom than litigation.

[6] It is important to emphasize that multiple layers of law can intersect in international commercial arbitration. As noted by Moses (2017, 59, 69), parties usually select a specific law to govern their contract, known as substantive law, which is applied to the merits of the dispute. In contrast, the law governing the arbitration procedure often differs and is the arbitration law of the seat of arbitration, commonly referred to as *lex arbitri*.

shaping substantive legal principles over time (Siems 2018, 52; Criscuoli and Serio 2016, 109-112).

Regarding their sources of law, both systems recognize statutes (Mattei and Pes 2008, 273); however, civil law prioritizes written codes enacted by legislatures (Kauffmann 2013, 36), whereas common law relies heavily on judicial decisions, with case law as its main legal source (Pejovic 2001, 10).

A third key distinction between civil law and common law lies in statutory interpretation and the role of precedent. In both legal systems, judgments are binding on the parties involved, a principle known as *res iudicata*. However, common law relies primarily on case law as its primary source of law. Legal decisions do not only resolve individual disputes but also establish precedents for future cases, a concept known as *stare decisis* or binding precedent (Kauffmann 2013, 34). Under this principle, higher court rulings must generally be followed,[7] though exceptions exist (Criscuoli and Serio 2016, 268-269). In contrast, civil law systems do not treat prior decisions as binding or as primary legal sources (Pejovic 2001, 11), although some supreme court decisions may carry authority in specific cases. Ultimately, common law courts emphasize detailed factual analysis, while civil law courts prioritize general legal principles over case-specific facts (Siems 2018, 67-68; Mattei and Pes 2008, 273).

Civil law and common law also differ in court procedures. Common law systems often use juries, especially in criminal cases, with the US extending this practice to civil trials (Mattei and Pes 2008, 276). Conversely, civil law jurisdictions generally reserve juries for criminal cases (Siems 2018, 60). Furthermore, common law trials emphasize oral proceedings (Glendon, Carozza and Picker 2016, 331-332) and follow an adversarial system, where parties present evidence and lead the proceedings (Pejovic 2001, 20). In contrast, civil law favours written procedures with multiple trial stages and adopts an inquisitorial approach, where judges play a central role in fact-finding and questioning witnesses (Glendon, Carozza and Picker 2016, 145).

Ultimately, a key distinction between civil law and common law lies in the drafting of judgments. As Gotti (2008, 234) points out, each legal system has its own drafting traditions and stylistic conventions. Civil law judgments are typically more general, whereas common law judgments emphasize particularity (Gotti 2008, 235). Siems (2018, 65) observes that common law judgments are detailed, inductive, and pragmatic, often including references to prior cases, while civil law judgments are more formal, abstract, and deductive, reflecting a different reasoning approach.

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[7] The binding force of a judgment typically applies only to its core reasoning, or *ratio decidendi*, and is more influential when it comes from superior courts (Criscuoli and Serio 2016, 268-269).

The contrasts highlight the fundamental differences between civil law and common law traditions, shaping the way legal practice and interpretation evolve across jurisdictions and influencing how legal documents are drafted and structured within each system.

Arbitration, however, presents a unique form of dispute resolution that bridges the gap between the rigid proceduralism of litigation and the more flexible informality of alternative methods. Central to its appeal is the autonomy it grants to parties, enabling them to select governing laws, arbitrators, and procedural rules. In this context, the interplay between civil law and common law traditions further enriches arbitration, as arbitrators can draw on diverse legal reasoning styles. This convergence fosters a hybridized approach to justice, tailored to the specific needs of international commercial disputes.

However, despite arbitration's flexibility, scholars have demonstrated that cultural variations often influence arbitration procedures and, consequently, arbitral awards, depending on whether the applicable laws[8] stem from a civil law or common law tradition. According to Hafner, for instance, "[i]t should come as no great surprise that the discourse of professional reasoning in an award is to some extent influenced by the conventions of the applicable legal tradition" (2011, 127). While arbitration allows parties to bypass the automatic application of a particular jurisdiction's laws, the influence of legal traditions remains a subtle yet powerful force in shaping outcomes.

As previously mentioned, the outcome of the arbitration procedure is the arbitral award, a "conventionalized genre" articulating "the 'reasons' and/or the 'basis' for the decision," which entails the obligation to "make clear what the legal authority of the document is, who the parties are, and they are required to do, what the legal basis for that requirement is and why that legal basis applies to the matter" (Frade 2012, 57). On the whole, arbitral awards are particularly interesting as types of discourse because they represent a unique blend of legal reasoning, factual analysis, and decision-making in resolving disputes outside the court system (Bhatia and Lung 2012, 23).

