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DE HISTORIADORES PORTUGUESES
DA ACADEMIA REAL DAS CIÊNCIAS AO FINAL DO ESTADO NOVO
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Coimbra's Faculty of Law

The historical study of law has deep roots in the past. However, the discipline of legal history at the University of Coimbra only dates back to the second half of the 18th century. This phenomenon is not unique to our country and was also noted by many authors in Europe around the same time, highlighting the relative modernity of this scientific field. The reasons why conditions were not favourable for the development of legal history until the mid-1700s are well-known and require no detailed explanation. Roman and canon law exerted a suffocating dominance, filling the entirety of university education and feeding the most expressive legal literature. It was as if both these law fields stifled any interest in other legal perspectives at birth. Occasionally, there might have been a passing mention of a Roman chapter on the origins of law, but this did not herald the flourishing of a history of law. Instead, under a clearly dogmatic guise, scholars were deflected to studies of Portuguese law. Above all, the inability to match the formative grandeur of *ius romanum* led to the blatant subordination of national law. In this context, it is unsurprising that the past of a law, whose present was largely considered obsolete, was neglected. Moreover, the field of historiography itself did not present promising prospectives, suffering from significant weaknesses and a clear absence of a philosophical conception of history.

16th-century legal humanism promised much for the historical study of national law. The diverse origins of the legal materials compiled by Justinian was one of the Renaissance jurists' most absorbing concerns. They sought to identify the authentic precepts of classical *ius romanum*. Consequently, the historical perspective applied to the Justinian compilation led, to some extent, to the relativisation of the value of Roman law, considering the *Corpus Juris Civilis* as a product of a specific historical context, thus denying the meta-juridical and eternal valuation of Roman norms. The Renaissance movement undoubtedly opened up a favourable horizon for a historical orientation in legal studies. However, it should be noted that in the context of Portugal, the flash of humanism in legal education was but fleeting. The exclusive devotion to the dogmatic teachings of Roman and canon law continued. Hence, few authors during the 16th and 17th centuries explored the antiquities of Lusitanian law. Notably, however, the historical angle of public law awakened considerable interest. Under the auspices of the humanist revival, André de Resende, a multifaceted erudite character, an

archaeologist and composer of merit, who was on close terms with Erasmus and Nicolau Clenardo, devoted himself to the organisation of ancient Hispania and is rightfully considered the founder of peninsular public law history. The desire for Restoration also saw a group of jurisconsults dedicated to various historically legitimist public issues in support of the kingdom's independence, with João Pinto Ribeiro emerging as a prominent figure. Entering the 18th century, historiography benefited from a renewed impetus in the wake of the establishment of the Royal Academy of History and the diligent efforts of its members.

However, it was not until the second half of the 18th century that the history of law made its way into the curriculum of the legal faculties of Coimbra. This pioneering inclusion was significantly influenced by notable advances in the field of historiography, accompanied by a long-demanded philosophical definition of the discipline that moved away from a systematic tendency towards personalist narratives. In the Baroque approach, the past was only fascinating for the grandeur of the notable actions of distinguished figures, with attention merely skimming the surface of memorable facts. On the side of legal science, a significant renewal was witnessed, due to a commitment to rationalist legal thought within the framework of an Enlightenment that sought to reflect the historical side of its era in law. History, as has been aptly written, had now taken the place of theology, insofar as it became the court of the world. It grew in critical terms and in the breadth of its adopted broad cultural perspective.

Enlightenment ideas were only flickering then in Portugal while they were already shining brightly abroad. It should be added that the Enlightenment did not assume uniform contours. The model adopted by Catholic countries like Spain and Portugal, which had its radiating centre in Italy, presented distinctive traits. The Enlightenment message was received here through the words of Luís António Verney which, due to a close connection with Muratori, bore unmistakable Italian features. Verney criticised the educational system vehemently, with the flair of a forceful libel. Regarding the Faculties of Law and Canons, he criticised harshly the scholastic or Bartolist orientations, defending the historical-critical or Cujacian approaches. At the same time, he advocated for the adoption of the synthetic-compendium expository method taken from the German Heineccius, a jurist whose merit grew in the eyes of those marked by foreign influences (*estrangeirados*) for the attention he dedicated to the history of Romano-Germanic law. As far as Verney was concerned, the disheartening ignorance of history among jurists was abhorrent. Many were considered great legal scholars yet, aloof from the pure text they studied, they were "so crude that they seemed to have just arrived from Paraguay or the Cape of Good Hope." Indeed, the history of Rome proved illuminating for the correct understanding of *ius romanum*, and Verney went on to become a herald of the essential value of explaining history to grasp the meaning of law. Upon hearing a jurist claim to be unaware of civil history and a theologian who was surprised by church history, he immediately concluded that neither understood law or theology, as history constituted "a main part of these two faculties: without which, a man cannot understand them." Such was Verney's scathing judgement, which did not omit the need for jurists to devote themselves to the study of national law and its history as part of a comprehensive education. Thus, a true legal scholar would have

knowledge of a multitude of subjects which, despite the clear privilege granted to the historical strand, would include areas as diverse as natural law and international law, rhetoric, canons, theology, and the legislations of foreign countries.

