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



Tentative Syllabus: Introduction

Professor Donahue

Ms. Shadrina

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[Requirements](#)

[Readings](#)

[Prerequisites](#)

[Papers and Exams](#)

[Work load](#)

[Offices](#)

[The Course](#)

[Assignments \(the Syllabus Proper\)](#)

[Background](#)

[Calendar](#)

Requirements

There are four requirements for credit in the course: (1) participate in the Canvas discussions of the prerecorded lectures *before* the class is given; (2) a *short* paper (no more than five double-spaced typed pages exclusive of notes); (3) an hour exam (Fri., Mar. 08); (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 classes on Mondays and Wednesdays from 4:30 to 6:00 in the Law School (room TBD). There is a separate section for the undergraduates, time and place TBD. They are listed on the syllabus and in the Lectures tab as if they were on Fridays. By and large, Ms. Shadrina



will lead the sections.

There is a slight difference in calendars of the FAS and the HLS. Law school classes meet on Presidents' Day ([an error occurred while processing this directive]), but those in the FAS do not. We'll meet in the Law School that day in our regular classroom. FAS classes last a three days longer than do the Law School's. We need the first of those days to finish the story.

In the past, this course had two formal 55-minute lectures and a separate section for the law and graduate students in the FAS each week (and a separate discussion class and section meeting for the undergraduates). That cannot be done this year because of scheduling problems, so everything has to be fitted into two hour-and-a-half classes each week. The last time Prof. Donahue gave the course he pre-recorded all the 55-minute lectures, so that we can devote the classes to discussion of them and to discussion of the documents that we used to deal with in the sections. In the syllabus, all the topics have been assigned to one of the classes. We will take up the topics in the order shown on the syllabus, but some topics may be carried over into the next class, and the topics for that class correspondingly shortened. (The pre-recorded lectures are listed under the [Lectures](#) tab of this website, with links to them, to outlines of the lectures, and to packets of readings for each class.)

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. Almost all classes have documentary assignments, and those which do will devote a considerable amount of time to the documents. You'll be lost if haven't read them in advance. They are in the multilithed *Documents* (see below under [Readings](#)).

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 codifications of the 19th 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. For the Middle Ages, our geographic focus is on Western Europe, what eventually became Italy, France, Germany, Spain, and the Low Countries (with occasional references to England by way both of comparison and contrast). In the early modern period our focus is on France, while the other areas continue to give us examples. The rest of the European Continent will get only an occasional mention.

We will proceed largely by way of narrative and discussion interspersed with examination of documents that are contained in the multilithed *Documents*. These documents 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.



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; it is available only in the Law School Library.)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, RFG, and Padoa-Schioppa 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, Berman, van Caenegem, Padoa-Schioppa, Vinogradoff, and Watson are found under [Lectures](#) on the website.



By and large, we think that the books other than RFG, or even Padoa-Schioppa, do a better job of covering the topics to which they refer than do RFG and Padoa-Schioppa. Some people, however, really like to have a textbook, and although none of the other books 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 are discussion topics on Canvas for each of the classes. This seems to work particularly well for classes that have prerecorded lectures, and we're asking you to participate in them at least once a week. The idea is to say something, a paragraph or two, about the prerecorded lecture, a comment on the whole lecture, or on a piece of it, or a document in it, or a question about it. We're asking to do this by noon on the day on which we are scheduled to discuss the lecture. That way we can devote the class to what interests you.

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* (or you can choose a document on your own). The basic idea is to pick a document, analyze it, and lead to a conclusion about what it tells us about some theme in Continental legal history. You may do the paper any time during the semester. You should have chosen a topic no later than Thu., Apr. 04 . You should turn in your first draft no later than Thu., Apr. 18 . We will comment on it and return it to you. The final draft should be turned in before the beginning of exam period (Fri., May. 03). This is basically it, but we'll distribute a memo on papers and paper topics later.