In conclusion, arbitral awards have traditionally been governed by the principle of confidentiality, largely due to the involvement of sensitive commercial information in international commercial arbitration (Hafner 2011, 119). However, this principle is gradually

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[8] It is important to highlight that the merits of the dispute, and consequently the final award, are primarily influenced by the substantive law chosen by the parties (Moses 2017, 59). Additionally, this study acknowledges that both the *lex arbitri* – referred to as the law governing the arbitral proceedings (Born 2001, 43) – and the substantive law of the arbitration shape various aspects of the arbitral proceedings (Cordero-Moss 2021, 98), including the conduct of proceedings and the formulation of arbitral awards. However, the present study specifically concentrates on the role of the substantive law of the arbitration – whether derived from civil law or common law traditions – and the influence of cultural differences on the arbitral texts (Hafner 2011, 119). It is indeed posited that, even in the era of globalization, these cultural differences persist and continue to manifest as cultural variations in the form of reasoning.

becoming less rigid, resulting in greater public access to arbitral awards. This shift is significant for two key reasons (e.g., Susan and Srivastava 2022, 21-27; Moses 2017, 200; Bhatia 2010, 575): it provides practitioners and scholars with easier access to relevant data and allows for a more thorough investigation, analysis, and comparison of the reasoning behind arbitrators' decisions in disputes resolved across different regions and legal frameworks.

4. Corpus description and methodology

4.1 Study design

This section provides a detailed description of the corpus, focusing on the processes of data collection and analysis. The data collection process was guided by several key factors, which are outlined below:

- The legal framework governing each case was a primary consideration, corresponding to the laws of the country where the arbitral institution is located. The awards are governed by distinct applicable laws[9], including the following:
    a. US states laws (including Washington DC, New York, Texas, Louisiana, Pennsylvania, Delaware, California, North Carolina, Massachusetts, Washington).
    b. England and Wales law.
    c. Italian law.
    d. Swiss law.
    e. Hong Kong law.
    f. French law.
    g. Singaporean law.
- Awards were thus chosen to reflect both civil law and common law traditions.
- The selection prioritized renowned international arbitral institutions, given their central role in shaping global commercial arbitration.

The corpus consists of two smaller subcorpora: the civil law subcorpus and the common law subcorpus. It was compiled using Sketch Engine,[10] which was employed for the subsequent analysis. Both subcorpora comprise arbitral awards drafted in English and are structured to be comparable (McEnery and Hardie 2012, 20; Leech 2007, 144; Tognini-Bonelli 2001, 7), meaning that they include text samples that share similarities in both genre and publication period. The following criteria were used to maintain comparability during corpus construction:

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[9] 'Applicable law' refers to the law governing the dispute, namely the substantive law (Moses 2017, 59).
[10] Sketch Engine. www.sketchengine.eu. Last visited 30/11/2024.

- All documents in the corpus fall under the category of arbitral awards, a specialized and relatively unexplored legal genre (Bhatia and Lung 2012, 23).

- The awards were all rendered between 2008 and 2023.[11]

- All awards are rendered by well-known international arbitral institutions (Born 2021, 156). All arbitral institutions included in the study are globally significant and actively engaged on the international stage.

- The awards cover commercial arbitration cases, including those related to wholesale trade, textiles, food production, real estate, and similar sectors.

- All awards are drafted in English.

- The corpus consists of materials that reflect genuine communications (Tognini Bonelli 2001, 55) in the context of international commercial arbitration, as they come from actual legal proceedings.

Although arbitration documents have become more publicly accessible in the past five years, the number of arbitral awards available on the Jus Mundi search engine remains limited, especially from certain institutions like the Milan Chamber of Arbitration (CAM), the Singapore International Arbitration Centre (SIAC), and the ICC International Court of Arbitration. Furthermore, some of the documents available on the search engine are drafted in Italian or French, particularly those related to cases under Italian or French law. However, to ensure consistency, awards in languages other than English were excluded from the corpus.

