



# LAWS805

## Theories of Law and Justice

S2 Day 2014

*Dept of Law*

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#### **Disclaimer**

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## General Information

Unit convenor and teaching staff

Unit Convenor

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W3A, 535

Monday, 12 - 1 pm

Carlos Bernal-Pulido

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Credit points

4

Prerequisites

Admission to JD

Corequisites

Co-badged status

Unit description

In this unit students will consider the central topics of jurisprudence. This involves a rigorous and critical analysis of the nature of law, legal reasoning and judicial decision-making.

Debates about the legitimate purpose of the state in redressing socio-economic inequality and whether there is a need for 'rights' are provoked by this analysis. Written and verbal reasoning skills are a focus of development.

## 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 the issues at stake in debates about the nature of law, legal reasoning and adjudication.

Assess the strengths and weaknesses of different theories about the nature of law, legal reasoning and adjudication.

Critique legal arrangements and institutions from the normative perspective.

Apply knowledge of theoretical debates in jurisprudence in assessing the reasoning in legal cases and answering hypothetical problems.

Communicate using clear and cogent arguments both orally and in writing.

## 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
<a href="#">Class participation</a>	20%	Ongoing
<a href="#">Research paper</a>	45%	13 October 2014
<a href="#">Submission to Parliament</a>	35%	14 November, 2014

### Class participation

Due: **Ongoing**

Weighting: **20%**

Students should have read all the required readings for each week and be prepared to discuss the seminar questions for that week. Class participation marks will be based on frequency and quality of contribution to discussion; evidence of preparation for the seminars; and performance in specific tasks assigned by the tutor. A more detailed description of the assessment criteria is available on i-learn. **MERE ATTENDANCE AT SEMINARS WILL NOT ATTRACT ANY MARKS.**

Internal students are required to attend at least 10 of the seminars. There will be three on-campus sessions for external students, on 4 October, 5 October and 2 November. External

students are required to attend the on-campus sessions on at least two of these days.

An internal student who attends fewer than 10 seminars or an external student who fails to attend two days of on-campus tuition will receive a mark of zero for class participation unless:

the student has a valid reason for non-attendance;

has provided appropriate documentation;

and has ALSO submitted work in lieu for the missed seminars/on-campus session.

On successful completion you will be able to:

- Analyse the issues at stake in debates about the nature of law, legal reasoning and adjudication.
- Assess the strengths and weaknesses of different theories about the nature of law, legal reasoning and adjudication.
- Critique legal arrangements and institutions from the normative perspective.
- Apply knowledge of theoretical debates in jurisprudence in assessing the reasoning in legal cases and answering hypothetical problems.
- Communicate using clear and cogent arguments both orally and in writing.

## Research paper

Due: **13 October 2014**

Weighting: **45%**

Students will be required to write a research paper on the nature of legal reasoning.

The word limit for this assignment is 3000 words.

On successful completion you will be able to:

- Analyse the issues at stake in debates about the nature of law, legal reasoning and adjudication.
- Assess the strengths and weaknesses of different theories about the nature of law, legal reasoning and adjudication.
- Apply knowledge of theoretical debates in jurisprudence in assessing the reasoning in legal cases and answering hypothetical problems.
- Communicate using clear and cogent arguments both orally and in writing.

## Submission to Parliament

Due: **14 November, 2014**

Weighting: **35%**

This assignment will require students to apply relevant theoretical frameworks in making a

submission to Parliament on a hypothetical bill.

The word limit for this assignment is 2000 words.

On successful completion you will be able to:

- Critique legal arrangements and institutions from the normative perspective.
- Apply knowledge of theoretical debates in jurisprudence in assessing the reasoning in legal cases and answering hypothetical problems.
- Communicate using clear and cogent arguments both orally and in writing.

## Delivery and Resources

### Technology used

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

### Classes

All lecture material will be pre-recorded and available on the i-learn site. There will be one seminar per week for internal students (90 minutes each) and three on-campus days for external students (6 hours per day).

For further details about dates, times and venues, please consult the MQ Timetables website: <http://www.timetables.mq.edu.au>

Internal students must attend at least 10 seminars and submit all assignments. External students must attend at least 2 days of on-campus sessions and submit all assignments.

