



Spring 2020

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MEDIEVAL STUDIES 119: CONSTITUTIONAL AND LEGAL HISTORY OF MEDIEVAL CONTINENTAL EUROPE



Tentative Syllabus: Introduction

Professor Donahue

Mr. Jacobs

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Requirements

There are four requirements for credit in the course: (1) a one-paragraph summary of the readings for each section turned in at the beginning of each section; (2) a *short* paper (no more than five double-spaced typed pages exclusive of notes); (3) an hour exam (Fri., Mar. 13); (4) a final exam ('take-home'). (We will consider allowing students to write a term paper in lieu of taking the final exam. More about this below under [Papers](#).)

Meeting times.

This course is also listed as Law 2165. The FAS students will meet together with the law students for lectures on Mondays and Wednesdays from 10:30 to 11:45 (Room Sever 103). The law students and FAS graduate students will meet for ‘section’ on Tuesdays from 10:15 to 11:45 in the Law School (Room WCC 3016). There is a separate section for the undergraduates (time and place to be arranged; it’s listed below as if it were on Thursdays) and a separate ‘discussion class’ for the undergraduates on Fridays from 10:30 to 11:45 (Room Sever 103). By and large, Mr. Jacobs will lead the section and Prof. Donahue the discussion class, but in some weeks the reverse may be the case.

Prerequisites. None. See below under [Background](#).

Work load

For a history course, the reading load is fairly light, but much of it is documentary material, and is thus relatively slow going. Give priority to the documentary materials in the multilithed *Documents* (see below under [Readings](#)). Not all classes have documentary assignments, but those which do will devote a considerable amount of time to the documents, and you'll be lost if haven't read them in advance. This is why we have both a section (Thursdays) and a 'discussion class' on Fridays (without the law students).

The key to keeping up with this course is preparation for each class, particularly with the documents, and attendance at classes and sections. Much of our time in class will be spent discussing the documents. When we have previously given this course, we have noted that students who read the documents and attended classes did well, even if they hadn't done the relatively modest amount of secondary reading that we are recommending.

The Course

This course is an attempt to discover how the distinctive features of the 'civil' law of the European Continent arose and why these distinctions persisted. It is also an attempt to discover how the legal systems of Continental Europe developed and were influenced by a group of ideas about politics and public order that are frequently invoked today when we speak of the 'Western legal tradition'. In order to do this we have to conduct a 'Cook's tour' of European legal history, to survey the sources and literature of the law from the fall of Rome (roughly 500 A.D.) to the emergence of the 'natural law school' in the 17th century. That gives the course something of the quality of 'if-this-is-Tuesday-it-must-be-Belgium'. We have attempted to give focus to the course by emphasizing three topics, the capture of wild animals as the foundation of property, the formation of marriage, and the rules about the use of witnesses in criminal and civil procedure. We wish there were a more strictly public-law topic that we could use as well, but no public-law topic has deep enough roots to allow us to trace it over this long period of time. Hence our examination of public law will have to come about as we unfold the history of institutions within which the law operated. We focus on France. We will also deal with Germany, Italy, Spain, and the Low Countries, but France gives us the backbone, while the other areas give us examples (as does England by way both of comparison and contrast). The rest of the European Continent will get only an occasional mention.

We will proceed largely by way of lecture, interspersed with examination of documents that are contained in the multilithed *Documents*. These documents will largely carry the story of wild animals, marriage, and witnesses. In each period we will ask two questions: (1) how does the way people were thinking about law in this period proceed from what had gone before and lead to what was to come next (a largely diachronic question)? And (2) how was

the way that people were thinking about law in this period relate to the broader political, social, and intellectual developments in the period (a largely synchronic question)? The ultimate question is comparative: why did Continental law develop its distinctive features?

