



# LAW 470

## Contemporary Theory of Law

S3 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 618

By prior appointment

Credit points

3

Prerequisites

6cp at 200 level including (PHIL242(P) or PHL242(P) or POL206(P) or POL264(P)) or (6cp in LAW units at 300 level (P))

Corequisites

Co-badged status

Unit description

What kinds of social behaviour and meaning are called law? Who does this, how and why? Who wants to criticise law, how do they do that, and why is there such resistance to the idea of looking at law from the outside? This unit introduces major critical orientations, both fairly traditional and recent. The unit is intended for those with a specific interest in critical contemporary theory of law. Assessment is by essay and students are encouraged to pursue topics that particularly interest them.

## 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:

Identify links between sociological, historical, philosophical and political perspectives in various legal theories.

Identify the mechanisms of how knowledge is constructed in discourse. Identify and describe the foundational assumptions made in any theoretical perspective.

Critically analyze the range of issues that arise from adopting a particular theoretical

perspective. In particular, understand, evaluate and critique existing legal theories with the view to promoting an egalitarian society which is geared towards overcoming aspects of economic and social disadvantage experienced by some of the more vulnerable members of society.

Formulate, present and evaluate oral and written arguments appropriate to a range of audiences, drawing on relevant primary and secondary sources included in the readings for the unit.

Demonstrate sophisticated research, writing and referencing skills.

## Assessment Tasks

Name	Weighting	Due
<u>Class Participation</u>	15%	21 & 22 December 2014
<u>Reflective Essay</u>	40%	5th January 2015
<u>Take Home Exam</u>	45%	26th January, 2015, 5 pm

### Class Participation

Due: **21 & 22 December 2014**

Weighting: **15%**

Reading the prescribed texts and preparation of questions/readings for class discussions at the OCS (Internal and Distance Students).

Assessment Criteria

**Your work will be assessed according the extent of your:**

**Excellent**

**= HD-D**

**Good**

**= Credit**

## Satisfactory

= Pass

## Unsatisfactory

= Fail

· Preparation for class discussion as demonstrated by relevance of participation to general discussion

Has the capacity to notice important information in the readings and use it to build new arguments in class discussion

Uses information in the readings to enhance learning in the class discussion

Notices basic contextual issues and asks questions

Fails to identify important information in readings and their relevance to discussion in class

Understanding and expressing abstract and complex ideas orally

Can generalise from personal reflection on theoretical ideas or real life and evaluate the efficacy of ideas from a number of standpoints

Can synthesise a number of concepts or factors into a larger idea and construct own position.

Limited capacity to synthesise a number ideas into a larger argument

Responses remain anecdotal and not related to other theoretical ideas

Assisting other class members by contributing to student learning

Willing to share novel insights with others

Supports other members' views but not necessarily adopt them

Listens to other views but does not integrate in discussion

Does not manage to see another point of view

Expressing and countering arguments orally

Articulates a personal position, but is willing to modify it if persuaded by others

Prioritizes the need for compromise in decision- making rather than formulating opinions

Identifies different viewpoints but tends to follow majority viewpoint

Has difficulty formulating own opinion or relating to another's opinion

Listening attentively and showing respect to other students participating in class

Independent thinker,takes initiative as well as co-operating effectively with others

Relates professionally to colleagues. Makes effective contributions to the discussion

Attempts to relate to colleagues

Does not make an effort to relate to colleagues

On successful completion you will be able to:

- Identify links between sociological, historical, philosophical and political perspectives in various legal theories.
- Identify the mechanisms of how knowledge is constructed in discourse. Identify and describe the foundational assumptions made in any theoretical perspective.
- Critically analyze the range of issues that arise from adopting a particular theoretical perspective. In particular, understand, evaluate and critique existing legal theories with the view to promoting an egalitarian society which is geared towards overcoming aspects of economic and social disadvantage experienced by some of the more vulnerable members of society.

- Formulate, present and evaluate oral and written arguments appropriate to a range of audiences, drawing on relevant primary and secondary sources included in the readings for the unit.

