

First Lesson of Venetian Law History

1. Online teaching

The course of lessons will be held entirely through Zoom meetings.

The link for the meetings will be the same you used to get here, for all lessons.

The lessons will be held every Thursday and Friday from today, October 1, to December 18, in real time between 12.30 and 14.00.

Should I be unable to hold any lesson, I will arrange for a substitute or postpone the meeting, posting the relevant information on the Moodle page for Venetian Law History.

During past academic years, I used to hold my lessons for 90' (equal to two academic hours) with no interruption. According to the guidelines given by the University, the length of online lessons can be slightly shortened for expediency; as a rule, I plan on speaking for 60' with no interruption, reserving occasionally to speak a few minutes longer if necessary to conclude the topic.

I will use the word "lesson" throughout to mean each whole talk/video, equal to two academic hours.

The lessons will be recorded and posted on Kaltura and Moodle for free access at any time.

Only the host (me) and the shared screen will be recorded, while the students who should choose to be present at each meeting will not.

As a consequence, no question of personal data or privacy arises.

In addition to the videos, I will post my notes for each lesson as .pdf files, as soon as possible after the lesson itself, on the web page bearing the links to the study materials at:

<http://www.arielcaliban.org/paxtibimarce.htm>

As a safeguard against possible mistakes on my part in the use of the platforms, in this first lesson I will follow closely the present text, which will be posted as such.

The notes for the following lessons will be formatted as outlines, expounded and enlarged upon during the lessons. They do **not** substitute the prescribed study materials, but are given as an additional teaching aid, to be used side-by-side with the materials specified below.

In order to make the thread of the course easier to follow during online teaching, this year I am planning to arrange my notes as a chronology. The exposition of the events in the chronology will include the discussion of linked materials.

I apologise, but I do not feel up to managing the lesson together with a chat, or real-time questions from the students, under this online mode which is relatively new for me.

This makes it all the more important that **any questions**, doubts, curiosities on any point of the lessons on the part of any students be sent to me by email at:

silvia.gasparini@unipd.it

I will really appreciate any questions and feedback from all students, whether they follow the lessons in real time or watch them online at a later time.

It is always a good time for questions, and all questions are useful ones!

The only time when questions from the students are out of place is during the exams... So please ask at once, or write lists of questions and send them to me before enlisting for the exam!

My apologies for any typos or mistakes in this file, in the notes that will follow or in the study materials. Please point them out to me and I will correct them,

2. The syllabus and study materials

Since the activation of the exam years ago, this course of lessons and the materials were planned in order to ease the workload and optimise the time-planning required to follow the lessons for obligatory exams. The syllabus, study materials and exam program are the same for the students who follow the lessons in real time and for those who do not, so that the many students who cannot fit the lessons for this course in their daily planning are not discriminated against.

The study materials can be found freely and entirely online as .pdf files, at:

<http://www.arielcaliban.org/paxtibimarce.htm>

(I believe that all scientific knowledge, as well as art and literature, should be freely accessible to anybody).

The site offers:

- some **introductory memos**;
- **reference materials** (historical atlas, Venetian lexicons, bibliography...);
- a number of additional files with **background information** and more in-depth (monographical) topics; these will not be part of the exams, but the candidates will be presumed to have read them;
- **four chapters** which form the backbone of the course, and on which questions will be asked during the exam;
- the files pertaining to the monographical part of the course; these short files will also be part of the exam, and for the a.y. 2020-21 will consist of section **8. Customs and contracts**, including the following files:
 - * Venetian customs before the civil Statutes (IX-XII centuries) -- PX_prestatutory-customs.pdf
 - * Rent of an anchor -- PX_rent.pdf
 - * Bottomry loan -- PX_bottomry_loan.pdf
 - * Repurchase -- PX_repurchase.pdf
 - * Rogadia -- PX_rogadia.pdf
 - * Colleganza -- PX_colleganza.pdf
 - * Loan -- PX_loan.pdf
 - * Maritime insurance -- PX_maritime_insurance.pdf
 - * Fraterna and compagna -- PX_fraterna.pdf
 - * Commissaria -- PX_commissaria.pdf

3. Purpose of the course (I quote from the syllabus for a.y. 2020-21)

The course of lessons aims at imparting adequate knowledge and methods about the origins and development of the Venetian government, law system and legal culture, as well as about the differences and similarities between the Venetian Republic and other medieval and modern institutions in Europe and the Mediterranean. The institutes of Venetian positive law are thus critically apprehended in their thousand-years evolution on the basis of the peculiar Venetian legal system as a whole, as well as through essential notions of economy and finance, politics and sociology. The fundamental character of the Venetian law system as an effective, remedial and jurisprudential alternative to the Romanistic, substantial and textual tradition is reviewed through the series of consistently pragmatic choices by which it was accrued. Under this aspect, the course of lessons coordinates with the obligatory course of Medieval and Modern Law History. (...)