Background

No one (including the instructors) comes to a course like this with all the necessary background information. We will try to say everything that we think you need to know to make sense out of what is going on, and so, we will assume that you do not have any of the relevant background. In a survey course as broad as this one, however, we can say things only once. For this reason, we would suggest, particularly if you have not taken a course in medieval and/or early modern European history, that you read a good textbook on one or both of these topics. In the past we have asked the Coop to stock H. G. Koenigsberger's, *Medieval Europe, 400–1500* (1987) and the same author's, *Early Modern Europe, 1500–1789* (1987). The books are now out of print, but second-hand copies are readily available. Both books are a relatively quick read, particularly if you're not trying to memorize kings and battles and dates. We have included the page numbers in the syllabus at the relevant spots under 'Secondary Reading'.

If you have taken a medieval and/or early modern European legal and/or constitutional history course someplace else or if you have had a European history course that devoted some time to legal and/or constitutional development in the same periods, you probably should not take this course. There is a graduate reading course this semester (History 2080) for which you may be ready.

Readings

The multilithed *Documents* contain a number of documents, legal sources in translation. These vary greatly in the length of their extracts. When they are long, we want you to get a sense for the overall structure; when they are short, you should focus on the detail. The Syllabus contains some notes as to what is important.

Outlines for most of the lectures are posted on this website under [Lectures](#). We will be revising them as we go along, but you should bring the version that is there now with you to class either on your computer or in paper form. Having this kind of material already written down saves you time in taking lecture notes.

As can be seen from what we say above, we think that the best way to learn about legal history is by reading documents. There is a quite good textbook of European legal history that has just been published in English, Antonio Padoa-Schioppa, *A History of Law in Europe* (first Italian ed. 2007, first English ed. 2017). It is long and expensive, and more than half of it covers periods that we will be dealing with only lightly. For this reason, we are not recommending that you buy it. We have, however, given page references to Padoa-Schioppa in the syllabus. In the past we asked the students to buy



either Manlio Bellomo's, *The Common Legal Past of Europe: 1000–1800* or Raoul van Caenegem's *An Historical Introduction to Private Law*. Previous course evaluations suggested that the students found van Caenegem more helpful than Bellomo. Both are shorter and cheaper than Padoa-Schioppa. Neither is really a textbook. Prior to Padoa-Schioppa the best textbook in English was probably Robinson, Fergus and Gordon, *An Introduction to European Legal History* (2d ed., 1994) [RFG2]. It is available in the Harvard Law School Library and in Lamont. (There is a third edition of RFG [RFG3], which is shorter and focuses more on the later period, which is available only in the Law School.)¹

¹ Two other recent textbooks, Randall Lesaffer, *European Legal History: A Cultural and Political Perspective* (2009) and Tamar Herzog, *A Short History of European Law: The Last Two and a Half Millennia* (2018) are also available in the Law School (and the latter also [online](#)). If you read either of them, let us know what you think. Our initial impression is that they are interesting, but that they don't give enough detail about the law.

References to Bellomo, van Caenegem, and RFG are included in the syllabus. As an alternative to Bellomo and van Caenegem, we have also listed in the syllabus readings from three other books. One of them is a classic: Paul Vinogradoff's, *Roman Law in Medieval Europe*. Two others are relatively new and controversial, Alan Watson's, *The Making of the Civil Law* and Harold Berman's *Law and Revolution*. Pdf copies of the extracts from Bellomo, van Caenegem, Vinogradoff, Watson, and Berman are found under [Lectures](#) on the website. We will try to add extracts from Padoa-Schioppa as the semester progresses.

By and large, we think that the books other than RFG do a better job of covering the topics to which they refer than does RFG, or even Padoa-Schioppa. Some people, however, really like to have a textbook, and although none of the books now extracted is a textbook, Bellomo and van Caenegem come close. You might want to read some of the extracts for class, and others when you are reviewing the course for the exam.

Papers and exams

There will be a short paper required for the course. It should be no more than five double-spaced typed pages exclusive of notes. It may analyze one or a couple of the documents in the *Documents*. The basic idea is to present an *idea* supported by *evidence* (primary sources please). You may do the paper any time during the semester. You should have chosen a topic no later than Fri., Mar. 27. You should turn in your first draft no later than Thu., Apr. 23. We will comment on it and return it to you. The final draft should be turned in before the beginning of exam period (Wed., May 06).

