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FACULTY OF LAW • Tel: (046) 603 8427/8 • Fax: (046) 6228960

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Jurisprudence 2020



Lecturer: Mrs Helen Kruse

Office: F5B, Law Faculty

Email: h.kruise@ru.ac.za

Course outline

1. Introduction

1.1 Overview

Jurisprudence is a self-standing semester course in the penultimate year of the LLB degree. The purpose of the course is to give students a basic grounding in the central themes of legal philosophy. This will involve examining major schools of jurisprudence, and introducing the students to the core legal debates that have preoccupied legal philosophers from the early days of civilisation to modern times. **Given recent debates on decolonising the LLB curriculum, the course will place special emphasis on how these debates resonate, and are relevant, to the African and South African context.** Thus, the course is designed to serve two types of purposes. First, to serve certain generic purposes: viz. to stimulate critical thought and debate about law as a social and political entity; and to provide a philosophical basis from which the students may better understand the rationales behind the existence, structure and content of the “black letter” laws that are studied in other legal courses. Second, the course serves very specific purposes: viz. to give students an opportunity to think carefully about the values that ought to underpin a country’s legal system; to think about the African and South African context; and in particular to build their own individual understanding of the law.

1.2 National Qualification Framework (NQF) level and NQF credit value of the course

The course is valued at 10 NQF credits and is pegged at NQF Level 8. The level is described by the South African National Qualifications Authority as providing a scaffold from which general outcomes can be derived, depending on the context of the course. For your interest, see appendix A for the description of this level (see para 2 below for particular course outcomes that have been developed).

1.3 Assumptions of prior learning

In order to successfully complete this course, students need to be able to:

- write and communicate in coherent English;
- know how and where to access resources such as textbooks, law reports and statutes in the AJ Kerr Law Library;
- learn independently;
- read, analyse and extract principles from textbooks and other resource material; and
- reference according to general legal referencing conventions in written work.

2. Course outcomes

2.1 Critical outcomes

Students will be able to:

- identify and solve problems;
- organise and manage themselves and their work load;
- collect, analyse and evaluate information from various sources, as well as information conveyed in the classroom environment;
- communicate effectively in class debate and written assignments; and
- critique the arguments put forward by academics and peers.

2.2 Intended specific outcomes

This course is designed so that students who successfully complete this course should be able to achieve the following outcomes. The student should be able to:

- understand, explain and evaluate the major schools of legal philosophy within the African and South African context;
- understand, explain and evaluate some of the major jurisprudential debates that have preoccupied legal philosophers;
- think critically about law as a social and political entity, particularly in the context of contemporary debates about law in modern South African society;
- understand, explain clearly and evaluate the reasons behind the existence, structure and content of the “black letter” laws that are studied in other legal courses; and
- develop an individual understanding of descriptive, normative and critical legal theory and their interactions.

3. Teaching method

The course will be presented by means of *viva voce* lectures and discussion classes, arranged around the topics described in the reading list. Lectures are based on the original readings contained in the prescribed textbook, which students will be encouraged to debate among themselves and write written responses to. Students are expected to assume responsibility for their learning by reading the recommended passages before each lecture, and in consolidating their learning thereafter with reference to both additional reading and the information posted on RUConnected. Students are referred to the Faculty’s Law Student’s Handbook in respect of DP requirements for attendance of lectures. Students are welcome to discuss problems with the lecturer.

4. Course content

- 1) Introduction to Jurisprudence
- 2) Theories of law
 - a) What is law?
 - i) Positivism and traditional African societies
 - ii) Natural law theory and apartheid
 - b) How should judges adjudicate in a constitutional democracy?
 - c) Is legal interpretation subjective?
- 3) Theories of justice
 - a) What is a just distribution of resources?
 - b) Why punish the guilty?

5. Resources

5.1 Prescribed reading

Bilchitz D, Metz T, and Oyowe O *Jurisprudence in an African Context* (2017) OUP

5.2 Recommended reading

Wacks R *Understanding Jurisprudence: An Introduction to Legal Theory* 5 ed (2017) OUP

Students will be expected to expand upon the material discussed in lectures by reading relevant passages from some of the leading general texts on jurisprudence. These texts include:

- Meyerson D *Jurisprudence* (2011) OUP
- Johnson D, Pete S and Du Plessis M *Jurisprudence – A South African Perspective* (2001) Butterworths
- Dias RWM *Jurisprudence* 5 ed (1985) Butterworths
- Freeman MDA *Lloyd's Introduction to Jurisprudence* 7 ed (2001) Sweet & Maxwell
- Harris JW *Legal Philosophies* 2 ed (1997) Butterworths
- McCoubrey H and White N *Textbook on Jurisprudence* 4 ed (2003) Blackstone Press
- Riddal JG *Jurisprudence* 2 ed (1999) Butterworths
- Roederer C and Moellendorf D *Jurisprudence* (2004) Juta
- Van Blerk A *Jurisprudence: An Introduction* (1996) Butterworths

Students are also encouraged to browse through the shelves in the AJ Kerr Law Library to familiarise themselves with the Faculty holdings of other jurisprudence holdings. This will stand them in good stead when research is undertaken for assignments.

6. Assessment

6.1 Composition

The final mark for the course is comprised of the following components:

Class mark: 40 marks

Examination: 60 marks

Total: 100 marks

6.2 Class Mark

There are three assessments in this course:

Throughout the term: Writing opportunities in class (top 10 submissions out of a possible 16 submissions (10%))

tba: Test (10%)

tba: Assignment (20%)

6.3 Examination

One two-hour paper will be written in June. The examination will be out of 60 marks. There will be several essay type questions in the paper. The questions will generally require students to engage with the theories and issues discussed throughout the course, with particular emphasis placed on the theories' application in an African and South African context. The examination is compulsory. An external examiner assesses the quality of both the examination paper and the students' answers.

7. Evaluation

This course is evaluated as part of the global evaluation of LLB courses conducted at the end of each semester. Feedback will also be obtained from students at the end of the first term.

Helen Kruse

January 2020