Through bouts of nonconformity, Verney's spirit of cultural mission eventually bore fruit. A new legal mindset was installed as of 1772, with the Pombaline Statutes of the University of Coimbra. This remarkable legal document completed an evolutionary process initiated in 1770 by the *Junta de Providência Literária* [Literary Providence Board], which had been tasked with examining the causes of the University's ruinous decline and proposing solutions to address them. The results achieved by this commission were presented in the *Compêndio Histórico do Estado da Universidade de Coimbra* [Historical Compendium of the State of the University of Coimbra], which revisited the diatribes and suggestions from the work of Friar Barbadinho. Indeed, following in Verney's footsteps, the famous Historical Compendium reaffirmed the alliance that should be intimately established between law and history, with the latter preceding and perpetually accompanying legal studies. Having raised the soul of jurisprudence, history became an interpretative paradigm, like the golden hook used to seek the true understanding of laws, or the brightest torch that illuminated the often obscure meaning of norms. Thus, the Compendium could only deplore the grim judgement of those representing the old orthodoxy, such as that penned by the "disguised" Friar Arsénio, who relegated history to disdainful contempt. The interest in history by jurists would never be more than mere curiosity, yet it bordered on impertinence. Celebrating the value of the historical lesson on the forgotten stage of national legislation, the Historical Compendium recommended a constant fidelity to sources and recourse to the auxiliary sciences, in addition to advocating an indispensable recourse to the history of legal literature, which constituted a reliable criterion for assessing the progress of law and its teaching. The Compendium also armed itself with strong reasons to support natural law, albeit without shying away from the historical and nationalist orientation that wove it together.

Crowning the vehement censure encapsulated in the Historical Compendium, the New Statutes of 1772 brought about a true revolution in university education, particularly within the Faculties of Law and Canons. It appeared to the Pombaline legislator that without a drastic overhaul of a small ordinance, it would be impossible to dethrone the entrenched scholastic teaching, which was backed by the tremendous force of centuries-long establishment. Indeed, the reform was driven by the intention to leave nothing to the discretion of teachers and students. The Royal Charter of 28 August 1772 asserted itself as the master of all masters. It immediately challenged traditional legal education concerning the roster of the adopted disciplines, which until then had been confined to the study of the *Corpus Juris Civilis* and the *Corpus Juris Canonici*. Thereafter, the courses were initiated with a set of propaedeutic disciplines, featuring prominent historical and philosophical subjects. According to the Statutes, no law could be well understood without clear prior knowledge of both "Natural Law" and the "Civil History of Nations, and the Laws established for them," making these

"preconceptions" indispensable to solid legal hermeneutics. This represented the explicit invocation of the idea of prolegomenon to history, to use a term coined by Gama Caeiro.

In the path thus outlined, a natural law discipline, "common to both Faculties," was immediately established in the first year, encompassing not only "natural law in the strict sense" but also "universal public law" and the "law of nations." In parallel, a discipline of the history of Roman law and national law was established, officially titled "Civil History of Peoples, and Roman and Portuguese Law." This path continued into the second year, through a discipline of church history and canon law. The Pombaline legislator was truly innovative when, in the final year of the course, he mandated that legal scholars and canonists attend a national law discipline which had made its way into academic life for the first time since the university's foundation. The fact that until then national law had remained in shameful and profound silence was criticised. Since Portuguese law was a privileged source in the legal sphere, national laws should "be always visible and imprinted in our minds", not only to be applied in practice, but also to be taught and explained in theory.

On the other hand, the Statutes of 1772 did not merely incorporate the teaching of national law and its history. Thereafter, the traditional *magister dixit* was replaced by a far more powerful master, a true doctrinal legislator, whose opinions held the undeniable force of law. Indeed, the master of all masters uncompassionately set the curriculum for the various disciplines and did so in such detail in the realm of national law history that the set of precepts dedicated to the subject by the Statutes of 1772 represented, as has been duly emphasised, "the first serious attempt at systematizing the history of Portuguese law." In short, the teacher was to begin "with the History of Laws, Customs, and Legitimate Traditions of the Portuguese Nation: Moving then to the History of Jurisprudence, Theory or the Science of the Laws of Portugal: And concluding with the History of Practical Jurisprudence, or the Practice of Laws; and the way of managing, and dispatching cases and affairs in the Courts, Courts of Appeal, and Tribunals of these Kingdoms."

