

The function of the European Court of Human Rights in an increasingly diverse world: a cultural studies approach.

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As a cultural product and a cultural formation, the European Court of Human Rights (ECtHR) is quite characteristic of its kind. It is a result of specific historical events, namely the atrocities of the Second World War and the Holocaust; it is a product of the notion and form of organization we call democracy and, last but not least, embodies Western cultural notions of rights, rules expressed in documents, objectivity, and a rational, scientific method of thought. Yet, increasingly, the ECtHR has had to involve itself with cultural groups that may be seen to embody the opposite of those notions: honour cultures, patriarchy, and claustrophobic methods of thought. By developing the doctrine of the so-called margin of appreciation, whereby certain cultural (and other, such as ideologic) differences may be allowed, is not the ECtHR backtracking in its own commitment(s) to uphold the rights and rules contained in the Convention? To put it differently, is the ECtHR, while seeking to accommodate cultural relativity, risking the operation of the Rule of Law, or is it trying to establish itself as a method whereby culturally relative values may be embedded in western notions of what is rightful, worthwhile and true?