## Reflective Essay

Due: **5th January 2015**

Weighting: **40%**

Write **two** short critiques of identified readings. The list of readings will be available on iLearn in the Assessment tab.

**The maximum word length is 750 words for each critique.** The tutors will stop reading an assignment after it exceeds this word limit (total 1500 words).

Footnotes and Bibliography are not included in the word count.

Footnotes and Bibliography are required in AGLC style. Referencing that does not follow the AGLC style will be **penalised**.

All assignments should be typed double spaced in 12pt Times New Roman. **All assignments should be submitted through the turnitin icon on the ilearn page of this unit.**

Assessment Criteria

**Your work will be assessed according the extent of your:**

**Excellent**

**= HD-D**

**Good**

**= Credit**

**Satisfactory**

**= Pass**

**Unsatisfactory**

**= Fail**

Understanding of the law in this area Thorough and accurate understanding of concepts and processes of law. Uses this knowledge to abstract principles and applies them in novel situations. Uses concepts to build new knowledge and understanding. Recognises the limitations of current theories. Thorough and accurate understanding of concepts and processes of law and can analyse and apply them in new situations. Knows basic concepts and can use them to solve problems and extend to new areas Knows a few concepts. Focussed introduction Uses the introduction to formulate a clear argument, identify parts of the argument, relevant issues and theories that will be addressed. Recognises the limitations of current thinking and the need for new ways of thinking. Can formulate an argument, and identify relevant issues and theories to be addressed. Basic introduction with all the formal elements but stops short of giving clear picture of the essay. Formal introduction with not clear articulation of the argument or structure.

Coherent Structure and Written Expression Meets all expectations and conventions. Distinctive personal style in the specific execution of the task. A unique but appropriate presentation of work. Fulfils standard conventions with all expected attributes present. Some translation and interpretation of the conventions to suit personal style and the specific execution of the task. Fulfils basic expectations regarding the formatting and presentation of work. E.g., titles name on work, introduction, conclusion. Spell checked & grammatically correct. Lacks a coherent structure of argument, organization of ideas into different sections, fails to use spell checker, some sentences fail to use correct grammatical rules. Depth of Analysis Uses principles to formulate a position or an argument about the literature. Can articulate the limited nature of their argument and can challenge to boundaries of disciplinary understanding. Recognises competing explanations and can identify the relative merits and limitations of an argument. Can describe and defend their own view or position. Mostly reports others' views without assessing them. Little interpretation or translation to a new problem or issue. Descriptive account of the available literature without any or very little analysis. Developed and Sustained Argument Uses available ideas and theories accurately. Abstracts and applies them in novel situations. Uses concepts to build new knowledge and understanding. Recognises the limitations of current thinking Shows a thorough and accurate understanding of concepts and processes. Has the capacity to analyse and apply them in new situations Knows basic concepts and rules. Requires more effort in synthesizing own arguments. Knows some of the ideas and rules. Does not extend own analysis or argument. Consistent Conclusion Makes a major contribution to the essay by pulling together all strands of the argument. Makes a judicious use of the available space to reinforce the argument of the essay. Makes a significant contribution to the structure of the essay. Can pull together various strands of the argument. Competent summary of the main arguments with very little effort at reinforcing the argument. Repetitious reiteration of points already discussed without any effort to reinforce the argument. Use of AGLC Style Guide for footnotes and bibliography References and citations, including the bibliography use accurate, consistent and appropriate styles. Good effort at adapting the approach to different disciplinary conventions when using non-law literature. References and citations, including the bibliography are accurate, consistent and appropriate. References and citations are basically accurate in style. Occasional lack of consistency; reasonable acknowledgment of the sources of information Absence or inaccurate use of referencing and citation conventions

On successful completion you will be able to:

- Identify links between sociological, historical, philosophical and political perspectives in various legal theories.
- Critically analyze the range of issues that arise from adopting a particular theoretical perspective. In particular, understand, evaluate and critique existing legal theories with the view to promoting an egalitarian society which is geared towards overcoming aspects of economic and social disadvantage experienced by some of the more vulnerable members of society.
- Formulate, present and evaluate oral and written arguments appropriate to a range of

audiences, drawing on relevant primary and secondary sources included in the readings for the unit.

