



LAWS805

Theories of Law and Justice

S3 External 2018

Dept of Law

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General Information

Unit convenor and teaching staff

Convenor

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W3A 535

By appointment

Tutor

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By appointment

Credit points

4

Prerequisites

((Admission after 2014 to GradCertLaw or GradDipLaw or JD) and corequisite LAWS600) or (admission to JD in 2014) or (admission to 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.

Assessment Tasks

Name	Weighting	Hurdle	Due
<u>Class participation</u>	15%	No	Ongoing
<u>Assessment 1</u>	35%	No	31/12/2018
<u>Assessment 2</u>	50%	No	15/01/2019

Class participation

Due: **Ongoing**

Weighting: **15%**

Students should have read all the required readings and be prepared to discuss the seminar questions. 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 tutorials is not sufficient to attract marks.

Students who are unable to attend the block session must apply for special consideration with supporting documentation. Applications are made via [Ask.mq.edu.au](https://ask.mq.edu.au)

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.

Assessment 1

Due: **31/12/2018**

Weighting: **35%**

Students will be required to write short answers to two questions. Questions will be released on iLearn by 04/12/2018.

The word limit for this assignment is 1500 words. Footnotes and the bibliography are not included in the word limit. Students should abide by AGLC4.

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.

Assessment 2

Due: **15/01/2019**

Weighting: **50%**

Students will be required to write a research essay of 2500 words. Questions will be released on iLearn by 04/12/2018.

The word limit for this assignment is 2500 words. Footnotes and the bibliography are not included in the word limit. Students should abide by AGLC4.

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 three days of on-campus tuition (6 hours per day).

For further details about dates, times and venues, please consult the MQ Timetables website: <http://www.timetables.mq.edu.au>

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

Topic 1: **WHAT IS JURISPRUDENCE AND WHY STUDY IT?**

Topic 2: **LAW AND FORCE — AUSTIN VERSUS HART**

Topic 3: **CONTEMPORARY POSITIVISM**

Topic 4: **NATURAL LAW THEORIES**

Topic 5: **ADJUDICATION I: FORMALISM VERSUS PURPOSIVISM**

Topic 6: **ADJUDICATION II: HART VERSUS DWORKIN**

Topic 7: **AMERICAN REALISM AND THE ECONOMIC ANALYSIS OF LAW**

Topic 8: **CRITICAL PERSPECTIVES ON THE LAW**

Topic 9: **RIGHTS**

Topic 10: **FREEDOM**

Topic 11: **INEQUALITY**

Topic 12: **DIFFERENCE**

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) (<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) (<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) (<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.

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.

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
- Assessment 1
- Assessment 2

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
- Assessment 1
- Assessment 2

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

- Assessment 1
- Assessment 2

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
- Assessment 1
- Assessment 2

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
- Assessment 2