



UNIVERSIDADE LUSÍADA
LISBOA

Course Unit Program
History of Portuguese Law

Academic Year 2023/2024

1. Organic Unit

Faculty of Law

2. Course

LAW

3. Cycle

1st

4. Course Unit

History of Portuguese Law (02307)

5. Scientific Area

6. Curricular Year

1st

7. Type of Curricular Unit / Semester

2nd Semester



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8. Class type and workload (work time)

Theoretical classes:	30,00
Practical classes:	
Theoretical-Practical Classes	
Tutorial Guidance:	20,00

9. ECTS Credits

6,00

10. Scientific Area Coordinator

11. Regent

Prof. Doutor JOSE ARTUR ANES DUARTE NOGUEIRA

12. Assistants

13. Teaching Language

Portuguese

14. General Objectives

Expose the historical-legal evolution of Portuguese law, as well as peninsular law in what is closely related to it.

15. Specific Objectives

Provide fundamental juridico-political frameworks for the western peninsular and Portuguese space since antiquity, focusing on the sources, content, knowledge and application of law.

16. Skills to be acquired

Acquire the understanding that contemporary Portuguese law is, to a large extent, the result of a long historical evolution and thus maintains important common features with other European laws, as a result of common historical-legal factors. Acquire the realisation that, while most legal rules are transitory, there are legal values and principles that have strong stability over time.

17. Teaching Methodology

Presentation of the topics in class. Discussion in class. Formation of working groups to deepen certain aspects of the theme.

18. Course Unit Program



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INTRODUCTION

§1 - Object and method.

§2 - Periodisation.

PART I - THE ANCIENT ORDER (1143-1820)

TITLE I - MEDIEVAL PLURALISM (1143-1446)

§3 - Full legal pluralism.

CHAPTER I - POLITICAL AUTONOMISATION OF THE STATE (1143-1211)

§4 - Historical-political framework. Justice and Law

§5 - Sources of law.

§6 - Knowledge of law.

CHAPTER II - LEGAL AUTONOMISATION OF THE STATE (1211-1446)

§7 - Historical-political framework.

§8 - Sources of law.

§9 - Knowledge of law.

TITLE II - MODERN PLURALISM (1446-1820)

§10 - Mitigated legal pluralism.

CHAPTER I - LEGAL CONSOLIDATION OF THE STATE (1446-1820)

§11 - Historical-political framework.

§12 - Sources of law.

§13 - Knowledge of the law.

PART II - THE CONTEMPORARY ORDER (1820 - present)

TITLE I - CONTEMPORARY MONISM (1820-1982)

§14 - Legal monism

CHAPTER I - LEGAL SYSTEMATISATION OF THE STATE (1820-1888)

§15 - Historical-political framework.

§16 - Sources of law.

§17 - Knowledge of law.

CHAPTER II - LEGAL SOCIALISATION OF THE STATE (1888-1982)

§18 - Historical-political framework.

§19 - Sources of law.

§20 - Knowledge of the law.

TITLE II - THE RETURN TO PLURALISM (1982-present)

§21 - The return to legal pluralism.

CHAPTER I - LEGAL INTEGRATION OF THE STATE

§22 - Historical-political framework.

19. Assessment Methods

Written work done in groups and individually. Oral presentations made in groups and individually. Attendance in class. Written tests. Participation in discussions. Initiative in research and class participation.

20. Didactic Resources

Books. Library. Internet. Power point.



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21. Sustainability Objectives

22. Keywords

History of Portuguese Law. History of Legal Institutions.



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23. Main Bibliography

Author(s): Ruy de Albuquerque e Martim de Albuquerque
Title: História do direito português,
Edition: 12^a Year: 2005
Local: Sintra
Publisher: Pedro Ferreira

Author(s): Nuno Espinosa Gomes da Silva
Title: - História do direito português
Edition: 7^a Year: 2015
Local: Lisboa
Publisher: Gulbenkian

Author(s): Mário Júlio de Almeida Costa
Title: História do direito português,
Edition: 5^a Year: 2012
Local: Coimbra
Publisher: Almedina

24. Complementary Bibliography

Author(s): Marcelo Caetano
Title: - História do direito português,
Edition: 4^a Year: 2000
Local: Lisboa
Publisher: Verbo

Author(s):
Title:
Edition: Year:
Local:
Publisher:



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Ficha técnica MIP / MIP Datasheet	
Título / Title	Course Unit Program 'HISTÓRIA DO DIREITO PORTUGUÊS': Academic Year 2023/2024
Autor / Author	Prof. Doutor JOSE ARTUR ANES DUARTE NOGUEIRA
Classificação / Classification	-
Descritores / Descriptors	-
Colaborador(es) / Colaborator(s)	-
Data Hora / Date Time	
Formato de dados / Data Format	Texto / Text, PDF
Estatuto de utilização / Usage	Acesso público / Public Access
Relação / Relation	Version 2,0
(c) Universidade Lusíada, 2024	



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10. Scientific Area Coordinator

11. Regent

Prof. Doutor PEDRO MIGUEL MARTINS GONÇALVES CARIDADE DE FREITAS

12. Assistants

13. Teaching Language

Portuguese

14. General Objectives

Fix the historical-legal evolution of Portuguese law from the Middle Ages to the contemporary era.

