

Programa Analítico de Disciplina

DIR 615 - O ideal político do Estado de Direito (Rule of Law) na tradição analítica: fundamentos filosóficos e implicações normativas

Departamento de Direito - Centro de Ciências Humanas, Letras e Artes

Catálogo: 2024

Número de créditos: 3

Carga horária semestral: 45h

Carga horária semanal teórica: 3h

Carga horária semanal prática: 0h

Semestres: I e II

Ementa

Unidade I - A concepção de Estado de Direito em Fuller e a moralidade interna ao direito

Unidade II - O Estado de Direito como virtude própria do Direito

Unidade III - O Estado de Direito na concepção jusnaturalista segundo Finnis

Unidade IV - Legalidade e Estado de Direito no interpretativismo de Ronald Dworkin

Unidade V - O Estado de Direito, Argumentação e Processo

Unidade VI - O Estado de Direito e a Accountability Moral

Unidade VII - O Estado de Direito enquanto ideia moral

Conteúdo

Unidade	T	P	To
1. Unidade I - A concepção de Estado de Direito em Fuller e a moralidade interna ao direito 1. A moralidade no Direito 2. As duas moralidades 3. A moralidade que torna o Direito possível 4. O conceito de Direito	10h	0h	10h
2. Unidade II - O Estado de Direito como virtude própria do Direito 1. A virtude própria do Direito	5h	0h	5h
3. Unidade III - O Estado de Direito na concepção jusnaturalista segundo Finnis	5h	0h	5h
4. Unidade IV - Legalidade e Estado de Direito no interpretativismo de Ronald Dworkin	5h	0h	5h
5. Unidade V - O Estado de Direito, Argumentação e Processo 1. O Estado de Direito e o formalismo jurídico 2. O Estado de Direito e o Conceito de Direito segundo Waldron	10h	0h	10h
6. Unidade VI - O Estado de Direito e a Accountability Moral	5h	0h	5h
7. Unidade VII - O Estado de Direito enquanto ideia moral	5h	0h	5h

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	Total	45h	0h	45h
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Teórica (T); Prática (P); Total (To);

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Bibliografias básicas

Descrição	Exemplares
DWORKIN, Ronald. "Political Judges and the Rule of Law", in A Matter of Principle. Cambridge: Harvard University Press, 1985.	0
DWORKIN, Ronald. Justice in Robes. Cambridge, MA: Belknap, 2006.	0
FINNIS, John. Natural Law and Natural Rights. 2. ed. Oxford: Oxford University Press, 2011.	0
FULLER, Lon L. The Morality of Law. Revised ed. New Haven: Yale University Press, 1969.	0
KRAMER, Matthew. Where Law and Morality Meet. Oxford: Oxford University Press, 2004.	0
KRYGIER, Martin. "Four Puzzles about the Rule of Law: Why? What? Where? And Who Cares?". in. James Fleming (ed.), Getting to the Rule of Law. New York: New York University Press, 2011.	0
MACCORMICK, Neil. "The Rule of Law and the Arguable Character of Law", in. Rhetoric and the Rule of Law. Oxford: Oxford University Press, 2005.	0
POSTEMA, Gerald. "Fidelity in Law's Commonwealth". In. Private Law and the Rule Of Law, Dennis Klimchuk, ed., Oxford University Press, 2015.	0
POSTEMA, Gerald. "Law's Rule: Reflexivity, Mutual Accountability and the Rule of Law", in. Xiaobo Zhai; Michael (orgs.). Bentham's Theory of Law and Public Opinion. Cambridge: Cambridge University Press, 2014.	0
RAZ, Joseph. "The Law's Own Virtue". Oxford Journal of Legal Studies, vol. 39, issue 1, p. 1-15, 2019.	0
RAZ, Joseph. "The Rule of Law and its Virtue", in. The Authority of Law. 2. ed. Oxford: Oxford University Press, 2009.	0
SCHAUER, Frederick. "Rules and the Rule of Law". Harvard Journal of Law and Public Policy, vol. 14, p. 645, 1991.	0
SIMMONDS, Nagel. Law as a Moral Idea. Oxford: Oxford University Press, 2007.	0
WALDRON, Jeremy. "The Concept and the Rule of Law". Georgia Law Review, vol. 43, 2008.	0
WALDRON, Jeremy. "The Rule of Law as a Theatre of Debate", in. Justine Burley, org., Dworkin and His Critics (with Replies by Dworkin). New York: Blackwell, 2004.	0
WALDRON, Jeremy. "The Rule of Law and the Importance of Procedure", in. James Fleming (ed.), Getting to the Rule of Law. New York: New York University Press, 2011.	0

Bibliografias complementares

Descrição	Exemplares
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DYZENHAUS, David. "The Rule of Law as the Rule of Liberal Principle", in A. Ripstein (org.). Ronald Dworkin (Cambridge: Cambridge University Press, 2007).	0
FALLON, Richard. "Rule of Law as a Concept in Constitutional Discourse". Columbia Law Review, vol. 97, 1997, p 1-56.	0
LAMOND, Grant. "The Rule of Law", in. A. Marmor (org.), The Routledge Companion to Philosophy of Law. New York: Routledge, 2012.	0
TAMANHA, Brian. "A Concise Guide to the Rule of Law", in. G. Palombela and N.Walker. Relocating the Rule of Law. Oxford: Hart Publishing, 2009.	0

Syllabus

DIR 615 - The political ideal of the Rule of Law in the analytical tradition: philosophical foundations and normative implications

Departamento de Direito - Centro de Ciências Humanas, Letras e Artes

Catalog: 2024

Number of credits: 3

Total hours: 45h

Weekly workload - Theoretical: 3h

Weekly workload - Practical: 0h

Period: I e II

Content

Fuller's conception of the Rule of Law
The Rule of Law and its Virtue
The Rule of Law in natural law theories according to Finnis
Legality and Rule of Law in Ronald Dworkin's interpretivism
The Rule of Law, Argumentation and Procedure
The Rule of Law and the moral accountability
The Rule of Law as a moral idea

Course program

Unit	T	P	To
1. Fuller's conception of the Rule of Law 1. The Morality of Law The two moralities The morality that makes law possible The concept of law	10h	0h	10h
2. The Rule of Law and its Virtue 1. The Law's Own Virtue	5h	0h	5h
3. The Rule of Law in natural law theories according to Finnis	5h	0h	5h
4. Legality and Rule of Law in Ronald Dworkin's interpretivism	5h	0h	5h
5. The Rule of Law, Argumentation and Procedure 1. The Rule of Law and the legal formalism The Rule of Law and the concept of law according to Waldron	10h	0h	10h
6. The Rule of Law and the moral accountability	5h	0h	5h

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7. The Rule of Law as a moral idea	5h	0h	5h
Total	45h	0h	45h

Theoretical (T); Practical (P); Total (To);

DIR 615 - The political ideal of the Rule of Law in the analytical tradition: philosophical foundations and normative implications

Fundamental references	
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Complementary references	
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