- Demonstrate sophisticated research, writing and referencing skills.

## Take Home Exam

Due: **26th January, 2015, 5 pm**

Weighting: **45%**

A Take Home Exam will be issued on January 24, 2015. It will be posted on the iLearn page of the unit.

Word length: Maximum of 2500 words **excluding** footnotes and bibliography. Tutors will stop reading an assignment after the specified word limit.

Footnotes and Bibliography are required in AGLC style. Referencing that does not follow the AGLC style will be **penalised**.

Research: Students may use the readings prescribed for the unit. Independent research is not required. The main emphasis should be on demonstrating that you can apply the ideas and construct your own argument.

**All assignments should be submitted through Turnitin link provided on the unit's iLearn page**

Assessment Criteria

**Your work will be assessed according to the extent of your:**

**Excellent**

**= HD-D**

**Good**

**= Credit**

**Satisfactory**

**= Pass**



## Unsatisfactory

### = Fail

Knowledge of the various ideas about the nature of law

Thorough and accurate understanding of concepts and processes of law. Uses this knowledge to abstract principles and applies them in novel situations. Uses concepts to build new knowledge and understanding. Recognises the limitations of current theories about them.

Thorough and accurate understanding of concepts and theories of law and can analyse and apply them in new situations.

Knows basic concepts and can use them to solve problems and extend to new areas

Knows a few rules and concepts. Does not use any theoretical understanding of the issues.

Introduction

Uses the introduction to formulate a clear argument, identify parts of the argument, relevant issues and theories that will be addressed. Recognises the limitations of current thinking and the need for new ways of thinking.

Can formulate an argument, and identify relevant issues and theories to be addressed.

Basic introduction that contains all the formal elements but stops short of giving a clear picture of the essay.

Formal introduction with not a clear articulation of the argument or structure of the essay.

Depth of analysis

Uses principles to formulate a position or an argument about the literature. Can articulate the limited nature of their argument and can challenge to boundaries of disciplinary understanding.

Recognises competing explanations and can identify the relative merits and limitations of an argument. Can describe and defend their own view or position.

Mostly reports others' views without assessing them. Little interpretation or translation to a new problem or issue.

Descriptive account of the available literature without any or very little analysis.

Argument

Uses available ideas and theories accurately. Abstracts and applies them in novel situations. Uses concepts to build new knowledge and understanding. Recognises the limitations of current thinking.

Shows a thorough and accurate understanding of concepts and processes. Has the capacity to analyse and apply them in new situations.

Knows basic concepts and rules. Requires more effort in synthesizing own arguments.

Knows some of the ideas and rules. Does not extend own analysis or argument

#### Coherent Structure

Meets all expectations and conventions. Systematic and coherent organisation of ideas in sentences/paragraphs/sections. Distinctive personal style in the specific execution of the task. A unique but appropriate presentation of work.

Fulfils standard conventions with all expected attributes present. Some translation and interpretation of the conventions to suit personal style and the specific execution of the task.

Fulfils basic expectations regarding the formatting and presentation of work. E.g., titles name on work, introduction, conclusion. Spell checked & grammatically correct.

Lacks a coherent structure of argument, organization of ideas into different sections, fails to use spell checker, some sentences fail to use correct grammatical rules.

#### Use of AGLC Style Guide for footnotes and bibliography

References and citations, including the bibliography use accurate, consistent and appropriate styles. Good effort at adapting the approach to different disciplinary conventions when using non-law literature.

References and citations, including the bibliography are accurate, consistent and appropriate.

References and citations are basically accurate in style. Occasional lack of consistency; reasonable acknowledgment of the sources of information.

Absence or inaccurate use of referencing and citation conventions.

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On successful completion you will be able to:

- Identify links between sociological, historical, philosophical and political perspectives in various legal theories.

