



Derechos e interpretación El razonamiento jurídico en el Estado constitucional (Spanish Edition)

Giorgio Pino

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La "interpretación jurídica" ha ocupado sistemáticamente las lentes de la filosofía analítica del derecho italiana. Creo que esta preferencia se justifica, entre otras razones, en el hecho de que sin actividad interpretativa, es decir, sin el razonamiento necesario para atribuir un significado a una disposición normativa, no habría norma jurídica que aplicar, o razón jurídica que esgrimir en argumentos para criticar los actos de otros o para justificar los propios; no sería posible, dicho en pocas palabras, el razonamiento acerca de cómo se debe actuar con base en el derecho en ciertas ocasiones. Si esto es verdad, la manera de caracterizar la interpretación jurídica tiene una incidencia notable en la representación del razonamiento jurídico: una caracterización (o una representación teórica) (in) adecuada de, por ejemplo, cómo los jueces interpretan disposiciones normativas conlleva una representación (in)adecuada, (im)plausible, tanto de cómo ellas razonan en torno a las normas jurídicas (disposiciones normativas con significado atribuido), como de los argumentos que ellas formulan a favor de aplicar una norma jurídica y, por tanto, de tomar una decisión jurídica (e.g., judicial) específica.

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