



LAW 214

Jurisprudence

S2 Day 2017

Dept of Law

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Disclaimer

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General Information

Unit convenor and teaching staff

Convenor

Lukas Opacic

lukas.opacic@mq.edu.au

W3A 512

Wednesdays 12pm - 1pm

Credit points

3

Prerequisites

(18cp at 100 level or above) 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 BMediaLLB or BPsych(Hons)LLB or BScLLB or BSecStudLLB 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.

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.

Develop the ability to build theoretical legal arguments under time pressure.

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 papers are double marked.

Assessment Tasks

Name	Weighting	Hurdle	Due
Class participation	10%	No	Ongoing
Quiz	0%	No	Tutorials in week 4
Assessment 1	40%	No	17 September, 11.59 pm
Assessment 2	50%	No	12 November, 6 pm

Class participation

Due: **Ongoing**

Weighting: **10%**

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 is not sufficient to attract marks.

Applications for disruption should be made through AskMQ (ask.mq.edu.au). 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:

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

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- 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.

Quiz

Due: **Tutorials in week 4**

Weighting: **0%**

This short quiz is designed to test students' knowledge and proficiency with the first 3 weeks of course material. It is *not* a formal assessment and students' answers will be marked by each other. An answer guide will be provided to assist students with marking.

On successful completion you will be able to:

- Analyse central debates in jurisprudence.

Assessment 1

Due: **17 September, 11.59 pm**

Weighting: **40%**

Essays must be submitted in double line spaced text, 12 point font. The word limit is **1,500 words**, excluding footnotes. Footnotes should only be used for references, with no further discussion. Content over 1,500 words will not be marked. A bibliography should not be provided.

The essay must comply with the *Australian Guide to Legal Citation (3 ed)*. The Guide is available here <<http://mulr.law.unimelb.edu.au/go/AGLC3>>

All work is to be submitted via Turnitin on iLearn. Late submissions will not be marked and will receive a mark of 0.

The essay question and assessment guidance will be released via iLearn.

On successful completion you will be able to:

- Analyse central debates in jurisprudence.
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- Communicate using clear and cogent arguments.
- Develop the ability to build theoretical legal arguments under time pressure.

Assessment 2

Due: **12 November, 6 pm**

Weighting: **50%**

The final assessment will consist of one research essay. Students will be provided with 2 possible questions at the beginning of Week 11. Students will then choose one of these to

answer.

Essays must be submitted in double line spaced text, 12 point font. The word limit is **2,000 words**, excluding footnotes. Footnotes should only be used for references, with no further discussion. Content over 2,000 words will not be marked. A bibliography should not be provided.

The essay must comply with the *Australian Guide to Legal Citation (3 ed)*. The Guide is available here <<http://mulr.law.unimelb.edu.au/go/AGLC3>>

All work is to be submitted via Turnitin on iLearn. Late submissions will not be marked and will receive a mark of 0.

The essay questions and assessment guidance will be released via iLearn.

On successful completion you will be able to:

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Delivery and Resources

Technology used

This unit will use iLearn 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 2 hour lecture per week on Fridays 8am-10am in the Lotus Theatre (W6D).

Internal students must 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 compulsory on-campus-session and submit all assignments. Students who are unable to attend the OCS must apply for a disruption to studies. If that application is accepted, alternative work will be set in lieu of on-campus attendance

Required and recommended resources

Prescribed Texts

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

Other recommended 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* (3rd 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* (3rd 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* (2nd edn, Edinburgh University Press, Edinburgh, 1997).

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

H L A Hart, *The Concept of Law* (2nd 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* (8th edn, Sweet and Maxwell, London, 2008).

H McCoubrey and N D White, *Textbook on Jurisprudence* (2nd 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* (2nd edn, Butterworths, London, 1999).

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

Unit Schedule

Part I: Theories of Law

Week 1: Legal Positivism (Austin vs. Hart)

Week 2: Natural Law Theory (Fuller and Finnis)

Week 3: Law as Interpretation (Dworkin)

Week 4: Formalism, American Legal Realism, and the Economic Analysis of Law (Schauer, Leiter, Posner)

Week 5: Critical Perspectives on Law (Marxism, Postmodernism, Feminism)

Part II: Theories of Justice

Week 6: The State of Nature and the Justification of Government (Aristotle, Hobbes, Locke, Rousseau)

Week 7: Utilitarianism (Bentham, Mill)

Assessment 1 Due: 17 Sept. 11:59pm.

Semester Break (18 Sept. - 1 Oct.)

Week 8: Liberalism (Rawls)

Week 9: Criticisms of Liberalism 1 - Libertarianism (Nozick)

Week 10: Criticisms of Liberalism 2 - Marxism and Feminism (Marx, MacKinnon, Okin)

Week 11: Criticisms of Liberalism 3 - Communitarianism (Sandel, Walzer)

Week 12: Conservatism and Traditionalism (Burke, Schmitt, MacIntyre)

Week 13: Human Rights and their Critics (Bentham, Marx, Kennedy, Moyn)

Assessment 2 Due: 12 Nov. 11:59pm.

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

Assessment Policy http://mq.edu.au/policy/docs/assessment/policy_2016.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 (in effect until Dec 4th, 2017): http://www.mq.edu.au/policy/docs/disruption_studies/policy.html

Special Consideration Policy (in effect from Dec 4th, 2017): <https://staff.mq.edu.au/work/strategy-planning-and-governance/university-policies-and-procedures/policies/special-consideration>

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 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) 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

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.

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.
- 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.

- Develop the ability to build theoretical legal arguments under time pressure.

Assessment tasks

- Class participation
- Quiz
- Assessment 1
- Assessment 2

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.
- 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.
- Develop the ability to build theoretical legal arguments under time pressure.

Assessment tasks

- Class participation
- Quiz
- Assessment 1
- Assessment 2

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

- Assessment 2

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.
- 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
- Assessment 1
- Assessment 2

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
27/07/2017	Changed assessment word length.
24/07/2017	Fixed as per suggestions.