In the same vein, political power openly professed a firm belief in the utility of legal history studies. On 25 February 1774, in response to a letter from the Reformer Rector, D. Francisco de Lemos de Faria Pereira Coutinho, dated 8 February of that same year, the Marquis of Pombal praised the value of national law and the history of Portuguese law as a fruitful consortium. Since the inception of the reform efforts, D. Francisco de Lemos had become alert to the importance of history in legal education. As he would later highlight in his *Relação Geral do Estado da Universidade* [General Report on the State of the University], a testament of sorts prepared while he was the privileged executor of the directives contained in the Statutes of 1772, a good jurist must necessarily be profoundly versed in natural jurisprudence and history, as these areas underpin both canon and civil law.

In the field of Portuguese legal history, where the programme was scrutinised so meticulously, it was imperative to ensure it was promptly translated into a compendium form. Faced with the almost desolate panorama of national literature in this field, the Statutes decreed that the teacher of national law history would be obliged to produce an elementary manual for this discipline. This was because, "among the many Systems, Compendia,

and Summaries of Roman Law History, there is none suitable for the use of the lessons of this discipline; not only because there is none in which the History of Portuguese Law is written, but also because there is none that encompasses all three of the inherent and inseparable objects of said History; and that sheds the necessary light on all the aforementioned parts of said History that discuss them: The teacher shall be obliged to create an Elementary Compendium of the said History of Law, and of all its parts, suitable for and tailored to the annual Lessons of this discipine."

Regarding the aforementioned directive, Mello Freire became its most distinguished compendium executor. Meanwhile, delays ensued. Even though Joaquim José Vieira Godinho, the first teacher of national law after the Pombaline reform, had embarked on composing a *História da Legislação Portuguesa* [History of Portuguese Legislation], seemingly it did not serve university teaching. On the other hand, it is well-known that, following an order from the Congregation of the Faculty of Laws on December 13, 1786, substitute professor Ricardo Raimundo Nogueira was given the daunting mission of drafting various compendia that would be used in the different disciplines. The magnitude of the task that fell to Raimundo Nogueira was justified, as it was considered that the manuals should be prepared by a single person so as to guarantee the uniformity of principles and doctrines.

Indeed, the task of drafting a compendium "of Roman and National Law History" was, in fact, included in that vast array of duties. However, it is highly likely that Mello Freire hastened to take a step in the same direction, taking the lead over his distinguished colleague. Thus emerged the famous *Historiae Iuris Civilis Lusitani Liber Singularis* by Pascoal José de Mello Freire dos Reis, published in 1788 by the initiative of the Royal Academy of Sciences, which would receive official endorsement for teaching purposes. Nevertheless, Ricardo Raimundo Nogueira did not falter in the original project, as his teachings yielded valuable lectures on the History of National Law, but the priority of time is ruthless and did not prevent the future from crowning Mello Freire as the "founder of the history of Portuguese law."

Fuelling somewhat progressive currents of opinion in various cultural fields, Portuguese intellectuals outside the university sphere ceased to be engulfed in oblivion and death. Around this time, the Lisbon Academy of Sciences, created in 1779, began to shine forth, and its intense efforts rapidly advanced the knowledge of legal history. In the university cloister, interest in the successive sources of knowledge of Portuguese law remained very much alive. Towards the end of the 18th century, the Royal Press of the University of Coimbra promoted an elaborate publication that included the *Ordenações Afonsinas* [Ordinances of Dom Afonso V] the *Ordenações Manuelinas* [Manueline Ordinances] the interim compilation known as the *Colecção das Leis Extravagantes de Duarte Nunes do Lião* [Collection of Uncodified Laws by Duarte Nunes do Lião], the *Ordenações Filipinas* [Philippine Ordinations] several volumes dedicated to miscellaneous legislation post-1603, and a collection of judgements from the higher courts, namely, the *Casa da Suplicação* [High Court of Appeal] and the *Casa do Cível* [Court of Appeal]. This prolific activity only became possible because the editorial management framework had radically changed as far as the great national legislative monuments

were concerned. The Charter of 16 December 1773 had granted the University of Coimbra the exclusive privilege to print the *Ordenações do Reino* [Ordinances of the Kingdom] which had previously been held by the now-extinct Monastery of São Vicente de Fora. This prerogative was later extended by the royal resolution of 2 September 1786, concerning uncodified law.

It is important to recognise that the described scenario emphasised the importance of legal history since, as has been duly noted, the legal history of a people is fundamentally the history of its legal books. Likewise, the university teachers who fall within the timeframe under consideration continued to enrich legal historiography. Notable contributions are recorded from several of these teachers, such as Luís Joaquim Correia da Silva who directed the 1792 edition of the *Ordenações Afonsinas* and wrote the erudite preface, and Francisco Coelho de Sousa Sampaio who, as a result of his appointment to the chair of national law in July 1789 composed *Prelecções de Direito Patrio Publico, e Particular* [Lectures on Public and Private National Law] enriching it with valuable historical-legal information. Interestingly, this compendium was published when Francisco Coelho de Sousa Sampaio was already a tenured professor of "History of Roman and National Law," to which he had been appointed in 1790. Antonio Ribeiro dos Santos is also worthy of mention, a figure that time has enshrined in its annals for his well-known *Notas ao Plano do Novo Codigo de Direito Publico de Portugal* [Notes on Portugal's New Public Law Code Plan] This work is of great value, representing the torrential censure with which Ribeiro dos Santos attacked the legislative project authored by Mello Freire and which has garnered intense interest among all those who study the historical evolution of public law and political thought in Portugal. We now close the inaugural cycle of the history of law. Covering the period from 1772 to 1836, it may be said that it coincides with the first vital breath of the discipline in the legal faculties.