- Identify the mechanisms of how knowledge is constructed in discourse. Identify and describe the foundational assumptions made in any theoretical perspective.
- Critically analyze the range of issues that arise from adopting a particular theoretical perspective. In particular, understand, evaluate and critique existing legal theories with the view to promoting an egalitarian society which is geared towards overcoming aspects of economic and social disadvantage experienced by some of the more vulnerable members of society.
- Formulate, present and evaluate oral and written arguments appropriate to a range of audiences, drawing on relevant primary and secondary sources included in the readings for the unit.
- Demonstrate sophisticated research, writing and referencing skills.

## Delivery and Resources

### Delivery:

The unit is structured around a two day intensive session that will be conducted on the campus on Sunday, 21 and Monday, 22 December 2015. This will be supplemented with a set of 12 recorded lectures.

### ATTENDANCE AT THE OCS IS COMPULSORY FOR ALL STUDENTS (DAY AND EXTERNAL STUDENTS)

Lectures: Lectures will be pre-recorded and available through echo360 on iLearn.

Students should check iLearn regularly for announcements and updates.

### Resources:

The Unit is structured around the prescribed text. Please purchase or borrow a copy of Margaret Davies *Asking the Law Question*, 3d edition (Thomson LBC 2008)

Occasionally additional Readings will be available on iLearn.

## Unit Schedule

Topic 1	<i>Introduction</i>
Topic 2	<i>Classical Common Law</i>
Topic 3	<i>Natural Law and Positivism</i>
Topic 4	<i>Enlightenment and Legal Theory: Formalism</i>
Topic 5	<i>Critical Legal Studies</i>
Topic 6	<i>Feminist Legal Theories</i>

Topic 7	<i>Postmodern/Poststructural views of Law</i>
Topic 8	<i>Postmodern/Poststructural views of Law</i>
Topic 9	<i>Race in Law: Postcolonial Ideas</i>
Topic 10	<i>Race in Law: Indigenous Laws</i>
Topic 11	<i>Ethnicity, Sexuality in legal theories</i>
Topic 12	<i>Consolidation and Review of all topics in the unit</i>

## 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 has the policy that:

In the absence of a successful application for special consideration, any assessment task submitted after its published deadline will not be graded and will receive a mark of zero.

Word limits will be strictly applied and work above the word limit will not be marked.

All assessments in the unit are to be submitted electronically. Plagiarism detection software is used in this unit.

## Student Support

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

[dents.mq.edu.au/support/](https://dents.mq.edu.au/support/)

## Learning Skills

Learning Skills ([mq.edu.au/learningskills](https://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](https://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

### Capable of Professional and Personal Judgement and Initiative

We want our graduates to have emotional intelligence and sound interpersonal skills and to demonstrate discernment and common sense in their professional and personal judgement. They will exercise initiative as needed. They will be capable of risk assessment, and be able to handle ambiguity and complexity, enabling them to be adaptable in diverse and changing environments.

This graduate capability is supported by:

#### Assessment task

- Take Home Exam

### 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:

### **Learning outcome**

- Demonstrate sophisticated research, writing and referencing skills.

## **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**

- Identify links between sociological, historical, philosophical and political perspectives in various legal theories.
- Identify the mechanisms of how knowledge is constructed in discourse. Identify and describe the foundational assumptions made in any theoretical perspective.
- Critically analyze the range of issues that arise from adopting a particular theoretical perspective. In particular, understand, evaluate and critique existing legal theories with the view to promoting an egalitarian society which is geared towards overcoming aspects of economic and social disadvantage experienced by some of the more vulnerable members of society.
- Formulate, present and evaluate oral and written arguments appropriate to a range of audiences, drawing on relevant primary and secondary sources included in the readings for the unit.
- Demonstrate sophisticated research, writing and referencing skills.