### Required and recommended resources

#### Prescribed text

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

#### Other essential reading and supplementary reading

Details available on the i-learn site for LAWS805.

## Unit Schedule

Week	Lecture	Seminar	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.
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
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; research paper
10	Freedom	Rights	Class participation
11	Inequality	Freedom	Class participation
12	Difference	Inequality	Class participation

13	None	Difference	Class participation; submission to Parliament
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## 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 grade of 0.

Word limits will be strictly applied.

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

All written assignments 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

### PG - Discipline Knowledge and Skills

Our postgraduates will be able to demonstrate a significantly enhanced depth and breadth of knowledge, scholarly understanding, and specific subject content knowledge in their chosen fields.

This graduate capability is supported by:

### Learning outcomes

- Analyse the issues at stake in debates about the nature of law, legal reasoning and adjudication.
- Assess the strengths and weaknesses of different theories about the nature of law, legal reasoning and adjudication.
- Critique legal arrangements and institutions from the normative perspective.
- Apply knowledge of theoretical debates in jurisprudence in assessing the reasoning in legal cases and answering hypothetical problems.



## Assessment tasks

- Class participation
- Research paper
- Submission to Parliament

## PG - Critical, Analytical and Integrative Thinking

Our postgraduates will be capable of utilising and reflecting on prior knowledge and experience, of applying higher level critical thinking skills, and of integrating and synthesising learning and knowledge from a range of sources and environments. A characteristic of this form of thinking is the generation of new, professionally oriented knowledge through personal or group-based critique of practice and theory.

This graduate capability is supported by:

### Learning outcomes

- Analyse the issues at stake in debates about the nature of law, legal reasoning and adjudication.
- Assess the strengths and weaknesses of different theories about the nature of law, legal reasoning and adjudication.
- Critique legal arrangements and institutions from the normative perspective.
- Apply knowledge of theoretical debates in jurisprudence in assessing the reasoning in legal cases and answering hypothetical problems.

## Assessment tasks

- Class participation
- Research paper
- Submission to Parliament

## PG - Research and Problem Solving Capability

Our postgraduates will be capable of systematic enquiry; able to use research skills to create new knowledge that can be applied to real world issues, or contribute to a field of study or practice to enhance society. They will be capable of creative questioning, problem finding and problem solving.

This graduate capability is supported by:

### Learning outcomes

- Critique legal arrangements and institutions from the normative perspective.
- Apply knowledge of theoretical debates in jurisprudence in assessing the reasoning in legal cases and answering hypothetical problems.

## Assessment tasks

- Research paper
- Submission to Parliament

## PG - Effective Communication

Our postgraduates will be able to communicate effectively and convey their views to different social, cultural, and professional audiences. They will be able to use a variety of technologically supported media to communicate with empathy using a range of written, spoken or visual formats.

This graduate capability is supported by:

## Learning outcomes

- Assess the strengths and weaknesses of different theories about the nature of law, legal reasoning and adjudication.
- Critique legal arrangements and institutions from the normative perspective.
- Apply knowledge of theoretical debates in jurisprudence in assessing the reasoning in legal cases and answering hypothetical problems.
- Communicate using clear and cogent arguments both orally and in writing.

## Assessment tasks

- Class participation
- Research paper
- Submission to Parliament

## PG - Engaged and Responsible, Active and Ethical Citizens

Our postgraduates will be ethically aware and capable of confident transformative action in relation to their professional responsibilities and the wider community. They will have a sense of connectedness with others and country and have a sense of mutual obligation. They will be able to appreciate the impact of their professional roles for social justice and inclusion related to national and global issues

This graduate capability is supported by:

## Learning outcomes

- Critique legal arrangements and institutions from the normative perspective.
- Apply knowledge of theoretical debates in jurisprudence in assessing the reasoning in legal cases and answering hypothetical problems.

## Assessment tasks

- Class participation

- Submission to Parliament

## Changes since First Published

Date	Description
16/07/ 2014	Additional information provided with respect to disruption to studies and special consideration