LAW 214

Jurisprudence

S2 Day 2018

Dept of Law

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General Information

Unit convenor and teaching staff
Convenor
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6 First Walk, Rm 512
Tuesdays 12-1pm

Lecturer
Denise Meyerson
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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

Unless a Special Consideration request has been submitted and approved, (a) a penalty for lateness will apply – two (2) marks out of 100 will be deducted per day for assignments submitted after the due date – and (b) no assignment will be accepted more than seven (7) days (incl. weekends) after the original submission deadline. No late submissions will be accepted for timed assessments – e.g. quizzes, online tests.

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.

Moderation

The convenor moderates all assessments. All Fail research essays are double marked.

Assessment Tasks

Name	Weighting	Hurdle	Due
Class participation	10%	No	Ongoing
Assignment 1	40%	No	16 September, 11.59 pm
Assignment 2	50%	No	11 November, 11:59 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.

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

An internal student who attends fewer than 10 tutorials 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 tutor.

Internal students who have missed more than 2 tutorials due to disruption are required to meet their tutor during their consultation hour to discuss the material of the missed tutorials. External students who have missed more than 2 hours of the OCS will be required to do this. This can happen during the breaks, or at the end of either day at the OCS, or over the telephone (only if the student misses both days of the OCS).

Applications for disruption should be made through 'Ask'. They should comply with the special consideration policy.

On successful completion 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.

Assignment 1

Due: **16 September, 11.59 pm**
Weighting: **40%**

This assignment will require comprehension and critical analysis of some key readings on the nature of law. The word limit for this assignment is 1,500 words (footnotes and the bibliography are not included in the word limit). Students should adhere to AGLC3. Further details will be released once the course starts.

On successful completion you will be able to:

- Analyse central debates in jurisprudence.
- Communicate using clear and cogent arguments.

Assignment 2

Due: **11 November, 11:59 pm**
Weighting: **50%**

This assignment 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. The assignment will take the form of a research essay, and students will have a choice of two questions, one of which they will answer. The word limit for the assignment is 2,000 words. (Footnotes and the bibliography are not included in the word limit). Students

should adhere to AGLC3.

On successful completion 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.

Delivery and Resources

Technology used

This unit will use i-learn 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 pre-recorded one-hour lecture per week (available through ECHO lectures) and one live one-hour lecture per week (also available through ECHO lectures).

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 2 hours of the on-campus session without a successful application for disruption will have marks deducted for class participation. If a successful application for disruption is made the student may be required to meet their tutor to discuss the work covered in the missed tutorials.

Required and recommended resources

Prescribed Texts

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

Other essential 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* (5thedn, 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).

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
1	Introduction to Jurisprudence	Introduction to Jurisprudence	Class participation
2	Law and force: Austin vs Hart	Law and force: Austin vs Hart	Class participation
3	Contemporary Positivism	Contemporary Positivism	Class participation

4	Natural Law Theory	Natural Law Theory	Class participation; quiz.
5	Adjudication I: Formalism vs Purposivism	Adjudication I: Formalism vs Purposivism	Class participation
6	Adjudication II: Hart vs Dworkin	Adjudication II: Hart vs Dworkin	Class participation
7	Realism and the Economic Analysis of Law	Realism and the Economic Analysis of Law	Class participation; Assignment
Semester Break			
8	Critical perspectives on the law	Critical perspectives on the law	Class participation
9	Rights	Rights	Class participation
10	Freedom	Freedom	Class participation
11	Inequality	Inequality	Class participation
12	Difference	Difference	Class participation
13	None	Revision	Class participation; Assignment

Policies and Procedures

Macquarie University policies and procedures are accessible from Policy Central (https://staff.mq.edu.au/work/strategy-planning-and-governance/university-policies-and-procedures/policy-central). Students should be aware of the following policies in particular with regard to Learning and Teaching:

- Academic Appeals Policy
- Academic Integrity Policy
- Academic Progression Policy
- Assessment Policy
- Fitness to Practice Procedure
- Grade Appeal Policy
- Complaint Management Procedure for Students and Members of the Public
- Special Consideration Policy (***Note:*** *The Special Consideration Policy is effective from 4*

December 2017 and replaces the Disruption to Studies Policy.)

Undergraduate students seeking more policy resources can visit the Student Policy Gateway (https://students.mq.edu.au/support/study/student-policy-gateway). It is your one-stop-shop for the key policies you need to know about throughout your undergraduate student journey.

If you would like to see all the policies relevant to Learning and Teaching visit Policy Central (https://staff.mq.edu.au/work/strategy-planning-and-governance/university-policies-and-procedures/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/study/getting-started/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.

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.

Assessment tasks

- Class participation
- Assignment 1
- Assignment 2

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

- Class participation

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
- Assignment 1
- Assignment 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
- Assignment 1
- Assignment 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 tasks

- Class participation
- Assignment 1
- Assignment 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.
- Develop the ability to build theoretical legal arguments under time pressure.

Assessment tasks

- Class participation
- Assignment 1
- Assignment 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.

Assessment tasks

- Class participation
- Assignment 1
- Assignment 2

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:

Assessment task

- Class participation

Changes since First Published

Date	Description
23/07/2018	Changed schedule to reflect tutorials starting in week 1.