



# LAW 214

## Jurisprudence

S2 External 2014

*Dept of Law*

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### Disclaimer

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## General Information

Unit convenor and teaching staff

Unit Convenor

Denise Meyerson

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W3A, 535

Monday, 12 - 1 pm

Credit points

3

Prerequisites

6cp in LAW or LAWS units including LAW115 and (admission to LLB or BAppFinLLB or BALLB or BA-MediaLLB or BA-PsychLLB or BBALLB or BComLLB or BCom-ProfAccgLLB or BEnvLLB or BITLLB or BIntStudLLB or BPsych(Hons)LLB or BScLLB or BSocScLLB)

Corequisites

Co-badged status

Unit description

This unit is a philosophically-based introduction to law and legal thought. It has four main objectives. It aims to introduce students to the nature of the Australian legal system; to equip them to think in a theoretical and critical way about the nature of law and legal reasoning; to convey an understanding of some key legal concepts; and to assist them to draw on and apply these reflections in the context of some contemporary legal issues.

## Important Academic Dates

Information about important academic dates including deadlines for withdrawing from units are available at <https://www.mq.edu.au/study/calendar-of-dates>

## Learning Outcomes

On successful completion of this unit, you will be able to:

Analyse central debates in jurisprudence.

Evaluate the law and legal institutions from a normative perspective.

Apply theoretical knowledge to real-life situations and topical controversies.

Communicate using clear and cogent arguments.

## General Assessment Information

When a student suffers a disruption to study which is 'serious and unavoidable' they may apply for special consideration. In order to do so the student must meet the criteria under the Macquarie University "Disruption to Studies" policy and be approved by the Unit Convenor. Applications are made online at [ask.mq.edu.au](http://ask.mq.edu.au). Outcomes for recognized serious and unavoidable disruptions to studies are as set out in the University schedule - [http://www.mq.edu.au/policy/docs/disruption\\_studies/schedule\\_outcomes.html](http://www.mq.edu.au/policy/docs/disruption_studies/schedule_outcomes.html)

When a disruption to study is not serious or unavoidable, the approach to special consideration and the impact on your assessment will be as follows.

1. **Marked Attendance** for tutorial: Internal students may miss two tutorials without excuse. An internal student who misses more than two tutorials or an external student who misses part or all of the on-campus session must provide a valid reason for the non-attendance, supported by appropriate documentation.
2. **Graded Participation** for tutorial: An internal student who has a valid and documented reason for missing more than two tutorials or an external student who has a valid and documented reason for missing part or all of the on-campus session will be required to provide work in lieu.
3. **Final Examination** (absence): no special consideration; grade of zero.
4. **Final Examination** (performance affected): no special consideration.
5. **Final Examination** (preparation affected): no special consideration.
6. **Assessment Task** (other than final examination) (preparation affected): no special consideration.
7. **Assessment** (other than final examination) (late submission): no special consideration; grade of zero.
8. **Assessment** (other than final exam) (ongoing impact on performance): consideration will be given to the following: extension of time to complete an assessment task; provision of an additional assessment task; recommendation to withdraw.

## Assessment Tasks

| Name                       | Weighting | Due                 |
|----------------------------|-----------|---------------------|
| <u>Class participation</u> | 15%       | Ongoing             |
| <u>Quiz</u>                | 0%        | Tutorials in week 4 |
| <u>Assignment</u>          | 30%       | 15 September, 12 pm |
| <u>Take home exam</u>      | 55%       | 17 November, 5 pm   |

### Class participation

Due: **Ongoing**

Weighting: **15%**

Students should have read all the required readings for each week and be prepared to discuss the tutorial questions for that week. Class participation marks will be based on frequency and quality of contribution to discussion; evidence of preparation for the tutorials; and performance in specific tasks assigned by the tutor. **MERE ATTENDANCE AT TUTORIALS WILL NOT ATTRACT ANY MARKS.**

Internal students are required to attend at least 10 of the tutorials. External students are required to attend both days of the on-campus session.

An internal student who attends fewer than 10 tutorials or an external student who fails to attend

all/part of the on-campus session will receive a mark of zero for class participation unless:  
the student has a valid reason for the non-attendance;  
has provided appropriate documentation;  
and has ALSO submitted work in lieu for the missed tutorials/on-campus session.

