



Human Rights Between Law and Politics: The Margin of Appreciation in Post-National Contexts (Modern Studies in European Law)

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This book analyses human rights in post-national contexts and demonstrates, through the case law of the European Court of Human Rights, that the Margin of Appreciation doctrine is an essential part of human rights adjudication. Current approaches have tended to stress the instrumental value of the Margin of Appreciation, or to give it a complementary role within the principle of proportionality, while others have been wholly critical of it. In contradiction to these approaches this volume shows that the doctrine is a genuinely normative principle capable of balancing conflicting values. It explores to what extent the tension between human rights and politics, embodied in the doctrine, might be understood as a mutually reinforcing interplay of variables rather than an entrenched separation. By linking the interpretation of the Margin of Appreciation doctrine to a broader conception of human rights, understood as complex political and moral norms, this volume argues that the doctrine can assist in the formulation of the common good in light of the requirements of the Convention.

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