

Dialogue between the inter-american court and the european court of human rights on the human right to cultural identity

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Abstract

This article argues that the human right to cultural identity is a common right that protects indigenous peoples and other cultural minorities in America and Europe. In order to demonstrate it, the paper: i) defines the human right to cultural identity and presents its sources in the International Law of Human Rights; ii) reviews the jurisprudence of the Inter-American Court Inter-American Court of Human Rights, which recognizes its applicability mainly to indigenous peoples; iii) exposes relevant precedents of the European Court of Human Rights and its reasoning in relation to the same right and its applicability to minority groups; iv) finally, proposes a framework of possibilities and limits for a jurisprudential dialogue among the two courts on the matter. About methodology, in the study of jurisprudence are used tools the comparative law method, in a horizontal sense, applied at the level of the regional European and Inter-American human rights systems. The legal sources are studied systemically (universal system, regional human rights and special sources on cultural rights). Complementarily, bibliographic research is used in the conceptual and doctrinal aspects.

Author keywords

Courts

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