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## Peeking Abroad?: The Supreme Court's Use of Foreign Precedents in Constitutional Cases

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**Abstract:**

This essay criticizes the Supreme Court's use of foreign legal precedents in constitutional cases. If these citations are no more than ornamental, or are no more than good ideas from another jurisdiction, then there is little about which to be concerned. If reliance on foreign precedents represents a more significant trend, however, several difficulties arise. First, if foreign courts are receiving deference, then they may well be exercising federal authority outside the bounds of our Constitution. Second, reliance on such decisions breaks the relationship between the people and their government as expressed in the Constitution, because foreign courts are interpreting a different document within a different constitutional and political context. Third, to the extent use of these precedents has focused on European decisions, it is unclear whether the United States should seek to coordinate its constitutional solutions to problems with those of Europe. Europe has suffered from serious political instability over the last two centuries brought about by sometimes extreme political ideologies, and since World War II has enjoyed a different tradeoff between rights and security thanks to an American security guarantee.

Keywords: constitutional law, foreign law, Supreme Court

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