



# LAW 214

## Jurisprudence

S2 External 2015

*Dept of Law*

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## General Information

Unit convenor and teaching staff

Unit Convenor

Iain Stewart

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W3A 619

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 BlntStudLLB 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:

Have a sound grasp of the central topics of jurisprudence and be able to think in a theoretical and critical way about the nature of law as a distinctive social institution or ideology and about legal reasoning and decision-making.

Be able to explain and defend normative views about law, particularly in the context of debates about the legitimate purposes of the state; whether there is a need for rights; the role the state should play in redressing socio-economic inequality; and the extent to

which the law may be biased in favour of dominant interests in society.

Be able to apply their theoretical knowledge to real-life situations and topical legal controversies.

Be able to communicate their understanding of the subject in clearly written, well reasoned and well structured arguments.

Have understood the nature and importance of law as a social practice, not just as a set of rules, and be able to contribute in a reasoned and informed way to current debates about the shape law should take and the standards which good law should meet.

## Assessment Tasks

Name	Weighting	Due
<a href="#"><u>Class participation</u></a>	10%	Ongoing
<a href="#"><u>Assignment 1: Essay</u></a>	35%	Mon 31 August, 23:59
<a href="#"><u>Assignment 2: Take home exam</u></a>	55%	Thu 12 November, 23:59

### Class participation

Due: **Ongoing**

Weighting: **10%**

On-Campus Session, Friday 18 September (E8A 341) and Saturday 19 September (E3B 118). The program will be issued on iLearn. It will follow the lecture topics to that date, with some looking forward. Detailed information will be in the Tutorial Schedule that will be issued to internal students on iLearn.

On successful completion you will be able to:

- Have a sound grasp of the central topics of jurisprudence and be able to think in a theoretical and critical way about the nature of law as a distinctive social institution or ideology and about legal reasoning and decision-making.
- Be able to explain and defend normative views about law, particularly in the context of debates about the legitimate purposes of the state; whether there is a need for rights; the role the state should play in redressing socio-economic inequality; and the extent to which the law may be biased in favour of dominant interests in society.
- Be able to apply their theoretical knowledge to real-life situations and topical legal controversies.
- Have understood the nature and importance of law as a social practice, not just as a set of rules, and be able to contribute in a reasoned and informed way to current debates

about the shape law should take and the standards which good law should meet.

## Assignment 1: Essay

Due: **Mon 31 August, 23:59**

Weighting: **35%**

### Assignment 1: Comprehension and critical analysis

This assignment will require comprehension and critical analysis of some key readings on the nature of law. The maximum length will be 6 A4 pages, double-spaced. There will be a choice of questions. Detailed instructions will be included with the questions.

On successful completion you will be able to:

- Have a sound grasp of the central topics of jurisprudence and be able to think in a theoretical and critical way about the nature of law as a distinctive social institution or ideology and about legal reasoning and decision-making.
- Be able to explain and defend normative views about law, particularly in the context of debates about the legitimate purposes of the state; whether there is a need for rights; the role the state should play in redressing socio-economic inequality; and the extent to which the law may be biased in favour of dominant interests in society.
- Be able to apply their theoretical knowledge to real-life situations and topical legal controversies.
- Be able to communicate their understanding of the subject in clearly written, well reasoned and well structured arguments.
- Have understood the nature and importance of law as a social practice, not just as a set of rules, and be able to contribute in a reasoned and informed way to current debates about the shape law should take and the standards which good law should meet.

## Assignment 2: Take home exam

Due: **Thu 12 November, 23:59**

Weighting: **55%**

### Assignment 2: Take-home examination

This assignment will cover three key areas of the unit and 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. The maximum length will be 8 A4 pages, double-spaced. There will be a choice of questions. Detailed instructions will be included with the questions.

On successful completion you will be able to:

- Have a sound grasp of the central topics of jurisprudence and be able to think in a theoretical and critical way about the nature of law as a distinctive social institution or ideology and about legal reasoning and decision-making.
- Be able to explain and defend normative views about law, particularly in the context of debates about the legitimate purposes of the state; whether there is a need for rights; the role the state should play in redressing socio-economic inequality; and the extent to which the law may be biased in favour of dominant interests in society.
- Be able to apply their theoretical knowledge to real-life situations and topical legal controversies.
- Be able to communicate their understanding of the subject in clearly written, well reasoned and well structured arguments.
- Have understood the nature and importance of law as a social practice, not just as a set of rules, and be able to contribute in a reasoned and informed way to current debates about the shape law should take and the standards which good law should meet.

## Delivery and Resources

### Technology used

This unit will use iLearn and ECHO lectures. All written communication with the convenor must be through iLearn.

### Classes

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

**There is one two-hour lecture per week, which will be recorded through ECHO. Overhead slides will be made available on iLearn.**

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 not be eligible to pass the unit, 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 Text

Denise Meyerson, *Jurisprudence* (Oxford University Press, Melbourne, 2011). Available in hard copy and as an ebook.

## Course Materials

Additional prescribed readings will be provided in e-Reserve.

### 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* (3<sup>rd</sup> edn, Sweet and Maxwell, London, 2003).

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).

