



**Como os juristas viam o mundo. 1550-1750:  
Direitos, estados, coisas, contratos, ações e crimes  
(Portuguese Edition)**

*Antonio Manuel Hespanha*

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*Antonio Manuel Hespanha*

## **Como os juristas viam o mundo. 1550-1750: Direitos, estados, coisas, contratos, ações e crimes (Portuguese Edition)** Antonio Manuel Hespanha

This book is a full description of the European continental common law (*ius commune*), as it was in force in Portugal from the mid-16th century to the middle of the 18th century. Continental common law was a sophisticated construction of learned jurists, from which rules were established for the life of every day. But it was also a consistent image of man and society. The Latin European society settled permanently on this way of life, which became a standard for evaluating good life and fair government, at home and in the overseas. Will it be useful to historians take into account the legal readings of society, in this case of the European early modern society? This book arises from a deep conviction that this is the case. Surely, the legal view of the world corresponds to an intellectual construction. The world of lawyers, more than "The World", is their world, although they tend to believe strongly that out of it there is no other world ("quod non est in libris non est in the mundo", as they use to say). This is not unique at all. It happens with economists, with mathematicians and physicists, with doctors, and also with the poets. All of them create much more than describe and all have the tendency to conceal these moments, fundamentally creative, of their versions of the world. Historians - that they, too, create the past as they narrate it - aspire to find in its original purity, in its raw truth, things "as they really happened", being often suspicious of these second-hand narratives. Lawyers, in fact, are arrogantly self-sufficient, involving society in a frame of concepts and formulas that are supposed to explain everything and to explain themselves. However - if we are able to surpass the antipathy that such pompous certainty inspire -, these intellectual constructs not only reveal important aspects of the working of societies, as they tell us much about the very logic with which they build their images of the world. With the analytical rigor of their knowledge - comparing, defining, distinguishing, and insisting on it until exhaustion - lawyers provide detailed plans on the organization and functioning of society. After what they to discuss and justify their conclusions, revealing the universe of views, arguments and reasons that could convince ordinary people. Lawyers describe finely the world and very describe thoroughly the reasons that move the world; their world, of course, and their reasons for movement in the world. However, as their knowledge is organized as a practical knowledge, to intervene to drive behaviours and direct them by persuasion, juridical proposals and their reasons have to raise social consensus by proposing possible things, if possible pleasant things, based on probable reasons. In a way, legal reasoning has to be a popular reasoning. The social rooting of the imagery assumes this continuous traffic between the "culture" of a group and the "nature" as perceived by everyone. It supposes a permanent cultural appropriation of "nature" and a "culture of naturalization". Some consider law as the software of society. The statement seems exaggerated, especially if considering law as only the official law. However, there is a lot of truth in it. If we know the law, in all the complexity of its various levels and internal interactions, we will figure out reasonably well the direction things take in the world of life. At least, we will notice the rule, things which happens more often. Either because a rule imposes a behaviour, or because we were creating the right mindsets that lead us to act and react according to certain standards. One of the innovative aspects of this book is to try to describe law, combining these different levels on which the legal knowledge works. As a rule, imposing behaviours. Or, more subtly, as an almost subliminal repository of images on how things are, which underpins our strategies in social life.

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