There will be an hour exam for the undergraduates on Fri., Mar. 08 . (We will exempt from the hour exam seniors who are writing bachelor's essays.) Basically, the hour exam will cover material in the first 21 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. 11 . 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 Ms. Chaudhry-Muffuletto who will sit in Hauser 518. His office hours are currently scheduled from 1:30–3:30 on Tuesdays, or by appointment. He'll be conducting his office hours via Zoom. Send him an email and he'll send you a link. Ms. Shadrina , 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, a PDF copy is available in the Files section of the Canvas site, and the assignments for each class can be found under [Lectures](#) on the website); Padoa-Schioppa = Antonio Padoa-Schioppa, *A History of Law in Europe* (Cambridge [Eng.]: Cambridge U. Press, 2017); RFG = O. F. Robinson, T. D. Fergus and W. M. Gordon, *An Introduction to European Legal History*, 2d ed. (London: Butterworths, 1994); van Caenegem = R. C. van Caenegem, *An Historical Introduction to Private Law* (Cambridge [Eng.]: U. Cambridge, 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.
Mon., Jan. 22	1 Introduction to the course. A basic chronology of three legal traditions: Roman, Continental European, and English. The legacy of the ancient world: Christianity. <u>Assignment</u> : Paul’s letter to the Romans; marriage and witnesses in the Bible (<i>Documents</i> , Part II).
Wed., Jan. 24	2 The legacy of the ancient world: Roman law. The structure of Roman law and of the European civil codes. How the story came out. Reflections on what we mean by the ‘Western legal tradition’. <u>Assignment</u> : Justinian’s <i>Institutes</i> ; D.23.2; C.5.4; D.22.5; C.4.20 (<i>Documents</i> , Part I); selected 19th-century European codes on marriage, wild animals, and witnesses (<i>Documents</i> , Part XX). [Focus on the overall structure of Justinian’s <i>Institutes</i> (Outline for Lecture 2) rather than on the detail. In the case of the <i>Digest</i> and the <i>Code</i> , try to get a sense for how the material is organized. Try to think about ‘fundamental legal categories’: <i>ius</i> vs. <i>lex</i> , public vs. private, criminal vs. civil, persons vs. things vs. actions, property vs. contract vs. delict (tort). Then ask yourself how these categories are reflected in Justinian’s <i>Institutes</i> and in the 19th century codifications. Then try to figure out what the rules were about the capture of wild animals, marriage, and witnesses both in Roman law and in the 19th-century codes. Are the different codes more notable for their similarities or their differences?]
Thu., Jan. 25	3 <u>Section 1</u> (if possible): Reflections on ‘fundamental legal categories’: <i>ius</i> vs. <i>lex</i> , public vs. private, criminal vs. civil, persons vs. things vs. actions, property vs. contract vs. delict (tort). <u>Assignment</u> : Justinian’s <i>Institutes</i> (<i>Documents</i> , Part I.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., Jan. 29 4 The ‘barbarian’ invasions. Two ‘Barbarian’ Law Codes: Aethelberht. 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., Jan. 31 5 Two ‘Barbarian’ Law Codes: Gundobad. Aethelberht and Gundobad compared. Assignment: Gundobad (compared with the *Lex romana burgundionum*) (*Documents*, Part III.B). [Same questions as Assignment 4.] Review *Documents*, Part IIIA
- Thu., Feb. 01 6 Section 2: 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. 05 7 Carolingian institutions and ‘feudalism’. Assignment: Documents on Continental feudalism (*Documents*, Part IV). (If you can get a start on *Documents*, Part V, that would help. They are not in the prerecorded lecture, but the next class is dense.)
- Wed., Feb. 07 8 Eleventh-century reforms and a glimpse at *regnum* and *sacerdotium*, to the end of the 13th century. The Collection in 74 Titles. ‘Eclectic’ sources of law. 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?] Review *Documents*, Parts II, III, VI. [A bigger question: What are the sources of the law that we have looked at so far? This is an opportunity to review the types of sources of law at which we have been looking, and, perhaps, to ask the question ‘what is law’?]
- Thu., Feb. 08 9 Section 3: Eclectic sources of law: the Bible, Æthelberht and Gundobad, the Collection in 74 Titles. Assignment: Review *Documents*, Parts II, III, VI. [Same questions as Assignment 8.]