There will be an hour exam for the undergraduates on Fri., Mar. 13. (We will exempt from the hour exam seniors who are writing bachelor's essays.) Basically, the hour



exam will cover material in the first 23 assignments. There will be one question, which will almost certainly involve analysis of a document in *Documents*.

The final exam will be take-home and open-book. It will contain two or three questions. The first will give you a document drawn from *Documents* (possibly with a choice) and will ask you to comment on the document and its significance. The second will call for a more wide-ranging essay. A possible initial question will ask for some identifications.

If you wish to write a term paper in lieu of the final exam, you must take the hour exam and get our approval of your term paper topic. The term paper should cover material in at least two of major time periods of the course (e.g., early medieval and late medieval, or late medieval and early modern). It may trace the history of a particular idea or institution from one period to another, or it may compare ideas and institutions in two different periods. In order to get our approval of a term-paper topic, you will need to have completed your short paper and to turn in a one-page statement or outline of what you plan to write about by Thu., Apr. 16. Students in the past who have taken the paper option in the past thought that it was fun but that it involved more work than taking an exam.

Offices

Prof. Donahue's office is in Hauser 512 in the Law School. His assistant is Mr. Matthiessen in Hauser 518, and his office hours are from 1:30–3:30 on Tuesdays, or by appointment. The office hours are generally held in Hauser 103 in the Law School. (If you don't find me in Hauser 103, come to Hauser 112.) There is a sign-up sheet on the door of Hauser 512. Mr. Jacobs, who will be teaching most of the sections, will announce his office hours later.

Tentative Syllabus: Assignments

Syllabus	Week 5	Week 10
Week 1	Week 6	Week 11
Week 2	Week 7	Week 12
Week 3	Week 8	Week 13
Week 4	Week 9	Calendar



In what follows Bellomo=Manlio Bellomo, *The Common Legal Past of Europe: 1000-1800* (Washington, DC: Catholic U. Press, 1995); Berman = H. Berman, *Law and Revolution: The*

Formation of the Western Legal Tradition (Cambridge [MA]: Harvard Press, 1983); *Documents* = C. Donahue, *Documents on Continental Legal History* (unpublished, first installment available in class or in Room 518 of Hauser Hall); K1500 = H. G. Koenigsberger, *Medieval Europe, 400-1500* (Harlow: Longman, 1987); K1789 = H. G. Koenigsberger, *Early Modern Europe, 1500-1789* (Harlow: Longman, 1987); Padoa-Schioppa = Antonio Padoa-Schioppa, *A History of Law in Europe* (Cambridge [Eng.]: Cambridge U. Press, 2017); RFG2 = O. F. Robinson, T. D. Fergus and W. M. Gordon, *An Introduction to European Legal History*, 2d ed. (London: Butterworths, 1994); RFG3 = O. F. Robinson, T. D. Fergus and W. M. Gordon, *An Introduction to European Legal History*, 3d ed. (London: Butterworths, 2000); van Caenegem = R. C. van Caenegem, *An Historical Introduction to Private Law* (Cambridge [Eng.]: Cambridge U. Press, 1988); Vinogradoff = P. Vinogradoff, *Roman Law in Medieval Europe*, 2d ed. (Oxford: Clarendon, 1929); Watson = A. Watson, *The Making of The Civil Law* (Cambridge [MA]: Harvard Press, 1981).

A calendar follows the syllabus, which allows you to see at a glance the date, title of the class, the assignment number, and anything else that might be happening in that class. To navigate from the syllabus to the calendar click on the date. To navigate from the calendar to the syllabus click on the assignment number.