On successful completion you will be able to:

- Analyse central debates in jurisprudence.
- Evaluate the law and legal institutions from a normative perspective.
- Apply theoretical knowledge to real-life situations and topical controversies.
- Communicate using clear and cogent arguments.

## Quiz

Due: **Tutorials in week 4**

Weighting: **0%**

This assessment will require students to answer a comprehension quiz on the readings for weeks 1 - 3.

On successful completion you will be able to:

- Analyse central debates in jurisprudence.

## Assignment

Due: **15 September, 12 pm**

Weighting: **30%**

**This assignment will require comprehension and critical analysis of some key readings on the nature of law. The word limit for this assignment is 1000 words.**

On successful completion you will be able to:

- Analyse central debates in jurisprudence.
- Communicate using clear and cogent arguments.

## Take home exam

Due: **17 November, 5 pm**

Weighting: **55%**

This assignment will require students to think independently, critically and analytically about jurisprudential issues and to provide a clearly written and well-reasoned defence of their views about these issues. There will be three equally weighted questions, requiring answers of 800 words each.

On successful completion you will be able to:

- Analyse central debates in jurisprudence.
- Evaluate the law and legal institutions from a normative perspective.
- Apply theoretical knowledge to real-life situations and topical controversies.
- Communicate using clear and cogent arguments.

## Delivery and Resources

### Technology used

This unit will use i-learn and ECHO lectures. Students will be required to use a computer to interact with online research databases and web-based research tools.

### Classes

For current updates, lecture times and classrooms please consult the MQ Timetables website: <http://www.timetables.mq.edu.au>

There is one pre-recorded one-hour lecture per week (available through ECHO lectures) and one live one-hour lecture per week (also available through ECHO lectures).

Internal students must attend at least 10 tutorials and submit all assignments. Students are not permitted to attend tutorials other than the tutorial group for which they are enrolled. If they do so, their attendance will not be recorded and will not count towards fulfilling the attendance requirement for the unit.

External students must attend both days of the on-campus-session and submit all assignments.

Students who miss more than two tutorials or part/all of the on-campus session will receive zero for class participation, unless they have an acceptable reason for being absent (such as documented illness on the day). If that is the case, they will be required to submit written work in lieu of the work covered in the missed classes.

### Required and recommended resources

#### Prescribed Texts

Denise Meyerson, *Jurisprudence* (Oxford University Press, Melbourne, 2011).

#### Other essential reading

Details available on the i-learn site for LAW214.

#### Supplementary Readings

There is no single text which covers all of the material dealt with in this unit, but the following books will be useful to you if you would like to read more about the topics. They

will also help in the writing of your assignments for this unit. All of these books are on reserve in the Macquarie University Library.

S Berns, *Concise Jurisprudence* (Federation Press, Sydney, 1993).

B Bix, *Jurisprudence: Theory and Context* (5th edn, Sweet and Maxwell, London, 2009).

S Bottomley and S Bronitt, *Law in Context* (3<sup>rd</sup> edn, Federation Press, Sydney, 2006).

R Cotterrell, *The Politics of Jurisprudence* (University of Pennsylvania Press, Philadelphia, 1989).

H Davies and D Holdcroft, *Jurisprudence: Texts and Commentary* (Butterworths, London, 1991).

M Davies, *Asking the Law Question* (3<sup>rd</sup> edn, Law Book Company, Sydney, 2008).

R Dworkin, *Taking Rights Seriously* (Duckworths, London, 1977).

R Dworkin, *Law's Empire* (Harvard University Press, Cambridge, Massachusetts, 1986).

L Fuller, *The Morality of Law* (Revised edn, Yale University Press, New Haven and London, 1969).

S Guest, *Ronald Dworkin* (2<sup>nd</sup> edn, Edinburgh University Press, Edinburgh, 1997).

J W Harris, *Legal Philosophies* (2<sup>nd</sup> edn, Butterworths, London, 1997).

H L A Hart, *The Concept of Law* (2<sup>nd</sup> ed, Clarendon Press, Oxford, 1994).

J M Kelly, *A Short History of Western Legal Theory* (Clarendon Press, Oxford, 1992).

D Lloyd, *Lloyd's Introduction to Jurisprudence* (8<sup>th</sup> edn, Sweet and Maxwell, London, 2008).

H McCoubrey and N D White, *Textbook on Jurisprudence* (2<sup>nd</sup> edn, Blackstone Press Ltd, London, 1996).

J G Murphy and J L Coleman, *The Philosophy of Law* (Revised edn, Westview Press, Boulder, San Francisco, and London, 1990).

