Contents

Abbreviations	xiii
Introduction: Between Herculean Rules and Hydra-like Principles	1
From Classic Distinctions Between Legal Principles and Rules Norms Between Texts and Facts Imprecision, Discretion, and Generality as Criteria for	10 10
Distinguishing Between Principles and Rules 3. Reference to Goals and Values as a Criterion for Distinguishing Between Principle and Rules	17 27
Through the Still Dominant Models of Division Between Constitutional Principles and Rules Moral-Philosophical Background of the Turn in the Theory of Legal	39
Principles	39
 All-or-Nothing versus Dimension of Weight (Ronald Dworkin) Definitive Reasons versus Optimization Requirements (Robert Alexy) 	44 54
3. To the Search of Another Model of Difference Between	
Constitutional Principles and Rules	72
Locating the Problem and Conceptual Contours Constitutional Principles as a Result of the Positivization of	72
Law: Principles and Rules as an Internal Difference of the Legal System	88
 The Circular Relationship Between Constitutional Principles and Rules From Optimization to Competition: Limits of 'Balancing' Intra-Principle Collision, Double Contingency, and Functional 	108
Differentiation of Society: Towards a Complex Theory of Principles	121
4. The Use and Abuse of Principles: From Doctrine to Practice in	
Brazilian Constitutional Law	129
 From Doctrinal Fascination To the Confusing Legal-Constitutional Practice 	129 146
5. Final Comment: Judge Iolaus	164
Bibliography	169
Index	191