<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].
Mon., Feb. 12	10	Reform and the ‘twelfth century renaissance’. The institutional history of the 12th and 13th centuries: England and France. Why Bologna? <u>Assignment</u> : None specifically, a chance to catch up. The why Bologna question is one that we could ask at the beginning or at the end of this unit. Here we might list possible answers
Wed., Feb. 14	11	.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.]
Thu., Feb. 15	12	<u>Section 4</u> : Wild animals in the glossators. <u>Assignment</u> : <i>Documents</i> , Part VII.
<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).
Mon., Feb. 19	13	Holiday in FAS, but class meets. 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?]
Wed., Feb. 21	14	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).
Thu., Feb. 22	15	<u>Section 5</u> : Alexander III’s decretals on marriage. <u>Assignment</u> : Review <i>Documents</i> , Part VIIC. How do we design a procedural system? <u>Assignment</u> : Review <i>Documents</i> , Parts VI and IX.
<u>Week 6</u>		Secondary reading: Bellomo 61–88; RFG2 179–207; RFG3 129–168; Vinogradoff 71–96; review K1500 213–80.



Mon., Feb. 26	16	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) (<i>Documents</i> , Part XIV.B).
Wed., Feb. 28	17	<i>Coutumiers</i> and <i>fuegos</i> . <u>Assignment</u> : Extracts from the <i>Usatges de Barcelona</i> on witnesses, marriage, and wild animals (<i>Documents</i> Part X.A).
Thu., Feb. 29	18	<u>Section 6</u> : How to read a case. <u>Assignment</u> : <i>Documents</i> , Part XIV.A–B.
<u>Week 7</u>		Secondary reading: Review K1500 213–80.
Mon., Mar. 04	19	Courts and <i>coutumiers</i> in France. <u>Assignment</u> : Extracts from the <i>coutume</i> of Tourraine-Anjou and from Beaumanoir on witnesses, marriage and marital property, and wild animals (<i>Documents</i> Part X.B, C).
Wed., Mar. 06	20	Political ideas of the 12th and 13th centuries. <u>Assignment</u> : Extracts from Bracton on kingship and from the glossators on sovereignty (<i>Documents</i> Part XI).
Thu., Mar. 07	21	<u>Section 7</u> : <i>Usatges</i> and Beaumanoir. <u>Assignment</u> : <i>Documents</i> , Part X. Hour Exam. (To be taken after the section meeting. Will cover Assignments 1–19 and 21.)
Sat., Mar. 09	—	Sun., Mar. 17 . Spring vacation.
<u>Week 8</u>		Secondary reading: Padoa-Schioppa, 151–228; Bellomo 118–61; RFG2 100–121; RFG3 59–71, 107–24; K1500 281–387.
Mon., Mar. 18	22	The 14th and 15th Centuries—political and constitutional developments. The commentators. <u>Assignment</u> : Extracts from the commentators (<i>Documents</i> , Parts XII and XIII).
Wed., Mar. 20	23	Commentators on wild animals. Commentators on witnesses. <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). <i>Tractatus de reprobatione testium</i> ; Gandinus, <i>Tractatus de maleficiis</i> ; Robertus Maranta, <i>Speculum Aureum</i> , (<i>Documents</i> , Part XII.A, C–D); <i>Decisio S.R.R.</i> (1574) (<i>Documents</i> Part XIV.E)