The improvements introduced at the start of the 19th century were barely felt, as public life in the country soon entered a period of great unrest, leading to the suspension of university teaching. The triumph of liberalism triggered a significant reform of the legal courses, resulting in the creation of the Faculty of Law of Coimbra, a result of the merger of the two traditional legal faculties. The Pombaline Statutes had already sketched this unification by promoting a series of disciplines common to legists and canonists. Within liberal politics, this measure suited the purpose of devaluing the teaching of canon and ecclesiastical law. Although initially sparked in 1833, the idea of merging the Faculties of Laws and Canons only materialised during the Septembrist dictatorship of Passos Manuel, after various vicissitudes. By decree of 5 December 1836, the Faculty of Law replaced the Faculties of Laws and Canons. In curricular terms, the most significant change affected the teaching of national law, which became almost the exclusive focus of the last three years of the course, divided into public law, civil law (two disciplines), commercial law, and criminal law. Additionally, political economy began its promising career in the Law Faculties.

The foundation of the modern Faculty brought some splendour to the history of law, more through the merit of one of its distinguished masters than its moderate prominence granted by the new teaching plan. This figure was Manuel António Coelho da Rocha, whose remarkable teaching was like a shooting star in the teaching of

legal history. Although fleeting, it led to significant changes during his tenure in the discipline. Having long lacked a lecturer of his calibre, and especially someone who intentionally prioritised matters related to the history of Portuguese law, "since he regarded them as a subsidy and indispensable preliminary for the understanding of national laws, in teaching, they should stand on an equal footing with the study of jurisprudence."

This profession of faith in the utility of legal history was at the forefront of Coelho da Rocha's well-known *Ensaio sobre a história do governo e da legislação de Portugal* [*Essay on the History of Portuguese Government and Legislation]*. It would represent the definitive sign of the author's productiveness while he led the discipline. After a period of maturation, its *editio princeps* emerged in 1841, a meticulous work that served as the official compendium of the history of national law at the Faculty of Law of Coimbra for decades. Coelho da Rocha's *Ensaio* took the former *Historia Iuris Civilis Lusitani* of Mello Freire as the reference it replaced but did not disguise the advancements it brought to the history of Portuguese law. It filled gaps, changed the method of topic presentation, and corrected interpretations marred by the treacherous prism of political enthusiasm. The very conception of history progressed with Coelho da Rocha's *Ensaio*. This work was highly acclaimed by the rigorous Alexandre Herculano, to the point of his announcing that the great revolution in science had already arrived in our country: "The first cry of rebellion against the highly false denomination of history, given exclusively to a complex of biography, chronology, and military facts, has been uttered by the author of *Ensaio sobre a história do governo e da legislação de Portugal*."

From another perspective, the favourable judgement bestowed on Coelho da Rocha's book by Alexandre Herculano is hugely significant, marking a new scientific spirit that had taken hold. Thus, a historiographic concept was adopted that reflected the significant deeds of the nation, giving value to the collective construction carried out over centuries, which was thenceforth to be considered according to historical-cultural eras rather than reigns. It was time, as Herculano himself wrote when he reviewed Coelho da Rocha's book, for history to be more than just a date and an evangelical *autem-genuit* of nobility. The mid-century mark had been reached, and while we were limping, we were not disabled. It is not surprising that Herculano jubilantly welcomed the path taken by the professor from Coimbra, as "his history is that of social facts, of the organisation and development of this moral body called the Portuguese nation." Despite Herculano's sporadic contributions to the evolution of legal historiography, it was in the realm of methods and conceptions of a critical and philosophical history that his performance assumed such significance that it could not be ignored by the future. From his position of authority, the romantic patriarch effectively issued a death certificate to history composed of chronologies, lineages, and battles, in essence, to a history without scientific attestation, lacking the powerful heuristic foundation of sources.