A key methodological challenge of this study was the limited access to arbitral awards through the 'Jus Mundi – Academic Research' subscription. However, it should be recognized that recent developments, such as the ICC's updated policy and the creation of Jus Mundi with its strategic partnerships, have greatly enhanced the accessibility of arbitral awards (Bhatia 2010, 465) from a wide range of international institutions. These improvements have expanded the availability of awards, facilitating deeper exploration and analysis of real-world arbitration cases.

Regarding data description, the subcorpora comprise a total of 60 arbitral awards, amounting to 1,109,700 tokens and ~849,990 words. Detailed statistics and information about the corpus are provided in Table 1 below.

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[11] The research concentrated on the 2008-2023 period for two primary reasons: to include recent arbitral awards, allowing for the analysis of cases from the past fifteen years, and to focus on a time frame that would provide a sufficient number of awards from all relevant arbitral institutions.

Corpus	Time frame	Texts	Tokens	Words
Civil law	2008–2023	22	506,542	-388,354
Common law	2008–2023	38	603,158	-461,636
Total	2008–2023	60	1,109,700	-849,990

Tab. 1: Corpus description: general statistics

Table 1 provides detailed information about the corpus and its two subcorpora: 'civil law' and 'common law.' The civil law subcorpus comprises arbitral awards issued by arbitral institutions based in civil law jurisdictions (i.e., ICC, CAM, SAC[12]), with applicable laws[13] including French, Italian, or Swiss law. Conversely, the common law subcorpus consists of awards rendered from arbitral institutions situated in common law jurisdictions (i.e., AAA, LCIA, HKIAC, SIAC[14]), governed by laws such as certain US states, England and Wales, Hong Kong, or Singapore. The 'Time frame' column shows the period when arbitral awards were issued (2008–2023 for both subcorpora). The 'Texts' column lists the number of texts per subcorpus and the total (60). The 'Tokens' column gives token counts for each subcorpus and the combined total (1,109,700). Finally, the 'Words' column displays word counts per subcorpus and the approximate overall count (~849,990).

To address differences in subcorpus sizes, all absolute frequencies have been normalized, allowing for comparisons of relative frequencies across the subcorpora (Brezina 2018, 43). The relative, or normalized, frequency is determined using a standard formula commonly employed in linguistic research (e.g., McEnery, Xiao and Yukio Tono 2006, 52; Biel 2014, 135; Brezina 2018, 43). This process entails dividing the raw frequency (i.e., the number of occurrences) by the total number of tokens in the corpus, followed by multiplying the resulting value by 1,000,000, which serves as the standard baseline in corpus linguistics.

4.2 Methodological framework

This study adopts a methodological framework designed to explore the use of metaphors within the context of arbitration. The analysis concentrates on lexical units that may convey metaphorical meaning, particularly those related to key legal concepts and processes in the semantic domain of 'arbitration.' By examining these elements, the study seeks to identify

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[12] The acronym ICC stands for the 'International Chamber of Commerce,' and it represents the ICC International Court of Arbitration; CAM stands for 'Chamber of Arbitration of Milan'; SAC stands for 'Swiss Arbitration Chamber.'

[13] As discussed in Section 3, this study specifically focuses on the role of the applicable law (substantive law applicable to the dispute) in arbitration, distinguishing between civil law and common law. As a result, the arbitral awards included in both subcorpora were selected based on the substantive law: either Italian, French or Swiss law for civil law cases, and US, UK, Hong Kong, or Singaporean law for common law cases.

[14] The acronym AAA stands for 'American Arbitration Association;' LCIA stands for 'London Court of International Arbitration;' HKIAC stands for 'Hong Kong International Arbitration Centre;' SIAC stands for 'Singapore International Arbitration Centre.'

metaphorical patterns across civil law and common law traditions. The selected lemmas fall into the following categories, which were retrieved thanks to the web-service *relatedwords.org*[15] (Wicke and Bolognesi 2020, 12):

- Law and legal concepts (e.g., law, agreement, justice, rule, breach).
- Arbitration and legal proceedings (e.g., arbitration, award, judgment/decision, dispute, case, resolution, settlement, proceedings).
- Roles in arbitration (e.g., arbitrator, tribunal, claimant, respondent, parties).
- Legal processes (e.g., enforcement, interpretation, appeal).
- Rights and duties (e.g., obligation, duty, liability, claim, consent).
- Concepts of fairness and equity (e.g., fairness, equity).
- Power and authority (e.g., power, authority).
- Remedies and compensation (e.g., remedy, compensation, damages).
- Legal standards and principles (e.g., precedent, principle, burden).

