

Academic Year: (2022 / 2023)

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Department assigned to the subject: International Law, Ecclesiastical Law and Philosophy of Law Department

Coordinating teacher: ASIS ROIG, RAFAEL FERNANDO DE

Type: Compulsory ECTS Credits : 3.0

Year : 1 Semester : 1

REQUIREMENTS (SUBJECTS THAT ARE ASSUMED TO BE KNOWN)

The only requirement is to have been formally admitted to the Master in Advanced Human Rights Studies

OBJECTIVES

The fundamental objectives of the course are: to give the students a broad perspective of what are the main problems faced in determining what is the concept and foundation of fundamental rights, and also of the different responses that for that determination has been given from the different approaches specific of philosophy of law. Thus, it is intended that the students will be in the best position to conduct its own investigation in those aspects that they considered most relevant or of interest for their own training, for which they can count on the guidance of some teachers who taught the subject.

DESCRIPTION OF CONTENTS: PROGRAMME

- 1.- Introduction: Terminology problems. Vagueness, ambiguity and emotion. Natural rights, human rights, moral rights and fundamental rights.
- 2.- The concept and the foundation: their relationship
- 3.- On the foundation
 - 3.1.- The problems of the foundation of rights.
 - 3.1.1.- The difficulties of the rational foundation
 - 3.1.2.- The difficulties of the integral foundation
 - 3.1.3.- The open catalog of rights
- 2.- The relevance and meaning of the problems with the concept and the foundation of human rights.
 - 3.2.- Various proposals on the foundation.
 - 3.2.1.- Attention to the addressee: abstract and historical foundations.
 - 3.2.2.- The nature of values: objectivism, subjectivism and intersubjectivism.
 - 3.2.3.- The budget: liberals and communitarians.
- 4.- About the concept.
 - 4.1.- Natural rights
 - 4.2.- Positivism
 - 4.3.- Dualism
 - 4.4.- Trialism
- 5.- The dualist proposal
 - 5.1.- Reason and History
 - 5.2.- The dynamism of freedom
 - 5.3.- Rights as ethical instruments
 - 5.4.- Rights as political instruments
 - 5.5.- Rights as legal instruments
- 6.- Values and principles
 - 6.1.- Human dignity.
 - 6.2.- Freedom.
 - 6.3.- Equality.
 - 6.4.- Solidarity
- 7.- The relevance of the conceptual and justificatory problem: special attention to its impact on legal

systems.

7.1.- The guarantee system: legislation and jurisdiction.

7.2.- Interpretation: legal interpretation and constitutional interpretation.

8.- Contemporary challenges of the concept and foundation

LEARNING ACTIVITIES AND METHODOLOGY

Beside the theoretical classes exist 27 hours of tutoring, that students can use to answer questions about the 45 hours of personal work that each student has to make on the course.

ASSESSMENT SYSTEM

% end-of-term-examination/test:	100
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% of continuous assessment (assignments, laboratory, practicals...):	0
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The evaluation is developed exclusively through a final exam, which has a weight of 100% in the final grade. Students will know in advance the question or questions of the final exam, so that they can prepare it during the course with the theoretical knowledge acquired during the course and different study materials. The exam shall be done in writing, individually and without support materials.

BASIC BIBLIOGRAPHY

- De Asís, R. y Ansuategui, J. (eds.) Essays on human rights, Aranzadi, 2015

ADDITIONAL BIBLIOGRAPHY

- Cohen, G. A. Self-Ownership, Freedom and Equality, Cambridge UP, 1995

- Sanders, J. Why the Numbers Should Sometimes Count, Philosophy and Public Affairs, 1988

- Taurek, J. Should the Numbers Count? , Philosophy and Public Affairs, 1977