<u>Week</u>	<u>Assignment</u>	
<u>Week 1</u>		Secondary reading: Padoa-Schioppa, 3–23; Bellomo, 1–26; van Caenegem, 1–15; RFG2 vi-x; RFG3 v–vii, 285–319. RFG2 1–10; RFG3 1–11; Watson 1–38.
<u>Mon., Jan. 27</u>	1	<u>Lecture 1:</u> Introduction to the course. A basic chronology of three legal traditions: Roman, Continental European and English. Introduction to Roman law
<u>Wed., Jan. 29</u>	2	<u>Lecture 2:</u> The legacy of the ancient world: Roman law. How the story came out. Reflections on what we mean by the ‘Western legal tradition’. <u>Assignment:</u> Justinian’s <i>Institutes</i> (<i>Documents</i> , Part I.A). [Focus on the overall structure of Justinian’s <i>Institutes</i> and on the specifics about wild animals and marriage (there’s nothing about witnesses).] Extracts from 19th century European codes. (<i>Documents</i> , Part XX). [Ask yourself about the overall structure and the rules about wild animals, marriage and witnesses in the 19th century codifications. Are the different codes more notable for their similarities or their differences?]
<u>Fri., Jan. 31</u>	3	<u>Discussion 1:</u> The legacy of the ancient world: Christianity. <u>Assignment:</u> Paul’s letter to the Romans (<i>Documents</i> , Part II.A).

Week 2

Secondary reading: Padoa-Schioppa, 24–37; K1500 1–66; RFG2 10–23; RFG3 11–25; van Caenegem, 16–29; Vinogradoff 11–42.

Mon., Feb. 03

- 4 Lecture 3: Two ‘Barbarian’ Law Codes. Assignment: Aethelberht (*Documents*, Part III.A). [Ask yourself two questions: (1) What is the overall structure of this material? (2) What, if anything, does it have to say about wild animals, marriage and witnesses?]

Wed., Feb. 05

- 5 Lecture 4: Two ‘Barbarian’ Law Codes. Assignment: Gundobad (compared with the *Lex romana burgundionum*) (*Documents*, Part III.B). [Same questions as Assignment 4.]

Thu., Feb. 06

- 6 Section 1: Reflections on ‘fundamental legal categories’: *ius* vs. *lex*, public vs. private, criminal vs. civil, persons vs. things, property vs. contract vs. delict (tort). Assignment: Justinian’s *Institutes* (*Documents*, Part I.A).

Fri., Feb. 07

- 7 Discussion 2: The ‘barbarian’ invasions. Aethelberht and Gundobad compared. Assignment: *Documents*, Part III.

Week 3

Secondary reading: Padoa-Schioppa, 38–70; Bellomo, 27–43; RFG2 6–70; Berman 85–119, 273–332; ; K1500 67–212; RFG3 11–41; van Caenegem, 16–29; Vinogradoff 11–42.

Mon., Feb. 10

- 8 Lecture 5: Carolingian institutions and ‘feudalism’. Assignment: Documents on Continental feudalism (*Documents*, Part IV).

Wed., Feb. 12

- 9 Lecture 6: Eleventh-century reforms and a glimpse at *regnum* and *sacerdotium*, to the end of the 13th century. Assignment: Documents on the investiture controversy (*Documents*, Part V). The Collection in 74 Titles. (*Documents*, Part VI). [The key question here is what is the relationship between the basically political arguments that are found in the literature surrounding the investiture controversy and the legal rules (most of which are derived from forged documents) found in the Collection in 74 Titles?]

Thu., Feb. 13

- 10 Section 2: Eclectic sources of law: the Bible, Æthelberht and Gundobad, the Collection in 74 Titles. Assignment: *Documents*, Parts II.B, III, VI. [Same questions as Lecture 3.]

Fri., Feb. 14

- 11 Discussion 3: The legacy of the ancient world: New Testament extracts on marriage (*Documents*, Part II.B). Witnesses in the Bible (*Documents*, Part II.C).