The analytical framework of this study is grounded in corpus linguistics, with a specific focus on corpus-based methodologies for examining metaphors in discourse[16] (Semino 2008; Cameron and Maslen 2010). While quantitative data were taken into account, the analysis primarily employed qualitative methods. By integrating discourse analytical methods with corpus linguistics tools, specifically Sketch Engine,[17] the study aimed to identify significant characteristics within the texts examined through qualitative analysis.

Concordances were obtained for the lexical units in the categories presented above, and metaphorical uses were identified using the Metaphor Identification Procedure[18] (MIP)

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[15] The web service *relatedwords.org* provides a ranked list of words related to a target word, using inflected forms rather than lemmas. The ranking is determined by multiple algorithms, including one that finds similar words through word embeddings and another that queries *ConceptNet* to identify words with meaningful relationships to the target word.

[16] As Partington, Duguid and Taylor explain, this type of analysis is regarded as a subset of corpus linguistics, specifically termed 'corpus-assisted discourse study' (CADS). It is defined as "that set of studies into the form and/or function of language as *communicative discourse* which incorporate the use of computerised corpora in their analysis" (2013, 10).

[17] These methods included the application of the Concordance and Word Sketch tools within Sketch Engine, supplemented by close reading and manual analysis of texts where necessary.

[18] Building on the Metaphor Identification Procedure (MIP) developed by the Pragglejaz Group (2007), this study acknowledges the extended framework proposed by Steen *et al.* (2010), who categorize similes as "metaphor-related words" within their framework. They define similes as expressions in which "indirectness in conceptualization through a cross-domain mapping is expressed by direct language" (Steen *et al.* 2010, 58). However, due to space limitations, this study excludes similes, analogies or other direct or indirect expressions – such as those involving substitution or ellipsis – from its analysis of metaphorical expressions and conceptual metaphors.

developed by the Pragglejaz Group[19] (2007). This method involves comparing the lexical unit's contextual meaning in the corpus with its basic, more conventional meaning in other contexts. A unit is classified as metaphorical if its "contextual meaning contrasts with the basic meaning but can be understood by comparison to it" (Pragglejaz Group 2007, 3). In accordance with the MIP, lexical units were identified as metaphorical when their contextual meaning contrasted with their basic meaning. To verify the basic meanings of the lexical units identified as potential metaphors, the Oxford English Dictionary (OED) Online[20] was consulted. After identifying metaphorical occurrences, collocational patterns were analyzed primarily through the Word Sketch tool.

Once metaphorical usage was identified, a cognitive analysis was conducted to map the source and target domains, drawing on the framework of Conceptual Metaphor Theory (Lakoff and Johnson 1980). The source domain refers to the more concrete concept underlying the metaphor, while the target domain represents the more abstract concept being framed and described through the source.

5. Analysis and discussion

A quantitative analysis was conducted to identify metaphors related to arbitration within the examined corpus. Using Sketch Engine, the metaphorical words and expressions listed in Table 2 were extracted. Table 2 presents the frequency of metaphors[21] in the civil law and common law subcorpora, with raw counts normalized to a per-million-word basis for comparability.

Words and expressions	Civil law		Common law	
	Hits	*Per million*	*Hits*	*Per million*
absorb	*1*	*2 pm*	*2*	*3 pm*
access	*8*	*16 pm*	*0*	*0*
angles	*1*	*2 pm*	*0*	*0*
attack	*0*	*0*	*3*	*5 pm*
balance	*0*	*0*	*5*	*8 pm*
battle	*0*	*0*	*1*	*2 pm*
boil down	*0*	*0*	*4*	*7 pm*
break	*0*	*0*	*13*	*22 pm*
build	*2*	*4 pm*	*2*	*3 pm*
burden	*5*	*10 pm*	*9*	*15 pm*
channel	*19*	*37 pm*	*1*	*2 pm*
closed	*16*	*32 pm*	*18*	*30 pm*
come	*0*	*0*	*9*	*15 pm*
construction	*7*	*14 pm*	*14*	*23 pm*

[19] Researchers in the Pragglejaz Group are Lynne Cameron, Alan Cienki, Peter Crisp, Alice Deignan, Ray Gibbs, Joe Grady, Zoltán Kövecses, Graham Low, Elena Semino, and Gerard Steen.
[20] Oxford English Dictionary (OED) Online. https://www.oed.com/?tl=true. Last visited 30/11/2024.
[21] The results of the analyses are tied to the corpus under analysis and the time frame (2008-2023) considered. Furthermore, all words and expressions included in the table carry a metaphorical meaning. Non-metaphorical uses were excluded from the analysis, meaning that the data set consists solely of metaphorical instances, without accounting for overall frequency. Following metaphor identification, collocational patterns were analyzed to further explore the metaphorical structures present in the data.