D Patterson, *A Companion to Philosophy of Law and Legal Theory* (Blackwell, Oxford, 1996).

J G Riddall, *Jurisprudence* (2<sup>nd</sup> edn, Butterworths, London, 1999).

F Schauer, *Thinking Like a Lawyer* (Cambridge, Mass, Harvard University Press, 2009).

R Wacks, *Understanding Jurisprudence* (Oxford University Press, Oxford, 2005).

## Unit Schedule

| Week | Lecture | Tutorial | Assessment |
|------|---------|----------|------------|
|------|---------|----------|------------|

|                |  |  |                                 |  |
|----------------|--|--|---------------------------------|--|
| 1              | Introduction to Jurisprudence            | None                                     | None                            |  |
| 2              | Law and force: Austin vs Hart            | Introduction to Jurisprudence            | Class participation             |  |
| 3              | Contemporary Positivism                  | Law and force: Austin vs Hart            | Class participation             |  |
| 4              | Natural Law Theory                       | Contemporary Positivism                  | Class participation; quiz.      |  |
| 5              | Adjudication I: Formalism vs Purposivism | Natural Law Theory                       | Class participation             |  |
| 6              | Adjudication II: Hart vs Dworkin         | Adjudication I: Formalism vs Purposivism | Class participation             |  |
| 7              | Realism and the Economic Analysis of Law | Adjudication II: Hart vs Dworkin         | Class participation; Assignment |  |
| Semester Break |  |  |                                 |  |
| 8              | Critical perspectives on the law         | Realism and the Economic Analysis of Law | Class participation             |  |
| 9              | Rights                                   | Critical perspectives on the law         | Class participation             |  |
| 10             | Freedom                                  | Rights                                   | Class participation             |  |
| 11             | Inequality                               | Freedom                                  | Class participation             |  |
| 12             | Difference                               | Inequality                               | Class participation             |  |

|    |      |            |  |  |
|----|------|------------|--|--|
| 13 | None | Difference | Class participation;<br>take-home exam |  |
|----|------|------------|--|--|

## Policies and Procedures

Macquarie University policies and procedures are accessible from [Policy Central](#). Students should be aware of the following policies in particular with regard to Learning and Teaching:

Academic Honesty Policy [http://mq.edu.au/policy/docs/academic\\_honesty/policy.html](http://mq.edu.au/policy/docs/academic_honesty/policy.html)

Assessment Policy <http://mq.edu.au/policy/docs/assessment/policy.html>

Grading Policy <http://mq.edu.au/policy/docs/grading/policy.html>

Grade Appeal Policy <http://mq.edu.au/policy/docs/gradeappeal/policy.html>

Grievance Management Policy [http://mq.edu.au/policy/docs/grievance\\_management/policy.html](http://mq.edu.au/policy/docs/grievance_management/policy.html)

Disruption to Studies Policy [http://www.mq.edu.au/policy/docs/disruption\\_studies/policy.html](http://www.mq.edu.au/policy/docs/disruption_studies/policy.html) *The Disruption to Studies Policy is effective from March 3 2014 and replaces the Special Consideration Policy.*

In addition, a number of other policies can be found in the [Learning and Teaching Category](#) of Policy Central.

## Student Code of Conduct

Macquarie University students have a responsibility to be familiar with the Student Code of Conduct: [https://students.mq.edu.au/support/student\\_conduct/](https://students.mq.edu.au/support/student_conduct/)

### MACQUARIE LAW SCHOOL ASSESSMENT POLICY

In the absence of a successful application for special consideration following a 'Disruption to Studies', late assessments will not be marked and will receive a mark of zero.

Word limits will be strictly applied.

Referencing should comply with the Australian Guide to Legal Citation unless otherwise stated.

All written assessments require submission through Turnitin.

## Student Support

Macquarie University provides a range of support services for students. For details, visit <http://students.mq.edu.au/support/>



## Learning Skills

Learning Skills ([mq.edu.au/learningskills](http://mq.edu.au/learningskills)) provides academic writing resources and study strategies to improve your marks and take control of your study.

- [Workshops](#)
- [StudyWise](#)
- [Academic Integrity Module for Students](#)
- [Ask a Learning Adviser](#)

## Student Services and Support

Students with a disability are encouraged to contact the [Disability Service](#) who can provide appropriate help with any issues that arise during their studies.