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

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

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
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1	Legal Traditions of the West and the World	None	None
2	Law and State	Legal Traditions of the West and the World	Class participation
3	Premodern Accounts of Law	Law and State	Class participation; Essay 1 issued
4	Modernist Accounts of Law I	Premodern Accounts of Law	Class participation
5	Modernist Accounts of Law II	Modernist Accounts of Law I	Class participation
6	Postmodernist and Feminist Accounts of Law	Modernist Accounts of Law II	Class participation; Essay 1 due
7	Jurisprudence and Sausages: an Overview	Postmodernist and Feminist Accounts of Law	Class participation
<i>Semester Break</i>			
8	Rights: Concepts of	Jurisprudence and Sausages: an Overview	Class participation
9	Freedom	Rights: Concepts of	Class participation
10	Equality and Inequality	Freedom	Class participation
11	Difference	Equality and Inequality	Class participation
12	Rights: Bills of	Difference	Class participation; Take-home exam issued
13	<i>No lecture</i>	Rights: Bills of	Class participation; Take-home exam due

## Learning and Teaching Strategy

This unit is taught by lectures and, for internal students, tutorials. The lectures will provide an introduction to the reading. Internal students are expected to come to tutorials having done the week's reading and having prepared the tutorial questions for the week. They are also expected to participate in the tutorials. Class participation marks will be based on frequency of and quality of contribution to discussion; evidence of preparation for the tutorials; and performance in specific tasks assigned by the tutor. Mere attendance will not be sufficient to gain a passing grade for this component of the unit.

## 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/)

## Results

Results shown in *iLearn*, or released directly by your Unit Convenor, are not confirmed as they are subject to final approval by the University. Once approved, final results will be sent to your student email address and will be made available in [eStudent](#). For more information visit [ask.mq.edu.au](http://ask.mq.edu.au).

### Law School Assessment Policy

In the absence of a successful application for Disruption to Studies, late assessments will not be marked and will receive a grade of 0%. Applications for Disruption to Studies are made at [ask.mq.edu.au](http://ask.mq.edu.au)

Length limits are strictly applied and anything beyond the length limit will not be marked.

## 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

### 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

- Have a sound grasp of the central topics of jurisprudence and be able to think in a theoretical and critical way about the nature of law as a distinctive social institution or ideology and about legal reasoning and decision-making.
- Be able to explain and defend normative views about law, particularly in the context of debates about the legitimate purposes of the state; whether there is a need for rights; the role the state should play in redressing socio-economic inequality; and the extent to which the law may be biased in favour of dominant interests in society.

### Assessment task

- Assignment 1: Essay

## 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**

- Have a sound grasp of the central topics of jurisprudence and be able to think in a theoretical and critical way about the nature of law as a distinctive social institution or ideology and about legal reasoning and decision-making.
- Be able to explain and defend normative views about law, particularly in the context of debates about the legitimate purposes of the state; whether there is a need for rights; the role the state should play in redressing socio-economic inequality; and the extent to which the law may be biased in favour of dominant interests in society.
- Be able to apply their theoretical knowledge to real-life situations and topical legal controversies.
- Be able to communicate their understanding of the subject in clearly written, well reasoned and well structured arguments.
- Have understood the nature and importance of law as a social practice, not just as a set of rules, and be able to contribute in a reasoned and informed way to current debates about the shape law should take and the standards which good law should meet.

### **Assessment tasks**

- Class participation
- Assignment 1: Essay
- Assignment 2: 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

- Have a sound grasp of the central topics of jurisprudence and be able to think in a theoretical and critical way about the nature of law as a distinctive social institution or ideology and about legal reasoning and decision-making.
- Be able to explain and defend normative views about law, particularly in the context of debates about the legitimate purposes of the state; whether there is a need for rights; the role the state should play in redressing socio-economic inequality; and the extent to which the law may be biased in favour of dominant interests in society.
- Be able to communicate their understanding of the subject in clearly written, well reasoned and well structured arguments.
- Have understood the nature and importance of law as a social practice, not just as a set of rules, and be able to contribute in a reasoned and informed way to current debates about the shape law should take and the standards which good law should meet.

### Assessment tasks

- Class participation
- Assignment 1: Essay
- Assignment 2: 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

- Be able to apply their theoretical knowledge to real-life situations and topical legal controversies.

- Be able to communicate their understanding of the subject in clearly written, well reasoned and well structured arguments.
- Have understood the nature and importance of law as a social practice, not just as a set of rules, and be able to contribute in a reasoned and informed way to current debates about the shape law should take and the standards which good law should meet.

## Assessment task

- Assignment 2: 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

- Have a sound grasp of the central topics of jurisprudence and be able to think in a theoretical and critical way about the nature of law as a distinctive social institution or ideology and about legal reasoning and decision-making.
- Be able to explain and defend normative views about law, particularly in the context of debates about the legitimate purposes of the state; whether there is a need for rights; the role the state should play in redressing socio-economic inequality; and the extent to which the law may be biased in favour of dominant interests in society.
- Be able to communicate their understanding of the subject in clearly written, well reasoned and well structured arguments.
- Have understood the nature and importance of law as a social practice, not just as a set of rules, and be able to contribute in a reasoned and informed way to current debates about the shape law should take and the standards which good law should meet.

## Assessment tasks

- Class participation
- Assignment 1: Essay
- Assignment 2: 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**

- Have a sound grasp of the central topics of jurisprudence and be able to think in a theoretical and critical way about the nature of law as a distinctive social institution or ideology and about legal reasoning and decision-making.

### **Assessment tasks**

- Assignment 1: Essay
- Assignment 2: Take home exam