

Indisponibilità dei diritti fondamentali: un problema di interpretazione

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Non-disposable Fundamental Rights: A Problem of Interpretation

Abstract: In this article, I will argue that a liberal-egalitarian theory can easily justify the fact that the holder of a fundamental right cannot legitimately transfer or surrender a fundamental right. A liberal-egalitarian theory can justify the fact the exercise of a fundamental right is mandatory, when what is protected is a real interest of the right holder, like the rights of workers to wages or paid holidays. On the contrary, a liberalegalitarian theory is incompatible with the fact that the exercise of the fundamental right is considered mandatory, the holder must exercise the right, when the interest protected is an ideal or objective interest, like the objective value of life, not a real or true interest of the holder of the right.

Keywords: Inalienable rights, Liberal theory, Ideal theory of interests, Paternalism.

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