

# Jurisprudence



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# Course outline

## 1.Introduction

### 1.1Overview

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. The course will also focus on how these debates have impacted, and continue to impact, on the legal system in South Africa. The course is designed to serve certain generic purposes: 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. The course should also give students an opportunity to think carefully about the values that ought to underpin a country’s legal system, and in particular to build their own individual understanding of the law.

### 1.2Credit value

10 credits.

### 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;
- 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 and the world at large;
- 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 weekly topics, roughly following the prescribed textbook. In general, the first lecture of the week will be presented in a mostly transmission style, ending with questions for each student to consider for the second lecture. The second lecture of the week will take the form of written reflections from each student on the week’s topic, followed by class discussion.

Each student will choose a “learning partner” at the start of the course. Learning partners will be responsible for critiquing each other’s written reflections on a weekly basis, and they will work together on the assignment. Students are expected to assume responsibility for their learning by reading the recommended passages before each lecture, and in consolidating afterwards. Lectures are compulsory, and students who miss lectures prejudice themselves as well as their learning partners. A student may not miss more than six lectures throughout the semester without a valid LOA.

Extensive use will be made of RUConnected. Topics for each week will be posted on the site, together with questions to consider and links to additional readings. The RUConnected page is entitled “Jurisprudence 2016” and the enrolment key will be announced in class.

## **4. Course content**

The course will follow the chapters of the prescribed text fairly closely. One to two weeks will be spent on each of the following topics:

- i. Natural Law
- ii. Natural Law and Morality

- iii. Classical Legal Positivism
- iv. Modern Legal Positivism
- v. Dworkin and the Moral Integrity of Law
- vi. Legal Realism
- vii. Theories of Justice
- viii. Critical Legal Theory
- ix. Feminist Theory, and Critical Race Theory
- x. Jurisprudence: Finding the African voice

## **5. Resources**

### **5.1 Prescribed reading**

Wacks R *Understanding Jurisprudence: An Introduction to Legal Theory* 4 ed (2015) OUP

### **5.2 Recommended reading**

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.

Additional readings in the form of journal articles and cases will be referred to in class and will appear on individual reading lists for each section, posted on RUConnected.

## **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 two major assessments in this course: one assignment in the third term, and one test in the fourth term.

The assignment will be completed together with your learning partner, and will be handed in as one assignment. A full explanation of the assignment topic, format and marking criteria will be given in class and posted on RUConnected. The assignment counts 50% of the class mark component of the course.

The test will be written in the 4<sup>th</sup> term and will count 50% of the class mark component of the course. The test question will be given to students one week before the test date.

## **6.4 Examination**

One two-hour paper will be written in November. The examination will be out of 60 marks. There will be several 30-mark questions in the paper, of which the student will have to choose any two to answer. The questions will generally require students to engage with the theories and issues discussed throughout the course. 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 third term.