Returning now to the legal historiography of the 19th century, let us revisit the University to focus on the path offered to the history of law by the successive 19th-century reforms. The recent Faculty of Law was not so young as to forget the past. In 1836, the first discipline of the course was named "General History of

Jurisprudence, and the particular of Roman, Canon, and National Law." It underwent Cabral's public instruction reform without a new name. In line with Article 98, sole paragraph of the Decree of 20 September 1844, the distribution of disciplines in the Faculty of Law would be made "by its Council, as may best serve the service and progress of teaching." Unlike other schools, the dictatorial law assumed a unique respect for the autonomy of the Faculty of Law. Using this prerogative, after a long period of reflection, a study plan was established, whose changes did not affect the historical discipline. Influenced by foreign ideas, the concept of introducing a "Legal Encyclopaedia" discipline emerged. At a Congregation meeting on 29 July 1854, Nunes de Carvalho requested that "the creation of a new discipline, that would be preliminary to all the study of Law, as practiced in other Universities" be considered. Months later, Forjaz de Sampaio seconded the proposal. It prevailed in 1855, resulting in the division of our discipline into "History of Law and Legal Encyclopaedia," with the latter taking the place of the particular history of Roman law in the first discipline of the course.

This situation only changed with the new accommodation of legal studies established in 1865. The process leading to this is not hard to reconstruct. By Decree of 21 January 1864, the government had determined that the Faculty of Law's Council should consult on the reformulation of the legal, economic, and administrative sciences study plan. In order to comply with the order contained in the decree, the Faculty created a commission composed of Paes da Silva, Bernardo de Serpa, and Barjona de Freitas. The latter soon yielded his position to Dias Ferreira. The work of this commission resulted in a project that prevailed in 1865, following a heated debate and the acceptance of several modifications,. Notably, the debated project contained a change worthy of reference for the history of law. Unafraid to turn back, it supressed "Legal Encyclopaedia" to confer greater development to the teaching of the history and general principles of national civil law. It should also be noted that the plan, which came into effect in the academic year 1865-1866, unmistakably reinforced the importance of legal history teaching, distributing this subject among the disciplines belonging to the first year of the course. In all of them, the historical strand was affirmed. Thus, the first year included the disciplines "Elements of the Philosophy of Law; and History of Constitutional Law" (1st discipline); "Historical exposition of matters of Roman Law, accommodated to national jurisprudence" (2nd discipline), and "History and general principles of Portuguese Civil Law" (3rd discipline). As a matter of curiosity, at a Congregation meeting on 2 September 1865, the first discipline was assigned to Rodrigues de Brito, the second to Justino de Freitas, and the third was given to Pedro Monteiro. This was the constellation of professorial chairs designated by the Faculty for the opening of the renewed course. José Dias Ferreira was a sound interpreter of the 1865 reform. He even prepared an extensive report on the matter. His accurate observations of the schema of the first year of law, are particularly noteworthy. In its high concept, like the more accredited universities, it would represent a kind of general introduction to law in which philosophical and historical subjects should prevail. Furthermore, as emphasised by Dias Ferreira, the history of law was an indispensable element for the jurist, not only to enter into the knowledge of legal institutions but also to learn from the lessons of the past how to prepare for

future reforms. Philosophy and history were proclaimed by the philosophers of the Eclectic School as the two avenues of all human science, forming an alliance that the jurisconsult could by no means dispense with.

At the turn of the 20th century, the University of Coimbra was embroiled in a heated debate around the global remodelling of its teaching. Urged to pronounce itself by the cabinet of Ernesto Rodolfo Hintze Ribeiro and not insensitive to the appeal, the Faculty of Law appointed a commission composed of Dias da Silva, Guilherme Moreira, and Marnoco e Sousa, with the task of preparing a report on the part concerning its teaching. Approved without changes in an extraordinary Congregation meeting on 2 March 1901, the opinion issued provided the basis for the reform crowned by Decree No. 4, of 24 December 1901. In the field of legal studies, a new atmosphere was breathed. For the past two decades, there had been a progressive introduction of positivist and sociological conceptions in various disciplines. Legal history would not escape the conforming influence of a similar orientation consecrated by the 1901 reform. The Faculty of Law's report, which served as the vestibule to the law, already affirmed, without circumlocution, such an understanding applied to the history of law. Proclaiming that the advances seen in the various legal branches were mainly due to the constant use of observation and comparison of facts and the employment of the inductive method, legal history was exalted as a vast laboratory of past experiences.

According to the report, the history of law contained a two-fold value. It not only allowed for a true explanation of legal institutions by showing the needs that determined their establishment in harmony with the conditions of their environment, but by specifying the laws that governed the development of these institutions, it also provided secure elements for the reform of positive law in all its forms. This rationale eloquently justified why legal history "is the best school for the formation of the legal spirit, as the most suitable resources to correctly interpret the law and assess the guarantees for the duration and transformation of its provisions lie therein." There is a small note worth mentioning here that has so far gone unnoticed, namely that this precise acknowledgment of the glorifying adjustment of legal history was literally incorporated into the 1901 Decree which, in truth, transcribes the document produced by the Faculty's efforts. The decree openly advocates the broader study of legal history. Given the triumph of Auguste Comte's positive doctrines, Darwin's transformative theories, and Herbert Spencer's critical evolutionism, the concept of law was entrenched in an organicist and social conception, necessitating the examination of its historical elaboration to understand the legal organism. The decree enshrined the axiom of the eminently social character of legal phenomena within a dense web of connections and interdependencies, for which the historical warp provided a faithful representation.