<u>Week 4</u>		Secondary reading: Padoa-Schioppa, 73–94; Bellomo 44–88; RFG2 71–99, 106–23; RFG3 42–58, 129–168; Vinogradoff 43–96. [review K1500 213–80].
<u>Mon., Feb. 17</u>		Holiday, President's Day.
<u>Wed., Feb. 19</u>	12	<u>Lecture 7</u> : The revival of academic law study: Roman Law. <u>Assignment</u> : Roman law glossators on wild animals (J.I.2.1.12–13, D.41.1.55) (<i>Documents</i> , Part VII). [We move here from the rather obvious politics of the investiture controversy to something that looks like ‘apolitical’ law. The question is ‘is it?’ Try to see how Accursius twisting the Roman text to make it say things that it probably does not say or, at least, does not say so clearly as he does.]
<u>Thu., Feb. 20</u>	13	<u>Section 3</u> : Wild animals in the glossators. <u>Assignment</u> : <i>Documents</i> , Part VII.
<u>Fri., Feb. 21</u>	14	<u>Discussion 4</u> : Marriage in the glossators. <u>Assignment</u> : <i>Documents</i> , Part VIII.
<u>Week 5</u>		Secondary reading: Padoa-Schioppa, 95–150; RFG2 122–152; RFG3 72–90; van Caenegem, 30–114 (this is a good overview for the hour exam, though it takes us quite a bit further in time).
<u>Mon., Feb. 24</u>	15	<u>Lecture 8</u> : The institutions of canon law. Substantive canon law. Marriage. <u>Assignment</u> : J.I.1.10, D.23.2.5–6; Gratian C.27 q.2; Peter Lombard; selected decretals on marriage (<i>Documents</i> , Part VIII). [Many have seen in these decretals a development in Alexander III’s thought on the topic of the formation of marriage. Do you see such a development here?]
<u>Wed., Feb. 26</u>	16	<u>Lecture 9</u> : The revival of academic law study: Romano-canonical procedure. Witnesses. <u>Assignment</u> : D.22.5, Gratian C.4 q.3, Tancred 3.6 (<i>Documents</i> , Part IX).
<u>Thu., Feb. 27</u>	17	<u>Section 4</u> : How do we design a procedural system? <u>Assignment</u> : <i>Documents</i> , Parts VI and IX.
<u>Fri., Feb. 28</u>	18	<u>Discussion 5</u> : Reform and the ‘twelfth-century renaissance’. <u>Assignment</u> : <i>Documents</i> , Parts V, VI, VII and VIII (revisited). [review K1500 67–212; read K1500 213–80].
<u>Week 6</u>		Secondary reading: Bellomo 61–88; RFG2 179–207; RFG3 129–168; Vinogradoff 71–96; review K1500 213–80.
<u>Mon., Mar. 02</u>	19	<u>Lecture 10</u> : Marriage litigation in the High Middle Ages. <u>Assignment</u> : Smith c. Dolling (1271–1272) (<i>Documents</i> Part XIV.A). Adam Attebury c. Matilda de la Leye (1271–72)

(*Documents*, Part XIV.B).

Wed., Mar. 04 20 Lecture 11: *Coutumiers* and *fueros*. Assignment: Extracts from the *Usatges de Barcelona* on witnesses, marriage, and wild animals (*Documents* Part X.A).

Thu., Mar. 05 21 Section 5: The institutional history of the 12th and 13th centuries. Assignment: This will be more a section about general history than a section about documents, but it will be based on a reaction to and expansion of some of the secondary reading for this week.

Fri., Mar. 06 22 Discussion 6: How to read a case. Assignment: *Documents*, Part XIV.A–B.

Week 7 Secondary reading: Review K1500 213–80.

Mon., Mar. 09 23 Lecture 12: Courts and *coutumiers* in France. Assignment: Extracts from the *coutume* of Tourraine-Anjou and from Beaumanoir on witnesses, marriage and marital property, and wild animals (*Documents* Part X.B, C).

Wed., Mar. 11 24 Lecture 13: Political ideas of the 12th and 13th centuries. Assignment: Extracts from Bracton on kingship and from the glossators on sovereignty (*Documents* Part XI).