core	7	14 pm	5	8 pm
defend	7	14 pm	4	7 pm
defeated	0	0	1	2 pm
depart	5	10 pm	1	2 pm
detour	0	0	1	2 pm
deviate	2	4 pm	3	5 pm
drawn	2	4 pm	3	5 pm
escape	2	4 pm	4	7 pm
enshrined	4	8 pm	0	0
eyes	2	4 pm	1	2 pm
fall	36	71 pm	21	35 pm
fought	0	0	2	3 pm
foundation	2	4 pm	4	7 pm
frame	1	2 pm	0	0
guide	1	2 pm	1	2 pm
heart	1	2 pm	3	5 pm
instrument	7	14 pm	8	13 pm
invest	3	6 pm	0	0
light	100	197 pm	71	118 pm
mature	2	4 pm	0	0
mechanism	3	6 pm	5	8 pm
obstacle	6	12 pm	7	12 pm
open	12	24 pm	21	35 pm
opens the door	1	2 pm	0	0
parameter	2	4 pm	9	15 pm
parallel	11	22 pm	9	15 pm
path	3	6 pm	0	0
place	0	0	4	7 pm
reach	18	36 pm	21	35 pm
ripe	5	10 pm	8	13 pm
route	1	2 pm	3	5 pm
silence	2	4 pm	0	0
silent	5	10 pm	3	5 pm
stand in the way	1	2 pm	0	0
structure	2	4 pm	15	25 pm
threshold	6	12 pm	2	3 pm
tool	0	0	1	2 pm
transparent	4	8 pm	3	5 pm
weigh	9	18 pm	12	20 pm
win	0	0	2	3 pm
Total	**334**	**663**	**340**	**568**

Tab. 2: Frequency of metaphorical lexical units related to key legal concepts in arbitration across the two subcorpora

The lexical searches for units associated with AGREEMENT, DECISION, PROCEEDINGS, and DISPUTE were particularly productive, as evidenced both in the table and in the following examples extracted from the subcorpora, in which metaphors are highlighted in small capitals:

(1)   The agreement is SILENT in relation to arbitration and legal costs. (Common law subcorpus)

(2)   Pursuant to Procedural Order No 3 in this *** Arbitration, the Tribunal directed that proceedings in the *** Arbitration and in the *** Arbitration should proceed in PARALLEL […]. (Common law subcorpus)

(3)   In LIGHT[22] of my decision above, it is not necessary for me to determine whether the proportionality principle applies in this case. (Common law subcorpus)

In example (1), SILENT functions metaphorically. Instead of denoting "the absence of sound or noise,"[23] it refers to the absence of explicit provisions or statements regarding arbitration and legal costs within the arbitration agreement. This metaphor conceptualizes the agreement as possessing the human-like ability to "speak" or "remain silent," attributing anthropomorphic qualities to a legal document.

Another interesting metaphor is showcased by example (2), where the expression *proceed in parallel* does not denote a literal "parallel or equivalent position or direction"[24] but rather conveys the idea of arbitrations as separate yet simultaneous processes or paths – moving forward concurrently while remaining independent. Through this metaphor, legal or arbitration proceedings are conceptualized as journeys or paths that move toward a resolution. Describing them as "parallel" aligns with this conceptual metaphor, emphasizing their concurrent progression along separate but aligned trajectories.

With regard to example (3), the LIGHT metaphor is the most recurrent one across both subcorpora, implying the conceptual metaphor LEGAL AUTHORITY IS LIGHT. This is because, in arbitration, legal decisions are conceptualized as sources of light that illuminate the interpretation and application of rules or facts.[25] The metaphor reflects how a decision casts clarity on ambiguous areas and provides a guiding principle for subsequent actions (Siems 2018, 66).

