



Strategic Program 2015-2020 Brief Overview

In the six-year time-frame of this strategic programme the DH-CII: will continue to paying attention to data protection, bioethics, immigration and cultural diversity, and democracy and State-building; will strengthen its interdisciplinary dynamic by engaging researchers of other fields, taking part in research projects involving other research centres; will foster its internationalization by strengthening the existing partnerships and by establishing new ones, by organizing regular international conferences and by supporting the participation of its researchers in international scientific meetings. One strong component of the Centre's activities will continue to be the research and the supervision of the research projects conducted within the context of some of the Master programs at the Law School of the University of Minho.

Building on the research projects that the centre and its researchers have developed in recent years the centre aims to give attention to some aspects of the areas covered in prior strategic programmes (*Habeas Corpus, European Law and Protection of Liberties, Humanities and Criminal Juridical Sciences*) while reaching out to new areas of relevance in the field of human rights (*Law, Crime and Culture, Local Democracy, East-West Relations*). In accordance with the research projects presented by individual researchers and groups of researchers within the centre it was decided to reorganize it along for distinct albeit interconnected research groups (the unit researchers can participate in more than one research group simultaneous): *Democracy, Globalization and State Building; European Law, Freedom and Citizenship; Law, Crime and Culture; Local Democracy.*

All this research is developed in close relationship with the five Master programs and it is the intention of the Unit to increase the number of its researchers and also the number of Master and PhD's dissertations in areas covered by the research groups. The main forms of implementation of this different research projects will be team and individual research, the public presentation and discussion of the research results in national and international conferences and the publication of those results in Journal articles, Conference proceedings and books. The implementation of all the research projects will benefit from the networks already established within the University of Minho and between the Research Centre and other institutions in Portugal and abroad.

The research group on *Democracy, Globalization and State Building* comprises three research projects.

1) State-building and Human Rights in Portuguese Speaking Countries

This research project, largely based on existing protocols of cooperation between the Universidade do Minho and other Portuguese speaking countries, intends to highlight the dynamic construction of the emerging constitutional and legal system of these countries, involving the different political, judicial and administrative actors at play.

The project entails the research of different human rights legal instruments approved in Portuguese speaking countries, as well as the case law of the higher courts, and reports of



national and international organizations on human rights. Where possible the project will also take part in current legal discussions in those countries. The project entails the participation in academic legal seminars organized by the higher studies institutions in Portuguese speaking countries, as well as any other actors.

The results of the researchers work on this project will be made available to the public through its publication in a legal database, as it is previewed the development of the already existing data-base that was created for the annotation of the Constitution of Timor-Leste, in order to provide the coverage of the database in order to include all the Portuguese speaking countries (Angola, Brazil, Cape Verde, Guinea-Bissau, Macau, Mozambique, Portugal, Sao Tome and Principe, Timor-Leste) and to keep track of the main legal and judicial developments in the field of human rights in these countries.

2) Human Rights and the Constitutional Transition in the Arab Countries

In early 2011 popular uprisings in several Muslim countries demanded better economic conditions and greater respect for their most basic rights. Two years after this historical moment, named the "Arab Spring", it seems pertinent to understand what has changed in these countries regarding the protection of human rights and monitor their constitutional transitions.

The proposed research aims to identify and analyse what protection was conferred to human rights in Morocco, Tunisia and Egypt, since spring 2011, through the analysis of the new constitutional texts, of the legal instruments approved since the uprisings and of the reports of international and regional governmental and non-governmental organizations of human rights. It is also aimed to undertake a critical analysis and reflection on the processes of constitutional transition experienced by these 3 countries, through the reports issued by the Committee asked to design the constitutional reforms in several countries, through reports prepared by international intergovernmental organizations and regional organizations.

3) The East-West Relations in the context of the social, cultural and legal globalization processes.

This project aims to compare different views and specific answers to the consequences of globalization, especially in the human rights area, the rule of law and democracy conceptions, in the western and eastern world.

Special attention is given to discussions about relevant topics and classic controversies such as the universality of human rights, the Asian values, the Human Rights declaration of The ASEAN countries or the scheme proposed by Pan Wei of a "rule of law" adaptable to the current conditions of the People's Republic of China.

We intend to organize some kind of permanent international workshop on these themes with the contribution of fellows from Asia, America and Europe.

The researchers in the research group are: Pedro Carlos da Silva Bacelar de Vasconcelos; Andreia Sofia Pinto Oliveira; Maria de Assunção André Coelho Dias da Silva do Vale Pereira; Ricardo Alexandre Sousa da Cunha; Patrícia Penélope Mendes Jerónimo; Benedita Ferreira da Silva Mac Crorie; Maria Cristina dos Santos Pereira; Anna Cruz de Araujo Pereira da Silva; Fausto Luciano Panicacci; Rafael Machado Soares; Hugo Alexandre Espínola Mangureira; Ana Maria Coelho dos Santos Pereira Rodrigues; Catarina Helena Da Silva



Mendes; Andreia Rute da Silva Baptista; Abel Ricardo Sequeiros de Araújo de Almeida Carneiro; Rui André Lima Gonçalves da Silva Garrido; Pedro Luís da Rocha Baptista.