## Student Enquiries

For all student enquiries, visit Student Connect at [ask.mq.edu.au](http://ask.mq.edu.au)

## IT Help

For help with University computer systems and technology, visit <http://informatics.mq.edu.au/help/>.

When using the University's IT, you must adhere to the [Acceptable Use Policy](#). The policy applies to all who connect to the MQ network including students.

## Graduate Capabilities

### Commitment to Continuous Learning

Our graduates will have enquiring minds and a literate curiosity which will lead them to pursue knowledge for its own sake. They will continue to pursue learning in their careers and as they participate in the world. They will be capable of reflecting on their experiences and relationships with others and the environment, learning from them, and growing - personally, professionally and socially.

This graduate capability is supported by:

#### Assessment task

- Class participation

### Discipline Specific Knowledge and Skills

Our graduates will take with them the intellectual development, depth and breadth of knowledge, scholarly understanding, and specific subject content in their chosen fields to make them competent and confident in their subject or profession. They will be able to demonstrate, where relevant, professional technical competence and meet professional standards. They will be able to articulate the structure of knowledge of their discipline, be able to adapt discipline-specific

knowledge to novel situations, and be able to contribute from their discipline to inter-disciplinary solutions to problems.

This graduate capability is supported by:

### **Learning outcomes**

- Analyse central debates in jurisprudence.
- Evaluate the law and legal institutions from a normative perspective.
- Apply theoretical knowledge to real-life situations and topical controversies.

### **Assessment tasks**

- Class participation
- Quiz
- Assignment
- Take home exam

## **Critical, Analytical and Integrative Thinking**

We want our graduates to be capable of reasoning, questioning and analysing, and to integrate and synthesise learning and knowledge from a range of sources and environments; to be able to critique constraints, assumptions and limitations; to be able to think independently and systemically in relation to scholarly activity, in the workplace, and in the world. We want them to have a level of scientific and information technology literacy.

This graduate capability is supported by:

### **Learning outcomes**

- Analyse central debates in jurisprudence.
- Evaluate the law and legal institutions from a normative perspective.
- Apply theoretical knowledge to real-life situations and topical controversies.

### **Assessment tasks**

- Class participation
- Quiz
- Assignment
- Take home exam

## **Problem Solving and Research Capability**

Our graduates should be capable of researching; of analysing, and interpreting and assessing data and information in various forms; of drawing connections across fields of knowledge; and they should be able to relate their knowledge to complex situations at work or in the world, in order to diagnose and solve problems. We want them to have the confidence to take the initiative in doing so, within an awareness of their own limitations.

This graduate capability is supported by:

### **Learning outcome**

- Apply theoretical knowledge to real-life situations and topical controversies.

### **Assessment task**

- Take home exam

## **Creative and Innovative**

Our graduates will also be capable of creative thinking and of creating knowledge. They will be imaginative and open to experience and capable of innovation at work and in the community. We want them to be engaged in applying their critical, creative thinking.

This graduate capability is supported by:

### **Learning outcome**

- Evaluate the law and legal institutions from a normative perspective.

## **Effective Communication**

We want to develop in our students the ability to communicate and convey their views in forms effective with different audiences. We want our graduates to take with them the capability to read, listen, question, gather and evaluate information resources in a variety of formats, assess, write clearly, speak effectively, and to use visual communication and communication technologies as appropriate.

This graduate capability is supported by:

### **Learning outcomes**

- Analyse central debates in jurisprudence.
- Evaluate the law and legal institutions from a normative perspective.
- Apply theoretical knowledge to real-life situations and topical controversies.
- Communicate using clear and cogent arguments.

### **Assessment tasks**

- Class participation
- Assignment
- Take home exam

## **Engaged and Ethical Local and Global citizens**

As local citizens our graduates will be aware of indigenous perspectives and of the nation's historical context. They will be engaged with the challenges of contemporary society and with knowledge and ideas. We want our graduates to have respect for diversity, to be open-minded, sensitive to others and inclusive, and to be open to other cultures and perspectives: they should

have a level of cultural literacy. Our graduates should be aware of disadvantage and social justice, and be willing to participate to help create a wiser and better society.

This graduate capability is supported by:

### **Learning outcome**

- Evaluate the law and legal institutions from a normative perspective.

### **Changes since First Published**

| Date       | Description  |
|------------|--|
| 16/07/2014 | Additional information provided in respect of disruption to studies and special consideration. |