However, the LIGHT metaphor is also related to evidence, as in the following examples extracted from both subcorpora:

(4)   In LIGHT of the evidence, the Arbitral Tribunal cannot but conclude that the HHR was not purchased with the aim of remedying any defects […]. (Common law subcorpus)

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[22] The complex preposition *in light of* appears frequently in both subcorpora, representing a conventional metaphor tied to habitual language use and established ways of conceptualizing ideas. In contrast, creative or novel metaphors arise when speakers 'stretch' existing meanings to address gaps in vocabulary or express concepts for which no fixed expression exists (Philip 2017, 220).
[23]   Oxford   English   Dictionary   (OED)   Online.   Silent.   Available   at https://www.oed.com/dictionary/silent_adj?tab=meaning_and_use#22839543. Last visited 30/11/2024.
[24]   Oxford   English   Dictionary   (OED)   Online.   In   parallel.   Available   at https://www.oed.com/dictionary/parallel_n?tab=meaning_and_use. Last visited 09/05/2025.
[25] This is particularly evident in the common law subcorpora, where the metaphor LIGHT appears 7 times (absolute frequency) in reference to a decision, compared to only 2 occurrences (absolute frequency) in the civil law subcorpus.

(5)   The significance of this valuation is the LIGHT it casts on the parties' competing claims as to the nature of the deal between them. (Common law subcorpus)

(6)   Furthermore, in LIGHT of the evidence produced, it cannot actually be excluded that (at least part of) the TYPE B Products were even ordered in consideration of space problems and that this rendered the replacement of Products and thus the Variation necessary. (Civil law subcorpus)

(7)   Furthermore, in LIGHT of the evidence and that enclosed, deduced, and produced by the Parties during these proceedings, the Tribunal feels it is best to emphasize that […] (Civil law subcorpus)

In examples (4), (5), (6), and (7) the metaphor LIGHT uses the natural phenomenon of light[26] to describe the abstract process of evaluating and interpreting evidence. By framing evidence as something that illuminates or clarifies, the metaphor makes the complex reasoning process in legal adjudication more relatable and intuitive. It underscores how evidence serves as a guiding force in shaping the tribunal's understanding of the case (Pejovic 2001, 21-22).

A similar observation applies to the BALANCE(D) and WEIGH(T) metaphors, as demonstrated in the following examples. These metaphors evoke the conceptual framework of JUSTICE IS BALANCE, highlighting the emphasis of fairness (Moses 2017, 135-36), equity, and careful consideration in legal reasoning and decision-making:

(7)   Alternatively, if Mr X was not successful in the arbitration but the Arbitrator's decision was finely BALANCED, Mr X submitted that each Party should bear its own costs. (Common law subcorpus)

(8)   [T]he Arbitral Tribunal informed the Parties that it had decided to allow said production, filed on the cut-off date, subject to the Arbitral Tribunal discretion to WEIGH this evidence. (Civil law subcorpus)

Example (7) reflects the conceptual metaphor DECISIONS ARE WEIGHTS ON A SCALE. In physical terms, a finely balanced scale refers to one where the weights on either side are nearly equal,[27]

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[26]   Oxford   English   Dictionary   (OED)   Online.   Light.   Available   at https://www.oed.com/dictionary/light_n1?tab=meaning_and_use&tl=true#39127907.   Last   visited 30/11/2024.
[27]   Oxford   English   Dictionary   (OED)   Online.   Balance.   Available   at https://www.oed.com/dictionary/balance_v?tab=meaning_and_use#29257298. Last visited 30/11/2024.

requiring precision to achieve equilibrium. However, in this example, the decision is described as the result of a careful weighing of arguments, evidence, and legal principles, suggesting that the arbitrator had to meticulously evaluate competing factors to reach a fair and just outcome. This metaphorical language reinforces the notions of fairness, impartiality, and the precision required in arbitration (Moses 2017, 135-36), by aligning with the broader legal symbol of scales as an emblem of justice.

Although weighing involves determining the weight of a physical object on a scale,[28] the verb *to weigh* in example (8) symbolizes the process of assessing the importance or relevance of evidence. The metaphor suggests a careful and deliberate evaluation, as though each piece of evidence is placed on a metaphorical scale to determine its value or impact. The conceptual metaphor associated to this example is EVALUATING EVIDENCE IS WEIGHING.

A qualitative analysis of the results obtained via Sketch Engine, alongside a comparative examination of metaphorical patterns, highlights differences in how civil law and common law systems employ metaphors in legal reasoning.