Thu., Mar. 12 25 Section 6: *Usatges* and Beaumanoir. Assignment: *Documents*, Part X.

Fri., Mar. 13 Hour Exam. (Will cover Assignments 1–25.)

Mon., Mar. 16 — Fri., Mar. 20. Spring vacation.

Week 8 Secondary reading: Padoa-Schioppa, 151–228; Bellomo 118–61; RFG2 100–121; RFG3 59–71, 107–24; K1500 281–387.

Mon., Mar. 23 26 Lecture 14: The 14th and 15th Centuries—political and constitutional developments. The commentators. Assignment: Extracts from the commentators (*Documents*, Parts XII and XIII).

Wed., Mar. 25 27 Lecture 15: Commentators on witnesses. Assignment: *Tractatus de reprobatione testium*; Gandinus, *Tractatus de maleficiis*; Robertus Maranta, *Speculum Aureum*, (*Documents*, Part XII.A, C–D); *Decisio S.R.R.* (1574) (*Documents* Part XIV.E).

<u>Thu., Mar. 26</u>	28	<u>Section 7</u> : Law and politics in the 13th century. <u>Assignment</u> : <i>Documents</i> , Part XI.
<u>Fri., Mar. 27</u>	29	<u>Discussion 7</u> : The formation of a persecuting society? Developments in the law of witnesses. <u>Assignment</u> : <i>Tractatus de reprobatione testium</i> ; <i>Gandinus</i> , <i>Tractatus de maleficiis</i> ; <i>Robertus Maranta</i> , <i>Speculum Aureum</i> (<i>Documents</i> , Part XII).
<u>Week 9</u>		No secondary reading specific to this week.
<u>Mon., Mar. 30</u>	30	<u>Lecture 16</u> : Commentators on wild animals. <u>Assignment</u> : Bartolus on D.41.1.1., .5 (<i>Documents</i> , Part XIII.A–B); Portius and Faber on J.I.2.2.11–13 (<i>Documents</i> , Part XIII.C–E).
<u>Wed., Apr. 01</u>	31	<u>Lecture 17</u> : Commentators on marriage. <u>Assignment</u> : <i>Decisio S.R.R.</i> (1574) (<i>Documents</i> , Part XIV.C); Panormitanus, <i>Consilia</i> (15th c) (<i>Documents</i> Part XIV.D).
<u>Thu., Apr. 02</u>	32	<u>Section 8</u> : Marriage in legal theory and legal practice. <u>Assignment</u> : <i>Documents</i> , Part XIV. Pay particular attention to Panormitanus, <i>Consilium</i> (15th c.) (<i>Documents</i> Part XIV.C).
<u>Fri., Apr. 03</u>	33	<u>Discussion 8</u> : Courts and case reports (cont'd). <u>Assignment</u> : <i>Decisio S.R.R.</i> (1360 X 1365); <i>Decisio S.R.R.</i> (1574); Panormitanus, <i>Consilia</i> ; the <i>Rota Fiorentina</i> (1780) (Gorla article) (<i>Documents</i> , Part XIV.B, D, E).
<u>Week 10</u>		Secondary reading: Padoa-Schioppa, 229–293; Bellomo 162–73; RFG2 280—352; RFG3 169–212; K1789 1–94; Watson 53–82.
<u>Mon., Apr. 06</u>	34	<u>Lecture 18</u> : ‘Renaissance’ Europe—political, intellectual and constitutional developments. Humanists, humanism and the law. <u>Assignment</u> : Pithou on the <i>Collatio</i> ; Bodin on Political Theory (<i>Documents</i> , Part XV).
<u>Wed., Apr. 08</u>	35	<u>Lecture 19</u> : Compilations, proto-codification, codification. The <i>Grandes Ordonnances</i> . <u>Assignment</u> : Decree, <i>Tametsi</i> ; <i>Ordinance</i> of Blois; <i>Ordinance pour la procédure civile</i> (<i>Documents</i> , Part XVI.A, B, D (pp. 2–4, 5–6).
<u>Thu., Apr. 09</u>	36	<u>Section 9</u> : Legal humanism. <u>Assignment</u> : Pithou on the <i>Collatio</i> ; Bodin on political theory (<i>Documents</i> , Part XV).
<u>Fri., Apr. 10</u>	37	<u>Discussion 9</u> : The legal profession. Homologation of custom and reception. <u>Assignment</u> : <i>Coutumes de la prevoste et vicomte de Paris</i> (<i>Documents</i> , Part XVI.C).