The 1901 Decree explicitly adopted the lesson of Hinojosa. On the one hand, legal history facilitated the interpretation of current legal precepts, revealing the causes at their origin, the needs they met, and the intentions that prevailed in the legislator's mind when enacting them. On the other hand, it provided valuable services regarding the improvement of legal institutions, revealing the laws that govern the general evolution of law and the peculiarities of each people, not forgetting the decisive analysis of the beneficial or harmful

influence of legal norms on social life. Thus, it was evident that the Faculty of Law and the reform decreed in 1901 were united in their views. Following the promised expansion, the teaching of legal history spread across two disciplines: one dedicated to the "General History of Roman, Peninsular, and Portuguese Law" and another to the "History of the Institutions of Roman, Peninsular, and Portuguese Law." In the legislator's view, this represented a new way of translating the old *summa divisio* between external and internal history, an approach dating back to Leibniz.

The orientations professed in 1901 resonated undeniably with the teachers of legal history disciplines. Even before this reformative impulse, Arthur Montenegro had published a book titled *O Antigo Direito de Roma [The Ancient Law of Rome]*, boldly exploring the virtues of applying a sociological scientific method. Social sciences were both interconnected and intimately linked to all cosmic phenomenality. It would be easy to understand that the conditions of a territory and the character of a people influenced the law that conformed and developed in sync with these elements. It is therefore unsurprising that Montenegro's approach to analysing the sources and institutions of civil law began with a unique exploration of the social environment. The institutions of Roman law were presented as the inextricable product of the cosmic, ethnic, and social factors that had shaped them. The historical value of *ius romanum* justified the keen interest it had always aroused. However, any interpreter lost in the minutiae of exegesis precluded the possibility of grasping the evolutionary sense of the institutions, never understanding the spirit that animated them in each era. Essentially, it was the sociological refinement of the historical perspective that triumphed in the study of Roman law, to which Arthur Montenegro remained faithful throughout his teaching. But undoubtedly, Joaquim Pedro Martins and Marnoco e Sousa were the ones who took it upon themselves to become the great executors of the 1901 directives. Pedro Martins composed two manuals, whose titles reflected the inscriptions of the second and fourth disciplines, which he taught between 1902 and 1910.

Pedro Martins held a comprehensive view of legal history. Indeed, he advocated for a fundamentally social conception that viewed collective life in its entirety to rigorously determine the genesis and transformations of the legal phenomenon. The historiography that deified the providential doctrine of great men was set aside. He also distanced legal history from a political contamination that some literature had sought to subjugate. The organicist vein remained constant in Pedro Martins' work. Legal phenomena, like all social phenomena, were regulated by the biological law according to which the most essential elements of an organism were the least variable. Thus, by nature, private law asserted greater stability. Pedro Martins also pointed to new directions for the history of institutions. It should definitively abandon the old descriptive and national character that had dominated for a long time to build a history of institutions with a genetic character, on top of those ruins. Its main mission, therefore, resided in uncovering the origin of institutions, accompanying them in their changes in appearance and meaning, and discovering in the conditions of social existence the impulsive base of the entire *iter evolutionis*. On the other hand, the history of institutions could not confine itself to the isolated examination of the vital pulse of each people. Instead, it had to provide a comparative panorama of the

institutes of various peoples according to the types of legal organisation, which inevitably implies internationalising the history of institutions. In this framework, it is no surprise that Pedro Martins was led to emphasise the historical-comparative method as the natural and proper method of legal history.

In unison, Marnoco e Sousa extolled the incorporation of law into the domain of phenomenal reality, recognising its supreme sociological value as a specific force organising the manifestations of social life. In constant interaction with the conditions of existence, legal institutions underwent continuous transformations. However, their metamorphosis could not be deemed limitless, as there were common and constant elements across various forms of social organisation that required a segment of law with an inescapable permanent nature. Furthermore, from a different angle, Marnoco e Sousa did not subscribe to a notion of linear, universal, and fatalistic evolution; that is, he rejected the idea that legal institutions were destined to undergo the same phases in all societies as if subject to a regular and uniform succession. Such a view would represent a forced unity that deeply repelled Marnoco e Sousa, due to the complex and variable nature of social phenomena.

In the period following the 1901 reform, as noted, the study of the history of law was celebrated within the physical and social milieu in which legal institutions emerged and developed. This was the prevailing orientation in foreign universities, which was eagerly adopted by the Faculty of Law of Coimbra. However, even before the 1901 reform was fully implemented, it had already become the target of severe criticism. The reform did not receive a warm reception. These were restless times. The academic conflict of 1907 had incited a wave of intense and harsh criticism against the Faculty of Law. Anonymous flying sheets along with public denunciations were the forms of aggression used to condemn its teaching as stagnant and anachronistic.

