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The Use of External Judicial Decisions among Regional Human Rights Courts.

There are currently three different regional human rights courts active on three continents. The Inter-American and European Courts of Human Rights are already well-established within their regional frameworks, whereas the African Court of Human and Peoples' Right only started issuing judgments in this last decade. Despite their differences, all three courts are now engaged in a continuous development of their case law, to fulfill their task of protecting human rights. The question arises as to what extent these courts refer to each other as part of their judicial reasoning, and whether external judicial decisions become internalized over time or remain an appeal to external authorities. This paper analyzes the empirical findings of a PhD project on this exact question.

The use of external decisions in the case law of these courts is an example of judicial cross-fertilization. There are both legal mechanisms that facilitate this practice, and contextual factors that shape the development of the courts. This paper unravels the role that this practice has in the development of the courts' jurisprudence. Thus, the paper assesses not only the semantic authority of specific actors in the development of international law, but also the institutional contexts that surround these courts. The research highlights the interface between the internal structures of the regional systems and the external international legal sphere.

The methodology builds on the premise that law is best understood by combining the internal doctrinal study of the legal norms with the study of external, contextual factors. Together, the internal and external perspectives reveal the practice of international law and its changes over time. For this research, the doctrinal study is supplemented by a citation network analysis of the reference to external judicial decisions of each of the courts. This analysis allows to understand the evolving patterns and structures created by the citation practices of these courts.

Likewise, the paper reflects on the institutional context of the regional courts, as this context can have either detrimental or beneficial effects on the development of the courts' practice. These courts operate in diverse settings and have developed distinct practices. However, the judicial borrowing among the courts still serve an important function in their reasoning. More importantly, the recourse to external judicial decisions can be utilized to push for an expansive interpretation of human rights norms.

The paper shows different patterns in the use of external decisions. The European Court has retained a constrained approach to external judicial decision, preferring to refer to its own practice except in circumstances where it is faced with a new legal problem already tackled by other international courts. By contrast, the Inter-American Court consistently refers to external case law and sees it as part of an international *corpus juris* that plays a central role in its pursuit of a *pro persona* interpretation of human rights. Finally, the African Court also refers extensively to external decisions but afterwards internalizes the external practice, building on its own newly established jurisprudence, rather than continuing to rely on external sources.