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#### Sommario/riassunto

This study offers a critical account of the reasoning employed by the European Court of Human Rights, particularly its references to European consensus. Based on an in-depth analysis of the Court's case-law against the backdrop of human rights theory, it will be of interest to both practitioners and theorists.

While European consensus is often understood as providing an objective benchmark within the Court's reasoning, this study argues to the contrary that it forms part of the very structures of argument that render human rights law indeterminate. It suggests that foregrounding consensus and the Court's legitimacy serves to entrench the status quo and puts forward novel ways of approaching human rights to enable social transformation.

Dieses Werk analysiert die Argumentationsstrukturen des Europäischen Gerichtshofs für Menschenrechte, insbesondere dessen Verweise auf einen Europäischen Konsensus. Es verbindet kritische Menschenrechtstheorie mit einer eingehenden Analyse der Rechtsprechung des Gerichtshofs.

Während der Europäische Konsensus oft als objektives Element innerhalb der Argumentation des Gerichtshofs angesehen wird, legt diese Studie dar, dass er Teil der argumentativer Strukturen bildet, die zur Unbestimmtheit von Menschenrechten führen. Konsensus und die Legitimität des Gerichtshofs zu betonen, dient der Verankerung des Status Quo. Der Autor schlägt alternative Ansätze vor, um Menschenrechte als Instrument sozialer Transformation denken zu können.

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