Among the unjust accusations aimed at the Faculty, the most damaging was undoubtedly the allegation regarding the supposed backwardness of legal studies, and the archaic, outdated, and dogmatic nature of its teaching. As the controversy of 1907 continued to simmer, Marnoco e Sousa, along with Alberto dos Reis, openly defended their school in a courageous publication. The Faculty of Law quickly recognised the need for reform. Marnoco e Sousa, José Alberto dos Reis, Guilherme Moreira, Machado Vilela, and Ávila Lima devoted themselves to this task. Occasional changes were implemented, but it was not long before the Faculty presented a comprehensive reform plan. This was preceded by meticulous preparation. In 1909, Professors Marnoco e Sousa and José Alberto dos Reis undertook a mission to examine the organisation of legal education at the Faculty of Law in Paris and at the law faculties in Turin and Rome. In 1910, Professor Machado Vilela was tasked with observing legal education in practice at the universities of Paris, Toulouse and Montpellier in France, in those of Bologna, Padua and Turin in Italy, Brussels, Ghent and Louvain in Belgium, Berlin, Leipzig and Heidelberg in Germany, and finally Lausanne and Geneva in Switzerland. For the universities that were not visited, after careful consideration, it was decided that a "questionnaire on the organisation of legal education" would be sent to them. Based on the recommendations from abroad and the research conducted by the Faculty Council members, a reform project was drafted, largely the result of the

efforts and unwavering enthusiasm of Machado Vilela. This project was presented to the Congregation on 27 March 1911, where it received enthusiastic applause and was formalised by the Decree of 18 April 1911.

Sensibly, the 1911 reform did not reduce the historical component of the curriculum, but rather re-established the separation between Roman law and the history of law. This was done wisely by creating an independent discipline for "History of Roman Law Institutions," along with another for "History of Portuguese Law." The theory prevailed that combining the teaching of two disciplines with inherently different expository methods and research techniques would hinder each one from contributing fully to legal education according to their specific nature. Additionally, the 1911 reform acknowledged the value of history in its concrete teaching model. Indeed, the reform mandated that professors eliminate the inhospitable aridity of traditional abstract verbalism from their lectures. The presentation of legal principles and institutions in an a priori and dogmatic manner was to be replaced by a teaching that framed them within their historical development and relations with social life. The aim was to eliminate dry lectures that cultivated purely dogmatic discourse in a pastoral tone.

The careful efforts of its proponents and the broad horizons it opened for legal pedagogy extended the influence of the 1911 reform beyond national borders. However, the acclaim it received did not overshadow the subsequent distortions resulting from excessive concessions. Thus, the Faculty of Law of Coimbra itself acknowledged the need to refine the reform. Subsequent revisions did not affect the established autonomy between the history of Portuguese law and the history of Roman law institutions. This was the case for the reforms of 1918 and 1923. The 1918 reform essentially retained the curriculum design of 1911, as well as the teaching methods and the system of free attendance. Student qualification was assessed through five state exams covering various subjects, with the "Exam in Legal History Sciences" taking precedence, including "History of Roman Law Institutions, History of Portuguese Law, and General and Elementary Concepts of Civil Law." Similarly, the 1923 reform did not significantly alter legal history teaching, maintaining a first year that included courses in "History of Roman Law Institutions, History of Portuguese Law, the first subject in Civil Law (General and Elementary Concepts), and Political Law."

The reforms of 1928 and 1945 still warrant mention up to the mid-20th century. The 1928 reform established a general four-year course, incorporating essential disciplines for a comprehensive legal education. This was followed by a one-year supplementary course with two strands (legal sciences and political-economic sciences) designed to enhance students' preparation. The requirement of a dissertation for the degree aimed to foster a taste for scientific research. For the field we are dealing with, another measure taken by the 1928 reform deserves special mention, notably, the principle of doctoral specialisation. This had previously been unified but was now divided into legal history sciences and political-economic sciences, marking a significant and far-reaching measure. The disciplines "History of Portuguese Law" and "History of Roman Law Institutions" remained unchanged in their respective teaching domains. The 1945 reform, involving considerable changes and stemming from persistent preparatory efforts, with its roots traceable to 1941, introduced a five-year undergraduate course with a balanced distribution of subjects across various disciplines.

In this curriculum, the historical courses were named "History of Roman Law" and "History of Portuguese Law." The removal of the term "Institutions" from the Roman law course *intitulatio* appears to signal a deliberate revaluation of the historical approach applied to Roman law education.

Graduates with a minimum final grade of fourteen were able to enrol in the supplementary course, which lasted a year and included both coursework and dissertation preparation. The 1945 reform further advanced in the path of doctoral specialisation, which was subdivided into three strands: legal history sciences, legal sciences, and political-economic sciences. It is needless to recall the valuable contributions produced under the former in the field of legal history.