The research group on *European Law, Freedom and Citizenship*, comprises six research projects.

1) Fundamental Rights and Intelligent Environments

Are there legal possibilities for using Intelligent Environments, according to European and Portuguese law (but comparative law studies will also be promoted), in what terms? Due to involvement of researchers both from legal and computer science fields, this project is clearly innovative within the Portuguese context and it will allow positive results for both involved areas. The fact that Law School and Informatics Department are located in the same Campus is clearly an important factor for the success of the project.

2) Emerging Rights in the Global Order

Aims:

To analyze the role of Internet, promoting new ways of relation and of contracting, publicity and marketing online and its relation with privacy and data protection in Portugal and Brazil. Issues related to Human Rights, specially the issues of violation of dignity, private life and the right to image, threatened by the use of ICT's. Also protection of consumers online will be an important subject.

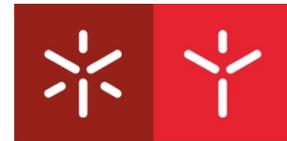
This project was already presented to CAPS and we must attend its approval. If approved, it will be fully considered in the Plan. If not, some of its main aspects will be placed in the first mentioned project “Fundamental Rights and Intelligent Environments”

3) Electronic Governance and Democracy

Relationship between the State and its citizens at all levels of Administration and the fostering of participation of citizens in the decisional processes, through the use of ICT tools, allowing not only the modernization and efficiency of public administration but also promoting an informed participation of citizens, as well as their sense of responsibility as participants in the life of the community.

4) Project on Human Rights and Bio-Medicine

Human Rights and Biomedicine aims at dealing with fundamental concepts and structures of constitutional law (such as human dignity, the relation between law, ethics and morality, or the relation between law and the plurality of ethical communities in a constitutional, democratic and pluralistic State) and private law. Is there a right to a bio-ethical self-determination? What should be the legal response to controversial issues of bioethics and bio-law, such as abortion, reproductive cloning, and medical assisted procreation? What should be the legal response to particular, controversial issues of tort law, such as wrongful birth and wrongful life)?



5) Private Law – materialization, constitutionalization, socialization

The paradigm of a formal private law centered on the abstract concepts of person, dignity and freedom, directed (only) towards individual freedom, tends to forget the social environments, promoting formal freedom, formal equality, formal justice. Material private law will require other concepts of person, dignity and freedom, taking in consideration the social environments. Relevant arguments for the materialization of private law require a deep relationship between private law, constitutional law, fundamental rights.

6) Project on Immigration and Asylum

The Research Center in Human Rights has been focusing for a long time on issues of migrations and migrants and refugees rights, at international, European and Portuguese level. Legislative evolution and judicial decisions, and its impacts, have been carefully analyzed.

Aims: to analyze the legislative projects on issues of immigration and asylum and to promote its discussion, specially considering the evolution now taking place in Brasil.

To evaluate the application of the law and to discuss with entities and operators on the field (administrative authorities, NGOs, immigrants associations, lawyers, judges, the legislative and jurisprudential evolution.

To participate in international forums on immigration and asylum, discussing the different issues on the migration phenomena.

The researchers in the research group are: Nuno Manuel Pinto Oliveira; Francisco Antonio Carneiro Pacheco de Andrade; Teresa Alexandra Coelho Moreira; Andreia Sofia Pinto Oliveira; Benedita Ferreira da Silva Mac Crorie; Eva Sónia Moreira da Silva; Patrícia Penélope Mendes Jerónimo; Pedro Carlos da Silva Bacelar de Vasconcelos; Maria João Sarmiento Pestana de Vasconcelos; José Ribamar L. da Fonseca Júnior; Filipe Venade de Sousa, Cristiana Teixeira Santos Marciele Berger Bernardes; Ana Maria Coelho dos Santos Pereira Rodrigues;

The research group on *Law, Crime and Culture* comprises four projects.

1) The research project on Multicultural Jurisprudence aims to combine the theoretical reflection on the admissibility of the cultural defence in criminal, civil or administrative judicial procedures with an empirical survey of the court practices in Portugal, by reviewing the relevant case-law and interviewing judges, prosecutors and attorneys working in national courts. It will also look into the relevance of cultural information in the context of restorative justice and extra-judicial proceedings, such as mediation and arbitration. The two sides of the research will be conducted simultaneously throughout the six year time-frame. It is foreseen that the researchers involved in the project will have the possibility to publicly present and discuss their results in two conferences organised by the research centre, one halfway and the other at the conclusion of the six-year research period.