An important initial consideration is that, according to Table 2, metaphorical lexical units related to the concept of fighting are more prevalent in the common law subcorpus, with words such as BATTLE[29] and DEFEATED[30] not appearing in the civil law subcorpus. The following examples illustrate how these words are used in context:

(9)   The BATTLE lines of the parties on these questions were drawn up in the summer of 2008 and have not changed. (Common law subcorpus)

(10)   Y prevailed on other elements of the case as well. It has obtained a tortious interference award of $*** plus statutory interest. It has DEFEATED multiple counterclaims. It has prevailed in all jurisdictional disputes. (Common law subcorpus)

Both examples (9) and (10) reflect the adversarial nature of the common law legal system, where parties are positioned in opposition to one another, much like opponents in a fight or battle (Pejovic 2001, 20). As previously mentioned in Section 3, the adversarial system inherently frames legal disputes as contests between opposing sides, each aiming to prevail by presenting the strongest case. The use of fighting and battle metaphors in the common law subcorpus

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[28]   Oxford   English   Dictionary   (OED)   Online.   Weigh.   Available   at https://www.oed.com/dictionary/weigh_v1?tab=meaning_and_use#14843795. Last visited 30/11/2024.
[29]   Oxford   English   Dictionary   (OED)   Online.   Battle.   Available   at https://www.oed.com/dictionary/battle_n?tab=meaning_and_use#26096920. Last visited 30/11/2024.
[30]   Oxford   English   Dictionary   (OED)   Online.   Defeat.   Available   at https://www.oed.com/dictionary/defeat_v?tab=meaning_and_use#7182075. Last visited 30/11/2024.

emphasizes this combative view of legal proceedings, where the goal is to overcome the opponent through legal argumentation or strategy. The conceptual metaphor deriving from this is therefore ARBITRATION IS A BATTLEGROUND, which further reinforces the idea of arbitration as a site of conflict and competition.

Another important observation concerns the word ENSHRINED, which only appears in the civil law subcorpus. The following examples illustrate the context in which this word is used:

(11)   The arbitrator noted preliminarily that (i) an objection regarding the arbitral tribunal's jurisdiction does not prevent the tribunal from deciding on its own jurisdiction, pursuant to the principle of Kompetenz-Kompetenz, which is ENSHRINED in the Italian arbitration law. (Civil law subcorpus)

(12)   An objection regarding the Arbitral Tribunal's jurisdiction does not prevent the Arbitrator from deciding on her own jurisdiction, pursuant to the well-known principle of Kompetenz-Kompetenz, which since the entry into force of the arbitration reform (see Legislative Decree no. 40/2006), is also ENSHRINED in Art. 817(1) CCP, applicable to international arbitrations with seat in Italy, such as the present one. (Civil law subcorpus)

Three out of the four occurrences of the word ENSHRINED within the civil law subcorpus are used to refer to a legal principle included in the Italian civil code. According to the OED, *to enshrine* means "to enclose (a sacred relic, the image of a deity or saint) in a shrine; to place (a revered precious object) in an appropriate receptacle."[31] The resulting conceptual metaphor deriving from the metaphorical lexical unit ENSHRINED is that LEGAL PRINCIPLES ARE SACRED OBJECTS, specifically those included in the civil code. When the word ENSHRINED is used in reference to legal principles or provisions within a civil code, it metaphorically conveys that these principles are treated with a similar level of reverence, protection, and permanence. The use of the term suggests that the principles of the civil code are foundational (Garzone and Salvi 2007, 15) and should be preserved in a way that reflects their significance within the legal system.

Another interesting observation concerns the use of the word PARAMETER in the civil law subcorpus. The word PARAMETER is mostly used with technical meanings related to geometry, astronomy, mathematics, and other scientific disciplines. In its original sense, a parameter refers to a measurable factor or limit that defines a system or sets of conditions within which

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[31]   Oxford English Dictionary (OED) Online. Enshrine. Available at https://www.oed.com/dictionary/enshrine_v?tab=meaning_and_use#5465194. Last visited 30/11/2024.

something operates.[32] However, in the civil law subcorpus, the metaphorical use of PARAMETER frames abstract concepts of understanding or interpretation as measurable or bounded activities, thereby providing clarity and structure to otherwise intangible processes. This can be observed in the following examples extracted from the civil law subcorpus:

(13)   Definitive support for this conclusion is to be found in the new provision, introduced by the 2006 arbitration reform, of Art. 808 quater CCP (which applies to the present case ratione temporis); [this provision] introduced, along with the PARAMETER in Art. 1362 CC et seq., a new *parameter* for the interpretation of the arbitration clause, according to which […]. (Civil law subcorpus)

(14)   According to the Convention's PARAMETERS, and for the country in which its recognition and enforcement may be sought, it will be a foreign award. (Civil law subcorpus)

Borrowed from scientific or mathematical contexts, the term PARAMETER metaphorically frames legal interpretation as a process governed by measurable constraints or boundaries. In other words, in this context, legal language borrows from concrete domains to convey ideas of structure and limitation set forth by the civil code or similar legal documents.