The continued relevance of the 1945 reform is evidenced by its prolonged implementation, only interrupted by the reform resulting from Decree-Law No. 364/72 of 28 September. Known as the Veiga Simão reform, this decree established a bachelor's degree, conferred upon those who passed all the courses in the first three years of the programme. It represented a triumph of a decidedly non-university approach to higher education, sacrificing everything not deemed valuable in the utilitarian altar. With his exemplary authority, Braga da Cruz observed that this reform transformed Law Faculties into mere training schools for bachelors, prioritising practical courses and relegating cultural subjects to the degree course. Thus, it is no surprise that "Roman Law" and "History of Portuguese Law" were intentionally moved to the fourth and fifth years. On account of such levity, the 1972 reform dealt a severe blow to the teaching of history in law schools, as eloquently highlighted by Martim de Albuquerque. All things considered, this reform encouraged a troubling return of successive waves of zealous "shysters," former legal barbarians or servants of the *lex*, who now emerged in the idolized modern version of legal technocrats, to whom the law, understood as a cultural phenomenon, was profoundly tedious. This reform did not achieve full implementation. The Revolution of 25 April occurred in the meantime. Although spared from destructive impulses, legal education in Coimbra was not immune to upheavals. Shortly after the April 1974 shift, both historical disciplines experienced a temporary eclipse. Roman law and the history of Portuguese law were abolished without the right to defence. However, by the time of the 1975 curriculum, these disciplines had been reinstated, albeit exclusively in the supplementary cycle.

By the late 1970s, winds of change were blowing in once again. For the academic year 1979/1980, the Scientific Council of the Faculty of Law of Coimbra introduced a notable innovation: the two historical disciplines were reinstated in the first year, albeit limited to one semester. At the same time, the Faculty took the commendable step of establishing a postgraduate course in legal history sciences. This course included "Roman Law" and "History of Portuguese Law" as mandatory subjects, along with a third optional discipline. Thereafter, the History of Law would maintain a valuable status within the curriculum of the Faculty of Law of Coimbra.

Accompanying the reforms that shaped the significant evolution of legal education in the 20th century, the Faculty of Law at Coimbra lent a constant breath of renewal to the teaching of legal history studies. This began

with the prominent figure of Paulo Merêa. On 3 August 1914, the Council decided to propose him to the government for appointment as an extraordinary professor of Historical Sciences. Despite the valuable contributions of Guilherme Alves Moreira and José Caeiro da Mata during their tenure teaching historical disciplines, it was Paulo Merêa who provided the decisive impetus for modernising the science of Portuguese legal history.

In his early work of 1913, which made him known to the legal world, Paulo Merêa demonstrated the remarkable attributes that would later define his distinguished career. Reacting against excessive positivist fervour and seduced by the revival of idealism, he regretted the era when man had distanced himself from philosophy to solely focus on scientific contemplation. This narrow path naturally gave rise to a yearning for philosophical thought that, despite everything, did not forgo contact with living reality or, in Boutroux's words, wisely invoked by Merêa, a philosophy that represented the legitimate product of a collaboration between the spirit and things. From then on, Merêa produced a monumental body of work, divided between the history of institutions and the history of legal thought. He combined the cold philological severity of the texts with a concern for framing the analysis of legal history problems within their cultural contexts, thus providing comprehensive explanations. Merêa addressed an impressive array of topics, tirelessly traversing the fields of private and public legal history, and making successful forays into national and European political thought. He also bequeathed various expository syntheses of Portuguese legal history. It is no exaggeration to assert that Merêa created a genuine school of legal history, whose influence extended beyond national borders. One of Merêa's contemporaries, Luís Cabral de Moncada, was also a distinguished historian of law, though his true commitment primarily led him to legal philosophy. This connection explains the solid philosophical foundation with which he approached the understanding of legal history and its methodological problems. However, the real successor to Merêa's path was undoubtedly Guilherme Braga da Cruz. In November 1941, he defended a doctoral thesis on the reserva troncal, marking the beginning of an extensive body of work that includes a masterful legal study of the principle of reserva troncal, with significant attention to two related institutes: the family portrait and the hereditary reserve. Throughout his tireless career, he explored a broad spectrum of topics in ancient and medieval law, as well as the foundations of modern Portuguese law, producing work of extraordinary scientific precision. Braga da Cruz's moral greatness and intellectual stature made him a symbol of the university man of his time, leaving an indelible impression on all who knew the contours of this unparalleled character. Mário Júlio de Almeida Costa, Braga da Cruz's direct and esteemed disciple, continued the renewal of legal history science, both in teaching and research. He initially delved into medieval institutional law, as reflected in his dissertations that earned him the chair of History of Law at Coimbra. His numerous studies on the formation of modern Portuguese law and his significant interventions in key aspects of national legal thought are also noteworthy. Like Braga da Cruz, he did not confine himself to a dry exegesis of sources detached from their cultural contexts. Instead, he persistently emphasised values and contextual content to better understand the issues at hand, shaping his methodological approach. Almeida Costa undoubtedly deserves credit for bringing

the history of law up to the present day. He brought it closer to the present, and in doing so, has made it more accessible to students and jurists.

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