<u>Week 11</u>		Secondary reading: Padoa-Schioppa, 294–402; RFG2 209–23 406–37; RFG3 249–67; K1789 161–281; Watson 83–125.
<u>Mon., Apr. 13</u>	38	<u>Lecture 20</u> : The 17th and 18th centuries—political, constitutional and intellectual developments.
<u>Wed., Apr. 15</u>	39	<u>Lecture 21</u> : Spanish scholastics, ‘elegant jurisprudes,’ the natural law school, and the <i>usus modernus pandectarum</i> . The academics in action. <u>Assignment</u> : Pufendorf on wild animals (<i>Documents</i> , Part XVIII).
<u>Thu., Apr. 16</u>	40	<u>Section 10</u> : Compilations, proto-codification, codification. <u>Assignment</u> : <i>Documents</i> , Parts XVI and XVII.
<u>Fri., Apr. 17</u>	41	<u>Discussion 10</u> : The institutes of national law (cont’d). Intellectual developments and the law. <u>Assignment</u> : <i>Documents</i> , Part XVII; Outline for Lecture 20.
<u>Week 12</u>		Secondary reading: RFG2 261–92; RFG3 269–285; van Caenegem, 115–69; Watson 126–30.
<u>Mon., Apr. 20</u>	42	<u>Lecture 22</u> : The academics in action. Pufendorf on wild animals (cont’d) (<i>Documents</i> , Part XVIII).
<u>Wed., Apr. 22</u>	43	<u>Lecture 23</u> : The Napoleonic codes, the pandectists, the historical school and the making of the BGB. The road away from codification? <u>Assignment</u> : Windscheid (<i>Documents</i> , Part XX [Windscheid extracts]).
<u>Thu., Apr. 23</u>	44	<u>Section 11</u> : Domat and Pothier. <u>Assignment</u> : Domat on marriage, wild animals, and witnesses; Pothier on marriage and wild animals (<i>Documents</i> , Part XIX).
<u>Fri., Apr. 24</u>	45	<u>Discussion 11</u> : The relation between abstract ideas and legal results. <u>Assignment</u> : <i>Documents</i> , Part XVIII.
<u>Week 13</u>		Secondary reading: van Caenegem, 170–97.
<u>Mon., Apr. 27</u>	46	<u>Final Lecture</u> : The achievements and failures of the <i>ancien régime</i> . Take-home exam passed out.
<u>Wed., Apr. 29</u>		<u>Section 12</u> : Review. No specific assignment.