Finally, another interesting metaphor involves the verb TO GUIDE, whose basic meaning is "to go with or before for the purpose of leading the way."[33] Notably, it is used within the civil law subcorpus in its figurative sense – to guide or influence someone in taking a specific course of action or shaping their opinions – as can be observed in the following example:

(15)   Regarding the interpretation of contracts in general, Article 1362 c.c. provides that, for the interpretation of the contract, one must be GUIDED by the common intention of the parties and one must not limit oneself to the literal sense of the words. (Civil law subcorpus)

In example (15), the phrase *one must be guided by* evokes a metaphorical journey, where the interpreter follows a path or direction, represented by the common intention of the parties, as established in Article 1362 of the Italian Civil Code. In its literal sense, GUIDANCE refers to the physical act of leading someone along a route. Metaphorically, it suggests that the interpretive

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[32]   Oxford   English   Dictionary   (OED)   Online.   Parameter.   Available   at https://www.oed.com/dictionary/parameter_n?tab=meaning_and_use#31892512. Last visited 30/11/2024.
[33]   Oxford   English   Dictionary   (OED)   Online.   Guide.   Available   at https://www.oed.com/dictionary/guide_v?tab=meaning_and_use#2307393. Last visited 30/11/2024.

process relies on a guiding principle – the shared intention of the parties – serving as the compass or map to navigate through the complexities of the contract. Specifically, this metaphor conceptualizes the Civil Code, particularly Article 1362, as a figurative guide that arbitrators and interpreters follow during the interpretive process (Pejovic 2001, 9). The metaphor implies that THE CIVIL CODE IS A GUIDE, providing direction, clarity, and a structured path to uncover the meaning of a contract by emphasizing the parties' shared intention. This suggests that the civil code is not simply a collection of laws, but a foundational framework that guides legal interpretation and application.

Conversely, within the common law, the metaphor GUIDE refers to arbitrators guided by ICDR/AAA Guidelines, as illustrated in the following example:

(16) In particular, the ICDR/AAA expressed the view that the ICDR Guidelines were directed to arbitrators sitting on international cases pending before the ICDR/AAA […] and that they were intended to GUIDE arbitrators who could apply them at their discretion.

In this sentence, the phrase *intended to guide arbitrators* suggests a metaphorical concept in which the ICDR Guidelines are portrayed as a guide or compass for arbitrators, framing them as a tool to assist arbitrators in decision-making. Thus, the underlying conceptual metaphor is THE GUIDELINES ARE A GUIDE.

6. Concluding remarks

The analysis has demonstrated that metaphors are present in the arbitral awards examined. According to the quantitative data, metaphors are fairly distributed across the subcorpora, with a slight predominance in the civil law subcorpus. Qualitatively, the study highlights the presence of conceptual metaphors that emphasize the differences[34] between civil law and common law systems in both subcorpora.

The analysis reveals metaphorical patterns reflecting each legal tradition's structure and values. In the common law subcorpus, metaphors like BATTLE and DEFEATED highlight the confrontational nature of the adversarial system. In contrast, the civil law subcorpus features metaphors such as ENSHRINED and PARAMETER, which emphasize the authoritative and codified nature of legal principles.

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[34] For the purposes of this study and due to space limitations, the analysis primarily focuses on the differences between civil law and common law, with the intention of addressing the similarities in a subsequent study.

Finally, the metaphor GUIDE appears in both subcorpora but with different meanings. In the civil law subcorpus, it refers to the civil code as the primary source of legal direction. In the common law subcorpus, it denotes the ICDR/AAA Guidelines, which offer procedural guidance but lack the binding authority of statutes or judicial precedents, reflecting the more flexible, case-law driven nature of common law.

This study was conducted on a relatively small corpus of arbitral awards, but its findings provide a foundation for future research. Expanding the corpus would potentially reveal additional conceptual metaphors in arbitral awards and offer further insights into the differences between civil law and common law systems.

Bionote

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