
Human Rights as Basic Rights: A Path to Universality?

*Derechos humanos como derechos básicos.
¿Un camino hacia la universalidad?*

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Abstract: The paper aims to support a view of human rights as essentially characterized by a basic content and in this sense focuses on the notion of basic rights. The key features associated with the notion of human rights – moral embedding and universality – should lead to regard human rights as essentially basic rights. The analysis will (i) argue for a notion of ‘basicness’ that is different from the notion occurring both within the so-called minimalist theories and the one worked out by Henry Shue; (ii) address the link between the idea of basic rights and the doctrine of the minimum core/content and (iii) criticize a deviation from the desirable path, which lies in shifting from the notion of minimum core of rights to the notion of core rights.

Keywords: theories of human rights; universality of human rights; justification of human rights; international covenant on economic, social and cultural rights; minimum content; core labour standards.

Resumen: El artículo busca respaldar la visión de los derechos humanos como esencialmente caracterizados por un contenido básico y, en este sentido, centrados en la noción de derechos básicos. Las características fundamentales asociadas a la noción de derechos humanos –moral incorporada y universalidad– deberían llevar los derechos humanos a ser considerados esencialmente como derechos básicos. El análisis (i) aboga por una noción de «basicidad» que es diferente de la noción presente en las llamadas teorías minimalistas y en aquella desarrollada por Henry Shue; (ii) aborda el vínculo entre la idea de derechos básicos y la doctrina del núcleo/contentido mínimo y, (iii) critica una desviación del camino ideal, que consiste en pasar de la noción de núcleo mínimo de derechos a la noción de derechos fundamentales.

Palabras clave: teorías de los derechos humanos; universalidad de los derechos humanos; justificación de los derechos humanos; pacto internacional de derechos económicos, sociales y culturales; contenido mínimo; normas laborales fundamentales.

1. INTRODUCTION

The foundation and conceptualisation of human rights have been at the core of Francesco Viola's research and thought, where he has always underlined the innovating role played by human rights as new «bricks» in the building of contemporary law. In this field, the idea of universality of rights has given rise to pervasive issues, since it is at the same time an inherent character of human rights and a challenge under several respects.

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