



FACULDADE DE DIREITO
Universidade de Lisboa

ROMAN LAW

2020 / 2021

EDUARDO VERA-CRUZ PINTO

Ana Caldeira Fouto (practical classes)

anafouto@fd.ulisboa.pt

SYLLABUS

INTRODUCTION

I. Roman Law and the Sources of Law

1. Law (*ius*) as source of the “sources of Law”
2. The rule of jurisprudence and justice as *result* (not as *problem*)
3. Law is authorial and meant for the human person
4. The *Rule of Law* is not the rule of laws
5. Roman Law to differentiate the juridical rule from the legal norm

II. What is Roman Law?

1. The definition and concept of Roman Law
2. The sources of knowledge and the juridical essence of the rules of Roman Law
3. Roman Law as *ars iuris* and/or *scientia iuris*
4. The privatistic essence of Roman Law

III. The History of Roman Law

1. What is the History of Roman Law?

2. The origins of the City of Rome
3. Monarchy
4. Republic
5. Principate
6. Dominate
7. Juridical periodization and historical periodization

IV. Fundamental Moments in the History of Roman Law

1. The Twelve Tables Law
2. *Ius Flavianum*
3. *Iurisprudentia* as the identity element of Roman Law
 - 3.1. Jurisprudential law as part of *ius civile*
 - 3.2. Who were the *iurisprudentes* and what was their activity?
 - 3.3. Juridical formalism: from the physical action to the technical expression
 - 3.4. *De verborum significatione*: juridical contents and their form of communication
4. *Res publica* as a political system adequate to a jurisprudential law
5. Augustus' *ius publice respondendi* and the beginning of the end of *iurisprudentia*
6. The instrumentalization of the *iurisprudentia* by Hadrian
7. The Dominate and the end of *iurisprudentia*

V. The Codification of Roman Law

1. The first Codifications
2. The Law of Citations
3. Theodosian Code
4. The legal schools of Beirut and Constantinople
5. The codification work of Justinian: the *Corpus Iuris Civilis*

VI. The Christianization of Roman Law

1. The relevance of Constantine
2. The relation between religious and political powers
3. The norms of the Church and the norms of the Law of the Empire
4. The juridical-Christian contents of Roman Law

ROMAN LAW

VII. The Sources of Roman Law

1. The meaning of “sources of Roman Law”
2. Custom and *mores maiorum* as sources of Roman Law (*ius*)
3. *Ius honorarium* and the edict of the *praetor* as sources of *ius*
4. The formalization of *ius* in *lex*
5. *Lex* as a source of Roman Law
6. *Leges publicae: leges rogatae*
7. *Senatus consulta*
8. Imperial constitutions
9. *Iurisprudentia* as a source of *ius*

VIII. The Judiciary Actors

1. The court (*iudicium*)
2. The jurispudent (*iuris prudens*)
3. The lawyer /advocate (*ad vocatum*)
4. The judge (*iudex*)
5. The *praetor*

BIBLIOGRAPHY

Basic Bibliography

EDUARDO VERA-CRUZ PINTO, *Lições de História do Direito Romano I*, Lisboa, AAFDL, 2019 (at the Faculty's Library, COTA A01-849)

Other Bibliography

ANTÓNIO SANTOS JUSTO, *Manual de Direito Privado Romano I*, 6.^a ed., Coimbra, 2017 (at the Faculty's Library COTA A01-857)

ANTONIO GUARINO, *Giurmanistica elementare*, 2^a ed., Napoli, Jovene, 2002 (at the Faculty's Library, COTA A01-387)

ARMANDO TORRENT, *Derecho publico romano y sistema de fuentes*, Zaragoza, 1995 (at the Faculty's Library, COTA A01-220)

DAVID JOHNSTON (ed.), *The Cambridge companion to Roman law*, New York, Cambridge University Press, 2015 (at the Faculty's Library, COTA A01-844)

JAVIER PARICIO/A. FERNÁNDEZ BARREIRO, *Historia del derecho romano y su recepcion europea*, 6ª ed. rev., Madrid, El Faro, 2002 (at the Faculty's Library, COTA A01-408)

MARIO BRETONI, *Diritto romano e coscienza moderna : dalla tradizione alla storia : scritti nomadi*, Madrid : Marcial Pons, 2011 (at the Faculty's Library, COTA A01-833); *História do direito romano*, Lisboa, Estampa, 1998 (at the Faculty's Library, COTA A01-203/A)

RAÚL VENTURA, *Manual de Direito Romano I*, Lisboa, 1968, 1960 (at the Faculty's Library, COTA SA01-18 and A01-763)

SEBASTIÃO CRUZ, *Direito Romano (Ius romanum) I*, Coimbra, 4.ª ed., 1984 (at the Faculty's Library, COTA A01-751/B)

Specific Bibliography and Catalogue of Roman Law Periodicals: see study guide in EDUARDO VERA-CRUZ PINTO, *Lições de História do Direito Romano I*, Lisboa, AAFDL, 2019, pp. 183-210

Note: further reading materials (including in English language) will be provided during the semester