Calendar

Mon., Jan. 27	= Assignment 1	Introduction to the course. Basic chronology. Introduction to Roman law.
Wed., Jan. 29	= Assignment 2	The legacy of the ancient world: Roman law. How the story came out.
Fri., Jan. 31	= Assignment 3	The legacy of the ancient world: Christianity
Mon., Feb. 03	= Assignment 4	Two ‘barbarian’ law codes—Aethelberht
Wed., Feb. 05	= Assignment 5	Two ‘barbarian’ law codes—Gundobad
Thu., Feb. 06	= Assignment 6	Reflections on ‘fundamental legal categories’
Fri., Feb. 07	= Assignment 7	The ‘barbarian’ invasions; Aethelberht and Gundobad compared
Mon., Feb. 10	= Assignment 8	Carolingian institutions and ‘feudalism’
Wed., Feb. 12	= Assignment 9	Eleventh-century reforms and a glimpse at <i>regnum</i> and <i>sacerdotium</i> , to the end of the 13th century. The Collection in 74 Titles.
Thu., Feb. 13	= Assignment 10	Eclectic sources of law
Fri., Feb. 14	= Assignment 11	New Testament extracts on marriage
Mon., Feb. 17	= Holiday	Presidents’ Day
Wed., Feb. 19	= Assignment 12	The revival of academic law study: Roman law
Thu., Feb. 20	= Assignment 14	Wild animals in the glossators
Fri., Feb. 21	= Assignment 15	Marriage in the glossators
Mon., Feb. 24	= Assignment 13	The institutions of canon law
Wed., Feb. 26	= Assignment 16	The revival of academic law study: Romano-canonical procedure
Thu., Feb. 27	= Assignment 17	How do we design a procedural system?
Fri., Feb. 28	= Assignment 18	Reform and the ‘twelfth-century renaissance’
Mon., Mar. 02	= Assignment 19	Marriage litigation in the High Middle Ages
Wed., Mar. 04	= Assignment 20	<i>Coutumiers and fueros</i>
Thu., Mar. 05	= Assignment 21	The institutional history of the 12th and 13th centuries
Fri., Mar. 06	= Assignment 22	How to read a case
Mon., Mar. 09	= Assignment 23	Courts and <i>coutumiers</i> in France
Wed., Mar. 11	= Assignment 24	Political ideas of the 12th and 13th centuries
Thu., Mar. 12	= Assignment 25	<i>Usatges</i> and Beaumanoir



- Fri., Mar. 13 = Hour exam (Will cover Assignments 1–25)
- Mon., Mar. 16 — Fri., Mar. 20 Spring Vacation
- Mon., Mar. 23 = Assignment 26 The fourteenth and fifteenth centuries—Political and constitutional developments
- Wed., Mar. 25 Assignment 27 The commentators
- Thu., Mar. 26 = Assignment 28 Law and politics in the 13th century
- Fri., Mar. 27 Assignment 29 The formation of a persecuting society? (Short paper topics must be chosen by this date.)
- Mon., Mar. 30 = Assignment 30 Commentators on wild animals
- Wed., Apr. 01 = Assignment 31 Courts and case reports
- Thu., Apr. 02 = Assignment 32 Marriage in legal theory and legal practice
- Fri., Apr. 03 = Assignment 33 Courts and case reports (cont'd)
- Mon., Apr. 06 = Assignment 34 'Renaissance' Europe—Political, intellectual and constitutional developments
- Wed., Apr. 08 = Assignment 35 Compilations, proto-codification, codification
- Thu., Apr. 09 = Assignment 36 Legal humanism
- Fri., Apr. 10 = Assignment 37 The legal profession. Homologation of custom and reception. (Section will meet in the Root Room of the HLS Library.)
- Mon., Apr. 13 = Assignment 38 The 17th and centuries—Political, constitutional, and intellectual developments
- Wed., Apr. 15 = Assignment 39 Spanish scholastics, 'elegant jurisprudes,' the natural law school, and the *usus modernus pandectarum*. Pufendorf on wild animals.
- Thu., Apr. 16 = Assignment 40 Compilations, proto-codification, codification. (Statement of term papers due.)
- Fri., Apr. 17 = Assignment 41 The institutes of national law. Intellectual developments and the law (cont'd).
- Mon., Apr. 20 = Assignment 42 Pufendorf on wild animals (cont'd)
- Wed., Apr. 22 = Assignment 43 The Napoleonic codes, the pandectists, the historical school and the making of the BGB. The road away from codification?
- Thu., Apr. 23 = Assignment 44 Domat and Pothier. (Last date for turning in short paper drafts.)
- Fri., Apr. 24 = Assignment 45 The relation between abstract ideas and legal results.
- Mon., Apr. 27 = Assignment 46 Final Lecture.



Wed., Apr. 29 No assignment Review. (This section will take place at the time and place for regular Wed. lecture.)

Wed., May 06 Final draft of short paper and take-home exam due

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