



LAW 214

Jurisprudence

S2 External 2013

Macquarie Law School

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General Information

Unit convenor and teaching staff

Unit Convenor

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Credit points

3

Prerequisites

LAW109 and LAW115

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 students to draw on and apply these reflections in the context of some contemporary legal issues. Students in the Graduate LLB program will need to obtain waivers to enrol concurrently in LAW115 and LAW203.

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 and about legal reasoning and judicial 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
<u>Class participation</u>	15%	Ongoing
<u>Assignment 1: Essay</u>	25%	Fri 30 August, 15:30
<u>Assignment 2: Take home exam</u>	60%	Mon 11 November, 17:00

Class participation

Due: **Ongoing**

Weighting: **15%**

See Learning and Teaching Activities

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 and about legal reasoning and judicial 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: **Fri 30 August, 15:30**

Weighting: **25%**

Assignment 1: Comprehension and critical analysis

This assignment will require comprehension and critical analysis of some key readings on the nature of law. The word limit for this assignment is 1000 words.

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 and about legal reasoning and judicial decision-making.
- Be able to communicate their understanding of the subject in clearly written, well reasoned and well structured arguments.

Assignment 2: Take home exam

Due: **Mon 11 November, 17:00**

Weighting: **60%**

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, requiring answers of 800 words each.

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 and about legal reasoning and judicial 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.
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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* (3rd edn, Sweet and Maxwell, London, 2003).

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).

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

J W Harris, *Legal Philosophies* (2nd 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* (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	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
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; Assignment 1: <u>Essay</u>
6	Postmodernist and Feminist Accounts of Law	Modernist Accounts of Law II	Class participation
7	Jurisprudence and Sausages: an Overview	Postmodernist and Feminist Accounts of Law	Class participation
<i>Semester Break; OCS 24-25 September</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
13	<i>No lecture</i>	Rights: Bills of	Class participation; Assignment II: <u>Take-home exam</u>

Learning and Teaching Strategy

This unit is taught by lectures and tutorials. The lectures will provide an introduction to the reading. 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://www.mq.edu.au/policy/docs/academic_honesty/policy.html

Assessment Policy <http://www.mq.edu.au/policy/docs/assessment/policy.html>

Grading Policy <http://www.mq.edu.au/policy/docs/grading/policy.html>

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

Grievance Management Policy http://mq.edu.au/policy/docs/grievance_management/policy.html

Special Consideration Policy http://www.mq.edu.au/policy/docs/special_consideration/policy.html

In addition, a number of other policies can be found in the [Learning and Teaching Category](#) of Policy Central.

Student Support

Macquarie University provides a range of Academic Student Support Services. Details of these services can be accessed at: <http://students.mq.edu.au/support/>

UniWISE provides:

- Online learning resources and academic skills workshops http://www.students.mq.edu.au/support/learning_skills/
- Personal assistance with your learning & study related questions.
- The Learning Help Desk is located in the Library foyer (level 2).
- Online and on-campus orientation events run by Mentors@Macquarie.

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

Details of these services can be accessed at <http://www.student.mq.edu.au/ses/>.

IT Help

If you wish to receive IT help, we would be glad to assist you at <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 and it outlines what can be done.

Graduate Capabilities

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 and about legal reasoning and judicial 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 and about legal reasoning and judicial 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.
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- 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

- 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.
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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

Changes since First Published

Date	Description
31/01/2013	The Description was updated.