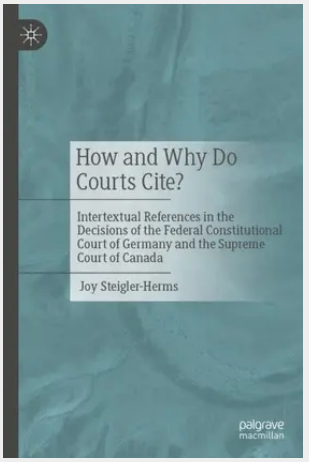
Steigler-Herms

How and Why Do Courts Cite?

Intertextual References in the Decisions of the Federal Constitutional Court of Germany and the Supreme Court of Canada



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Moreover, court decisions also contain references to texts that do not possess legal authority and therefore cannot be assigned such a function. Among the sources cited by courts, alongside statutory texts, are—for example—references to foreign law, scholarly sources, or even literary texts.

In view of this, the present study addresses the question of how and why courts cite. Using decisions from the Federal Constitutional Court of Germany and the Supreme Court of Canada as examples, the interdisciplinary study proposes both philological and legal evaluation criteria for the empirical reconstruction of citation functions and furthermore adopts a comparative perspective on jurisdiction-related differences in citation practices in courts.

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