



## La importancia de la tónica en la renovación del sistema: el caso del derecho peruano y su sistema de precedentes [

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text (article)

Analítica

This paper suggests reassessing the teachings of the Roman method of creation of law, based on the understanding of the *ius as ars boni et aequi*, which makes evident that the law has a practical purpose and, consequently, topics is the knowledge itself of the law, in which the centrality of the case is highlighted and the realization of justice in terms of what we would today call 'effective protection of rights'. The text argues that such an understanding presupposes the understanding of the dynamic nature of law, of its artificial nature as created by human beings and, therefore, perfectible, of the active role of the jurist in the construction of a more equitable right, which makes possible the realization of the balanced equality in the preservation of the values of reasonableness that good faith proposes, by considering the requirements of the case, in harmony with the principles that govern the system, in a permanent reconstruction of the balance between topic and system. In rethinking the application of law according to its nature, to the essential function of serving coexistence, and of making the values of a social State of Law a reality, the paper analyzes the experience of Peruvian jurisprudence in the 'precedents' of the Supreme Court of Justice, examining several of its most emblematic judgments, under the perspective of topics and, in general, of the Roman method of creating the law

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