

Ficha de Unidade Curricular

Curso de Mestrado em Ciência Jurídica

1. Nome da Unidade curricular:

Direitos Fundamentais

2. Informação Complementar:

Duração: Semestral Anual

Horas de Trabalho: 504

Créditos ECTS: 18

3. Docente responsável e respetiva carga letiva na unidade curricular:

David Duarte

4. Outros docentes e respetivas cargas letivas na unidade curricular:

- X

5. Objetivos de aprendizagem (conhecimentos, aptidões e competências a desenvolver pelos estudantes):

- X

6. Conteúdos programáticos:

Direitos Fundamentais e Posições Jurídicas

0: Introdução

1: Conceitos básicos da normatividade

1.1: Enunciado e norma

1.2 : Estrutura da norma

1.3 : Classificações de normas

1.4: Normas e posições jurídicas

2: A compreensão Hohfeldiana

2.1: As posições primárias

2.2: As posições secundárias

2.3.: A correlatividade

2.4: Os agregados Hohfeldianos

3: Teorias dos direitos

3.1: Sentido das teorias normativas dos direitos

3.2: Teoria da vontade

3.3: Teoria do interesse

3.4 : Teorias mistas

3.5 : Críticas

4: Posições jurídicas atomísticas

4.1: «Claim right» e «duty to or not to»

4.2: «Liberty» e «duty of no interference»

4.3: «Competence» e «liability»

5: Posições jurídicas agregadas

5.1: A agregação

5.2 : Exemplos de agregação

5.3 : As posições tû-tû

7. Demonstração da coerência dos conteúdos programáticos com os objetivos da unidade curricular:

- X

8. Metodologias de ensino:

- as aulas têm estrutura de seminário;

9. Avaliação:

- entrega de um projecto de investigação no final do primeiro semestre e de um paper no final do segundo;

- a classificação final é a média do papers (80%) com a avaliação relativa à participação nas sessões (20%);

10. Demonstração da coerência das metodologias de ensino com os objetivos de aprendizagem da unidade curricular:

- X

11. Bibliografia principal:

ALEXY, ROBERT

- 2002. *Theory of Fundamental Rights*. Oxford: Oxford University Press.

CÁCERES, MARÍA BEATRIZ

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- 2014. El Concepto Hohfeldiano de Derecho Subjetivo. *Revista de Ciencias Sociales*. 65. 13-45.

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- 2015. Wrongs, Rights, and Third Parties. *Philosophy & Public Affairs*. 43. 2. 109-143.

CRUFT, ROWAN

- 2013. Rights and the Direction of Duties. *Ethics*. 123. 195-201.

- 2012. Why Is It Disrespectful to Violate Rights? *Proceedings of the Aristotelian Society*. CXIII. 202-224.

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DUARTE D'ALMEIDA, LUÍS

- 2016. Fundamental Legal Concepts: The hohfeldian Framework. *Philosophy Compass*. 11. 554-569.

FEINBERG, JOEL

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HALPIN, ANDREW

- 2003. Fundamental Legal Conceptions Reconsidered. *Canadian Journal of Law and Jurisprudence*. XVI. 41- 54.
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- 1985. Hohfeld's Conceptions: From eight to Two. *Cambridge Law Journal*. 44. 3. 435-457.

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HAYWARD, TIM

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HEDAHL, MARCUS

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HOHFELD, WESLEY

- 1917. Fundamental Legal Conceptions as Applied in Judicial Reasoning. *Yale Law Journal*. 710-770.

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KRAMER, MATTHEW

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KRAMER, MATTHEW / STEINER, HILLEL

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KURKI, VISA

- 2018. Rights, Harming and Wronging: Restatement of the Interest Theory. *Oxford Journal of Legal Studies*. 38. 3. 430-450.

- 2017. Hohfeldian Infinities: Why Not to Worry. *Res Publica*. 23. 137-146.

LINDAHL, LARS

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- 1994. Stig Kanger's Theory of Rights. *Logic, Methodology and Philosophy of Science*. Edited by D. Prawitz, B. Skyrms, and D. Westerståhl. Amsterdam: Elsevier. 889-911.

- 1977. *Position and Change*. Dordrecht: Reidel Publishing.

MARTIN, REX

- 1993. *A System of Rights*. Oxford: Oxford University Press.

NYQUIST, CURTIS

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O'REILLY, DANIEL

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SARTOR, GIOVANNI

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SINGER, JOSEPH

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STEINER, HILLEL

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WELLMAN, CHRISTOPHER

- 1995. On Conflicts Between Rights. *Law and Philosophy*. 14. 271-295.

WENAR, LEIF

- 2013. The Nature of Claim Rights. *Ethics*. 123. 202-229.

- 2005. The Nature of Rights. *Philosophy & Public Affairs*. 33. 3. 223-252

ZANGHELLINI, ALEARDO

- 2017. Raz on Rights: Human Rights, Fundamental Rights, and Balancing. *Ratio Juris*. 30. 1. 25-40

12. Observações:

- X



Curricular Unit Sheet

Masters Course

1. Curricular Unit Name:

Fundamental Rights

2. Complementary Information:

Duration: Semester Annual

Work hours: 504

Credits ECTS: 18

3. Responsible Academic staff and respective workload in the curricular unit:

David Duarte

4. Other academic staff and respective workloads in the curricular unit:

- X

5. Learning outcomes of the curricular unit:

- X

6. Syllabus:

Fundamental Rights and Legal Positions

0: Introduction

1: Basic concepts of normativity

 1.1: Norm and norm sentence

 1.2: Norm structure

 1.3 : Taxonomy of norms

 1.4 : Norms and legal positions

2: The Hohfeldian understanding

 2.1: First order legal positions

 2.2: Second order legal positions

 2.3.: The correlativity axiom

 2.4: Hohfeldian aggregation

2: Theories of rights

 3.1 : Meaningfulness of normative theories of rights

 3.2 : Will theory

 3.3 : Interest theory

 3.4 : Mixed theories

3.5: Criticism

4: Legal atomistic positions

4.1: «Claim right» and «duty to or not to»

4.2: «Liberty» and «duty of no interference»

4.3: «Competence» and «liability»

5: Aggregated legal positions

5.1: Aggregating

5.2 : Examples of aggregation

5.3 : The tû-tû positions

7. Demonstration of the syllabus coherence with the curricular unit's objectives:

- X

8. Teaching methodologies (including evaluation):

- classes will follow a workshop model;

9. Demonstration of the coherence between the teaching methodologies and the learning outcomes:

- X

10: Evaluation:

- one research project at the end of the first semester and a paper at the end of the second;

- final evaluation is the average of the paper (80%) with an assessment on class participation (20%);

11: Main Bibliography:

- see above

12: Remarks:

- X