15. Specific Objectives

Provide fundamental legal and political frameworks for the western and Portuguese peninsular space since antiquity, with a focus on sources, content, knowledge and application of law.

16. Skills to be acquired

Acquire the understanding that contemporary Portuguese law is, to a large extent, the result of a long historical evolution and that it also maintains important traits in common with other European laws, as a result of historical and legal factors that are also common. Acquire the notion that, although most legal rules are transitory, there are legal values and principles endowed with strong stability over time.

17. Teaching Methodology

Presentation of topics in class. Discuss them in class. Constitution of working groups to deepen certain aspects of the theme. Conducting debates on the matter..

18. Course Unit Program



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TITLE I

MEDIEVAL PLURALISM AND THE CREATION OF THE KINGDOM OF PORTUGAL
(1143-1446)

1. Historical-political framework. The Portuguese political framework. The Christian Republic.
2. Suprapositive frames. Justice and natural law.
3. Sources of right:
 - 3.1. Canon law: tradition, custom, conciliar canons; decrees and decrees; the Decretum; concords and concordats; royal blessing.
 - 3.2. Legislated law: Visigothic Code and Castilian legislation.
 - 3.3. Legislated law: Affirmation of the royal will in the creation of law. The Curia of 1211.
 - 3.4. Prudential law.
 - 3.5. Customary law. Judicial law: styles, feats and targets.
 - 3.6. Local law: settlement charters, charters and municipal statutes.
4. The legal culture in Europe and the rebirth of Justinian Roman Law: the ars inventiendi and the medieval jurisprudential schools? school of glossers and school of commentators. Utrumque ius e ius commune. Reception of the ius commune in Portugal and formation of proper law. The foundation of General Studies.

TITLE II

THE LONG PROCESS OF AFFIRMING THE LAW IN FACE WITH OTHER SOURCES
(1446-1820)

1. Historical-political framework.
2. The Ordinances of the Kingdom: Alfonsine Ordinances, the Manueline Ordinances and the Philippine Ordinances. The system of sources of law in the Ordinances of the Kingdom: royal law, canon law, roman law, prudential law and the common opinion of doctors.
3. Legal humanism and the critique of scholastic prudential law.
4. The second scholasticism and legal rationalism. The usus modernus pandectarum.
5. The teaching of law. The university reforms of 1537 and 1772. Legal culture in Portugal.
6. The Law of August 18, 1769 (Law of Good Reason).
7. Legal humanitarianism and penal reform.

TITLE III

CONTEMPORARY MONISM: EXCLUSIVITY OF THE LAW IN VIEW OF OTHER SOURCES.

1. Historical-political framework. The revolution and the liberal reformulation of the State.
2. Liberal principles.
3. Basis of law. From written reason to legal codification. Material law and formal law. Domain of law. The first generation of encodings.
4. The 20th century and legal reforms.
5. Law today and the new pluralist tendency.

19. Assessment Methods

Students are evaluated through written assignments carried out in groups and individually; oral presentations made in group and individually. Class attendance. Written tests. Participation in debates. Initiative in research and participation in class.



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20. Didactic Resources

Books, powerpoints, internet.

21. Sustainability Objectives

The History of Portuguese Law curricular unit aims to contribute to sustainability in the following areas:

General:

- 1 - Ensure equal access to quality technical, professional and cultural education.
- 2 - Substantially increase the number of young people and adults with relevant qualifications, including technical and professional skills, for employment, decent work and entrepreneurship.
- 3 - Guarantee equal opportunities in university education, including for people in vulnerable situations

22. Keywords

Portugal
Right
History
Institutions



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23. Main Bibliography

Author(s): Ruy de Albuquerque e Martim de Albuquerque
Title: História do Direito Português- 1140-1415, I Vol
Edition: 13 edição Year: 2022
Local: Lisboa
Publisher: PF

Author(s): Mário Júlio Almeida Costa
Title: História do Direito Português
Edition: 5 edição Year: 2021
Local: Coimbra
Publisher: Almedina

Author(s): Pedro Caridade de Freitas, et al.
Title: Prontuário Jurídico
Edition: Year: 2021
Local: Lisboa
Publisher: AAFDL

24. Complementary Bibliography

Author(s): Nuno Espinosa Gomes da Silva
Title: História do Direito Português
Edition: 3.^a ed Year:
Local: Lisboa
Publisher: Fundação Calouste Gulbenkian

Author(s): Ana Caldeira Fouto, Filipe Arede Nunes, Francisco Rodrigues Rocha, Jorge Silva Santos, Margarida Se
Title: Textos de História do Direito
Edition: Year: 2021
Local: Lisboa
Publisher: AAFDL



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