Thu., Mar. 21	24	<u>Section 8</u> : Law and politics in the 13th century. <u>Assignment</u> : Review <i>Documents</i> , Part XI.
<u>Week 9</u>		No secondary reading specific to this week.
Mon., Mar. 25	25	Commentators on marriage. Courts and case reports. <u>Assignment</u> : <i>Decisio S.R.R.</i> (1360 X 1365) (<i>Documents</i> , Part XIV.C); Panormitanus, <i>Consilia</i> (15th c) (<i>Documents</i> Part XIV.D). The <i>Rota Fiorentina</i> (1780) (Gorla article) (<i>Documents</i> , Part XIV.F).
Wed., Mar. 27	26	How did medieval and early modern lawyers do their jobs? <u>Assignment</u> : None specifically. If possible, class will meet in the Treasure Room of the HLS Library to see a display of medieval and early modern books and documents.
Thu., Mar. 28	27	<u>Section 9</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.D).
<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.
Mon., Apr. 01	28	‘Renaissance’ Europe—political, intellectual and constitutional developments. Humanists, humanism and the law. Homologation of custom and reception. <u>Assignment</u> : Pithou on the <i>Collatio</i> ; Bodin on Political Theory (<i>Documents</i> , Part XV). Coutumes de la prevoste et vicomte de Paris (<i>Documents</i> , Part XVI.C).
Wed., Apr. 03	29	Compilations, proto-codification, codification. The <i>Grandes Ordonnances</i> . <u>Assignment</u> : Decree, <i>Tametsi</i> ; <i>Ordonnance</i> of Blois; <i>Ordonnance pour la procédure civile</i> (<i>Documents</i> , Part XVI.A, B, D (pp. 2–4, 5–6).
Thu., Apr. 04	30	<u>Section 10</u> : Legal humanism. <u>Assignment</u> : Pithou on the <i>Collatio</i> ; Bodin on political theory (<i>Documents</i> , Part XV).
<u>Week 11</u>		Secondary reading: Padoa-Schioppa, 294–402; RFG2 209–23 406–37; RFG3 249–67; K1789 161–281; Watson 83–125.



Mon., Apr. 08	31	The 17th and 18th centuries—political, constitutional and intellectual developments. Intellectual developments and the law. The institutes of national law. <u>Assignment</u> : Extracts from French institutional treatises (<i>Documents</i> , Part XVII).
Wed., Apr. 10	32	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).
Thu., Apr. 11	33	<u>Section 11</u> : The relation between abstract ideas and legal results. <u>Assignment</u> : <i>Documents</i> , Part XVIII.
<u>Week 12</u>		Secondary reading: RFG2 261–92; RFG3 269–285; van Caenegem, 115–69; Watson 126–30.
Mon., Apr. 15	34	The academics in action. Pufendorf on wild animals (cont’d). Domat and Pothier. Codification vs. Reform. (<i>Documents</i> , Part XVIII). Pothier on D.23.2; Pothier on the contract of marriage (<i>Documents</i> , Part XIX).
Wed., Apr. 17	35	Some thoughts on the French Revolution and the Napoleonic Code. The Napoleonic codes, the pandectists, the historical school and the making of the BGB. The road away from codification? <u>Assignment</u> : The Napoleonic codes on marriage, animals and witnesses (<i>Documents</i> , Part XX). Windscheid (<i>Documents</i> , Part XX [Windscheid extracts]).
Thu., Apr. 18	36	<u>Section 12</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>Week 13</u>		Secondary reading: van Caenegem, 170–97.
Mon., Apr. 22		<u>Final Lecture</u> : The achievements and failures of the <i>ancien régime</i> . Take-home exam passed out.
Wed., Apr. 24		<u>Section 13</u> : Review. No specific assignment.



Calendar

Mon., Jan. 22 [Assignment 1](#) Introduction to the course. Basic chronology. The legacy of the ancient world:

Christianity.

