



LAWS805

Theories of Law and Justice

S2 External 2016

Dept of Law

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General Information

Unit convenor and teaching staff
Unit Convenor from 20 September
Carlos Bernal-Pulido
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Contact via carlos.bernal-pulido@mq.edu.au
W3A, 625
Monday, 11 am - 12 pm

Credit points
4

Prerequisites
Admission to JD or GradCertLaw or GradDipLaw or LLM

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.
Participate constructively in discussion and other classroom activities in order to understand, analyse and critique central debate in jurisprudence and law from a normative perspective.

General Assessment Information

“In the absence of a successful application for special consideration due to a disruption to studies, any assessment task submitted after its published deadline will not be graded and will receive a mark of zero. Applications for a Disruption to Studies are made electronically via ask.mq.edu.au and should be accompanied by supporting documentation. Students should refer to the Disruption to Studies policy for complete details of the policy and a description of the supporting documentation required. 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.”

Detailed marking rubrics will be made available on iLearn. All Fail assignments are double marked.

Assessment Tasks

Name	Weighting	Due
Class participation	20%	Ongoing
Research paper	45%	3 October 11:59 pm
Submission to Parliament	35%	6 November 11:59

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. **MERE ATTENDANCE AT SEMINARS WILL NOT ATTRACT ANY MARKS.**

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

An internal student who attends fewer than 10 seminars or an external student who fails to attend all/part of the on-campus session without a successful application for disruption will have

marks deducted for class participation at the discretion of their convenor.

Students who have successfully applied for disruption are required to meet the convenor during his consultation hour to discuss the material of the missed tutorials/on-campus session. For external students this can happen during the breaks at the on campus session, or over the telephone (only if the student misses the three days of the OCS).

Applications for disruption should be made through 'Ask'. They should comply with the disruption to studies policy and procedure, to be found at: http://students.mq.edu.au/student_admin/manage_your_study_program/disruption_to_studies/

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.
- Participate constructively in discussion and other classroom activities in order to understand, analyse and critique central debate in jurisprudence and law from a normative perspective.

Research paper

Due: **3 October 11:59 pm**

Weighting: **45%**

Students will be required to write a research paper on the relationship between law and morality.

The word limit for this assignment is 3000 words. Footnotes and the bibliography are not included in the word limit. Students should abide by AGLC3.

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: **6 November 11:59**

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. Footnotes and the bibliography are not included in the word limit. Students should abide by AGLC3.

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; research paper
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; submission to Parliament

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

New Assessment Policy in effect from Session 2 2016 <http://mq.edu.au/policy/docs/assessm>

[ent/policy_2016.html](http://students.mq.edu.au/events/2016/07/19/new_assessment_policy_in_place_from_session_2/). For more information visit http://students.mq.edu.au/events/2016/07/19/new_assessment_policy_in_place_from_session_2/

Assessment Policy prior to Session 2 2016 <http://mq.edu.au/policy/docs/assessment/policy.html>

Grading Policy prior to Session 2 2016 <http://mq.edu.au/policy/docs/grading/policy.html>

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

Complaint Management Procedure for Students and Members of the Public http://www.mq.edu.au/policy/docs/complaint_management/procedure.html

Disruption to Studies Policy 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/

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.

Macquarie Law School Assessment Policy

In the absence of a successful application for special consideration due to a disruption to studies, any assessment task submitted after its published deadline will not be graded and will receive a mark of zero. Applications for a Disruption to Studies are made electronically via ask.mq.edu.au and should be accompanied by supporting documentation. Students should refer to the Disruption to Studies policy for complete details of the policy and a description of the supporting documentation required.

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

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

All assessments in this 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://students.mq.edu.au/support/>

Learning Skills

Learning Skills (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

IT Help

For help with University computer systems and technology, visit http://www.mq.edu.au/about_us/offices_and_units/information_technology/help/.

When using the University's IT, you must adhere to the [Acceptable Use of IT Resources 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.
- Participate constructively in discussion and other classroom activities in order to understand, analyse and critique central debate in jurisprudence and law from a normative perspective.

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.
- Participate constructively in discussion and other classroom activities in order to understand, analyse and critique central debate in jurisprudence and law from a normative perspective.

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.
- Participate constructively in discussion and other classroom activities in order to understand, analyse and critique central debate in jurisprudence and law from a normative perspective.

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