The comparison between the medieval and modern legal experiences in Venice, Europe and the Mediterranean on one side, and legal systems today on the other, allows for evaluation in historical perspective of the strengths and weaknesses implicit in government structures and legal systems. In particular, such a comparison outlines those solutions the results of which are not acceptable in the light of the basic legal principles and the protection of human rights generally accepted today. (...)

4. Object of the course

The **time span** of the course of lessons brackets the development of:

- the institutions of government;
- the legal system;
- the jurisprudence

of what would become the Republic of Venice (741 d.C. - 12 maggio 1797).

The **territories** involved include:

- since the VIII century d.C. the so-called Dogado (the lagoons of the rivers Bacchiglione, Piave and Tagliamento and the thin coastal strip stretching between Grado and Cavarzere);
- since the X century: Dominio da Mar (Sea Dominions: naval bases acquired along the Balkan coast of the Adriatic and in the eastern Mediterranean sea);
- since the XV century: Dominio da Terra (Land Dominions: territories acquired west to the Adda river, south to the Po e north and east to the Alps).

In practice, the course aims at following the development of the Venetian State from this:



to this:



CANALETTO (Giovanni Antonio Canal, 1697-1768), *The Basin of St. Mark on Ascension day*

with some hints about how things came to this:



5. Usefulness of of legal history and usefulness of Venetian legal history

I will be adopting Karl Popper's epistemological principle that the only data we can safely take as factual are negative ones, and that hypotheses can be taken as provisionally good (until a better one comes around) if they cannot be *dis*proven.

On this basis, I consider that:

- **history in general** is useful in order to understand how we got into our current problems with public institutions, and which remedies have so far been proven *not* to be working;
- **legal history** is useful to deconstruct the reasons why political and legal institutions are not working very well, why legal systems can barely be enforced, and why the power to take decisions relevant for the planet has migrated from political and legal organisations to economical ones;
- **Venetian law history** is useful in order to understand how the structure of government of a medieval city managed to adapt to changing times and keep working tolerably well until the end of the XVIII century; also, why it would not work anymore in the contemporary world.

I am anticipating a couple of elements for the answers to these last questions.

The Republic of Venice functioned for about a thousand years by virtue of wide participation to the powers of government, and of the principle that such powers are a civic duty and not part of the patrimony of their holders.

It could not be restored today without contradicting our fundamental principles on the matter of equality in front of the law, protection of human rights and separation of the powers of government.

6. Historical criticism

The historian works on documents. The legal historian works mainly on written documents, and the most effective tools for historical criticism of texts are questions:

- who wrote the document?
- when?
- where?
- what was the occasion?
- what is the document all about?
- which language and lexicon were used?
- who was the document addressed to?
- which were the aims of the writer?
- how do we know all of the above?
- and which conclusions can we draw?

7. ...and last but not least: Exams

At the moment, the students are invited to take advantage of the dates already given for the year 2021, which they can find on the Moodle page for Venetian Law History as well as on the web page with the links to the study materials at www.arielcaliban.org/paxtibimarce.htm

The exam develops from a first question, during the discussion of which more questions will be asked about particular features or links to other relevant topics of the study materials. Students are reminded that this is an exam taken in English, but not an exam of English. What is required is functional reciprocal comprehension, not necessarily a high level of proficiency.

I was used to offering assessments of competence during office hours. The mark received was formalised later: the student must enlist on UniWeb for one of the following calls for exams, and the mark would then be inscribed and published, starting the usual term for refusal. Unfortunately, according to the guidelines given by the University, it is at the moment impossible to hold office hours in presence, or exams online outside the official dates. I will resume the old practice as soon as the sanitary emergency will be over.

8. Old deactivated course of Storia del diritto veneziano

Only those few students whose delayed career plan still includes the exam of Storia del diritto veneziano are allowed to still take the Italian exam.

Their study materials are the Italian version of those mentioned above, found in each .pdf file below the English text.

There are no given dates for exams in 2021: the students concerned will ask the Office for the gathering of an examination Panel, who will give a date for the exam.

All current students can only choose and take the English exam of Venetian Law History.

9. An overview of the course

http://www.arielcaliban.org/PX_net.pdf