2) The research project on Mediation (MED Project) aims to analyse the changes brought to the Portuguese legal system by recent legal reforms by comparison with the previous practice of mediation in Portugal and by assessing its potential for the different areas in which mediation is applied (criminal law, family law, ecc.). The research will involve specialists



from different scientific fields (in particular Law, Psychology and Sociology) and from different countries, through the development of information exchange networks between researchers in Europe, the Americas and the Portuguese Speaking countries around the world. The results of the research will be presented in conferences open to civil society and through scientific publications in journals and books.

3) The research project on Law and Literature aims to analyse the way in which the legal discourse (its clarity or lack thereof) is hindering the citizens' access to Justice, by critically appraising the virtues and possibilities offered by a possible convergence of professional and layman forms of discourse. In dialogue with the Anglo-Saxon literature on the «creative dimension of judicial hermeneutics», this research will discuss the hermeneutic and argumentative dimensions of the judicial practice and its relative weight in the tailoring of the legal system. This project will be implemented through individual research and the organisation of international and interdisciplinary scientific meetings.

4) The research project on Corruption, Justice and Democracy aims to analyse and discuss the factors that explain the resilience of corruption in Portugal despite the efforts (legal reforms, criminal policy) made in recent years, which is highly detrimental to the citizens' trust in democratic institutions. The research aims to provide an interdisciplinary framework for understanding and dealing with the phenomenon, since the reasons behind corruption's resilience only marginally result from technical legal factors. It also aims to address the criminological factors that may explain why Latin European countries are perceived to be more corrupt and their citizens less prone to denounce acts of such nature.

Each research project is supervised by a senior researcher of the Research Centre and gathers researchers affiliated with the Centre, Master and PhD students working under the supervision of senior researchers of the Centre, as well as external researchers.

Researchers in the Research group may participate in the activities developed in more than one research project. The research project on Multicultural Jurisprudence, supervised by Patrícia Jerónimo Vink, includes Mário Ferreira Monte, Fernando Conde Monteiro, Manuela Ivone Cunha, Pedro Bacelar de Vasconcelos, Sofia Oliveira, Catarina Helena Da Silva Mendes, Ana Maria Coelho dos Santos Pereira Rodrigues and PhD students Pedro Freitas and Andreia Rute Baptista. The research project on Mediation (MED Project), supervised by Maria Clara Calheiros Carvalho, includes Mário Ferreira Monte, Fernando Conde Monteiro, Patrícia Jerónimo Vink, Cristina Dias, and PhD student Leonor Esteves. The research project on Law and Literature, supervised by Joana Aguiar e Silva, includes Maria Clara Calheiros Carvalho and José António Lemos Soares. The research project on Corruption, Justice and Democracy, supervised by Mário Ferreira Monte, includes Fernando Conde Monteiro, Fernando da Costa Gonçalves, Paulo Jorge Silva Fernandes, Manuel Simas Santos, Olga Furriel da Sousa Cruz, Helena Maria Fernandes Grangeia, Pedro Bacelar de Vasconcelos and PhD students Flávia Novera Loureiro, Margarida Santos, Pedro Freitas and Ana Teresa Carneiro.

The research group on *Local Democracy*, has two main areas of intervention: one strictly academic, which will discuss the most topical issues regarding local autonomy, democracy

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and human rights in close connection with the Master in Local Law, and another of more practical nature directed at providing specialized training to local and regional authorities' officials and staff and at elaborating legal opinions commissioned by local authorities and other entities. It will develop an observatory of local autonomies in order to observe, scrutinize and study the activity of local bodies in Portugal and abroad. It will continue to ensure the regular publication of the existing journal on Local law “Questões Actuais de Direito Local” and will publish a yearly book “Anuário” concerning the activities of Portuguese local bodies.

The researchers in the in the research group are: António Cândido Oliveira; Joaquim Rocha; Isabel Fonseca; Carlos Amorim; Ana Gabriela Rocha; Antonio Javier Ferreira Fernández; Barbara Barreiros; Carlos Batalhão; Santiago Iglesias; Eugénia Maria Dias de Moura Teixeira; Hugo Flores da Silva; Isabel Soares de Almeida; José Luis Carneiro; Luiz Miguez Macho; Marcos Almeida Cerredá; Natália Faria dos Santos Gonçalves; Noel Barbosa Leão Pereira Gomes; Nuno Manuel Marques Pereira; Paulo Cunha; Paulo Veiga e Moura; Pedro Cruz e Silva; Ricardina de Bessa; Ricardo Hermany; Ricardo Nogueira Neves Matos Ferreira; Román Rodríguez González; Rui Magalhães; Tiago Lopes de Azevedo; Hugo Alexandre B. Moreira Alves;