Wed., Jan. 24	=	Assignment 2	The legacy of the ancient world: Roman law. How the story came out.
Thu., Jan. 25	=	Assignment 3	Reflections on ‘fundamental legal categories’
Mon., Jan. 29	=	Assignment 4	Two ‘barbarian’ law codes—Aethelberht
Wed., Jan. 31	=	Assignment 5	Two ‘barbarian’ law codes—Gundobad
Thu., Feb. 01	=	Assignment 6	Aethelberht and Gundobad compared
Mon., Feb. 05	=	Assignment 7	Carolingian institutions and ‘feudalism’
Wed., Feb. 07	=	Assignment 8	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. 08	=	Assignment 9	Eclectic sources of law
Mon., Feb. 12	=	Assignment 10	The institutional history of the 12th and 13th centuries. Reform and the ‘twelfth-century renaissance’
Wed., Feb. 14	=	Assignment 11	The revival of academic law study: Roman law. Wild animals in the glossators
Thu., Feb. 15	=	Assignment 12	Wild animals in the glossators
Mon., Feb. 19	=	Assignment 13	The institutions of canon law. Marriage in the glossators
Wed., Feb. 21	=	Assignment 14	The revival of academic law study: Romano-canonical procedure
Thu., Feb. 22	=	Assignment 15	Alexander III's decretals on marriage. How do we design a procedural system?
Mon., Feb. 26	=	Assignment 16	Marriage litigation in the High Middle Ages
Wed., Feb. 28	=	Assignment 17	<i>Coutumiers and fueros</i>
Thu., Feb. 29	=	Assignment 18	How to read a case
Mon., Mar. 04	=	Assignment 19	Courts and <i>coutumiers</i> in France
Wed., Mar. 06	=	Assignment 20	Political ideas of the 12th and 13th centuries
Thu., Mar. 07	=	Assignment 21	<i>Usatges</i> and Beaumanoir
Fri., Mar. 08	=	Hour exam	(Will cover Assignments 1–19 and 21)
Sat., Mar. 09	—	Sun., Mar. 17	Spring Vacation
Mon., Mar. 18	=	Assignment 22	The fourteenth and fifteenth centuries—Political and constitutional developments
Wed., Mar. 20	=	Assignment 23	Commentators on wild animals. Commentators on witnesses.



Thu., Mar. 21	Assignment 24	Law and politics in the 13th century
Mon., Mar. 25	= Assignment 25	Courts and case reports
Wed., Mar. 27	= Assignment 26	The legal profession. (Class will meet, if possible, in the Treasure Room of the HLS Library.)
Thu., Mar. 28	= Assignment 27	Marriage in legal theory and legal practice
Mon., Apr. 01	= Assignment 28	'Renaissance' Europe—Political, intellectual and constitutional developments. Homologation of custom and reception.
Wed., Apr. 03	= Assignment 29	Compilations, proto-codification, codification
Thu., Apr. 04	= Assignment 30	Legal humanism (Short paper topics must be chosen by this date.)
Mon., Apr. 08	= Assignment 31	The 17th and centuries—Political, constitutional, and intellectual developments. Intellectual developments and the Law. The institutes of national law.
Wed., Apr. 10	= Assignment 32	Spanish scholastics, 'elegant jurisprudes,' the natural law school, and the <i>usus modernus pandectarum</i> . Pufendorf on wild animals.
Thu., Apr. 11	= Assignment 33	The relation between abstract ideas and legal results. (Statement of term papers due.)
Mon., Apr. 15	= Assignment 34	Pufendorf on wild animals (cont'd). Domat and Pothier.
Wed., Apr. 17	= Assignment 35	The Napoleonic codes, the pandectists, the historical school and the making of the BGB. The road away from codification?
Thu., Apr. 18	= Assignment 36	Domat and Pothier. (Last date for turning in short paper drafts.)
Mon., Apr. 22	= No assignment	Final Lecture.
Wed., Apr. 24	No assignment	Review. (This section will take place at the time and place for the regular Wed. lecture.)
Fri., May. 03		Final draft of short paper and take-home exam due

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