### **Assessment tasks**

- Class Participation
- Reflective Essay
- 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**

- Identify links between sociological, historical, philosophical and political perspectives in various legal theories.
- Identify the mechanisms of how knowledge is constructed in discourse. Identify and describe the foundational assumptions made in any theoretical perspective.
- Critically analyze the range of issues that arise from adopting a particular theoretical perspective. In particular, understand, evaluate and critique existing legal theories with the view to promoting an egalitarian society which is geared towards overcoming aspects of economic and social disadvantage experienced by some of the more vulnerable members of society.
- Formulate, present and evaluate oral and written arguments appropriate to a range of audiences, drawing on relevant primary and secondary sources included in the readings for the unit.
- Demonstrate sophisticated research, writing and referencing skills.

## **Assessment tasks**

- Class Participation
- Reflective Essay
- 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 outcomes**

- Identify links between sociological, historical, philosophical and political perspectives in various legal theories.
- Identify the mechanisms of how knowledge is constructed in discourse. Identify and describe the foundational assumptions made in any theoretical perspective.
- Critically analyze the range of issues that arise from adopting a particular theoretical

perspective. In particular, understand, evaluate and critique existing legal theories with the view to promoting an egalitarian society which is geared towards overcoming aspects of economic and social disadvantage experienced by some of the more vulnerable members of society.

- Formulate, present and evaluate oral and written arguments appropriate to a range of audiences, drawing on relevant primary and secondary sources included in the readings for the unit.
- Demonstrate sophisticated research, writing and referencing skills.

## **Assessment tasks**

- Class Participation
- Reflective Essay
- 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 outcomes**

- Identify links between sociological, historical, philosophical and political perspectives in various legal theories.
- Demonstrate sophisticated research, writing and referencing skills.

## **Assessment task**

- Take Home Exam

## **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**

- Identify the mechanisms of how knowledge is constructed in discourse. Identify and describe the foundational assumptions made in any theoretical perspective.



- Critically analyze the range of issues that arise from adopting a particular theoretical perspective. In particular, understand, evaluate and critique existing legal theories with the view to promoting an egalitarian society which is geared towards overcoming aspects of economic and social disadvantage experienced by some of the more vulnerable members of society.
- Formulate, present and evaluate oral and written arguments appropriate to a range of audiences, drawing on relevant primary and secondary sources included in the readings for the unit.
- Demonstrate sophisticated research, writing and referencing skills.

## **Assessment tasks**

- Class Participation
- Reflective Essay
- 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 outcomes**

- Identify links between sociological, historical, philosophical and political perspectives in various legal theories.
- Identify the mechanisms of how knowledge is constructed in discourse. Identify and describe the foundational assumptions made in any theoretical perspective.
- Critically analyze the range of issues that arise from adopting a particular theoretical perspective. In particular, understand, evaluate and critique existing legal theories with the view to promoting an egalitarian society which is geared towards overcoming aspects of economic and social disadvantage experienced by some of the more vulnerable members of society.
- Formulate, present and evaluate oral and written arguments appropriate to a range of audiences, drawing on relevant primary and secondary sources included in the readings for the unit.
- Demonstrate sophisticated research, writing and referencing skills.

## Assessment tasks

- Class Participation
- Reflective Essay

## Socially and Environmentally Active and Responsible

We want our graduates to be aware of and have respect for self and others; to be able to work with others as a leader and a team player; to have a sense of connectedness with others and country; and to have a sense of mutual obligation. Our graduates should be informed and active participants in moving society towards sustainability.

This graduate capability is supported by:

## Learning outcome

- Critically analyze the range of issues that arise from adopting a particular theoretical perspective. In particular, understand, evaluate and critique existing legal theories with the view to promoting an egalitarian society which is geared towards overcoming aspects of economic and social disadvantage experienced by some of the more vulnerable members of society.

## Assessment tasks

- Class Participation
- Reflective Essay
- Take Home Exam

## Changes from Previous Offering

In view of the student feedback in 2014 the assessment tasks have been scheduled at different intervals.

The weights attached to various assessment tasks have changed.

The content of assessment tasks has been modified.

## Changes since First Published

Date	Description
04/ 12/ 2014	The correct dates for the on campus session are 21 and 22 December 2014. By mistake the year appeared as 2015 in the earlier version.
03/ 12/ 2014	No changes

