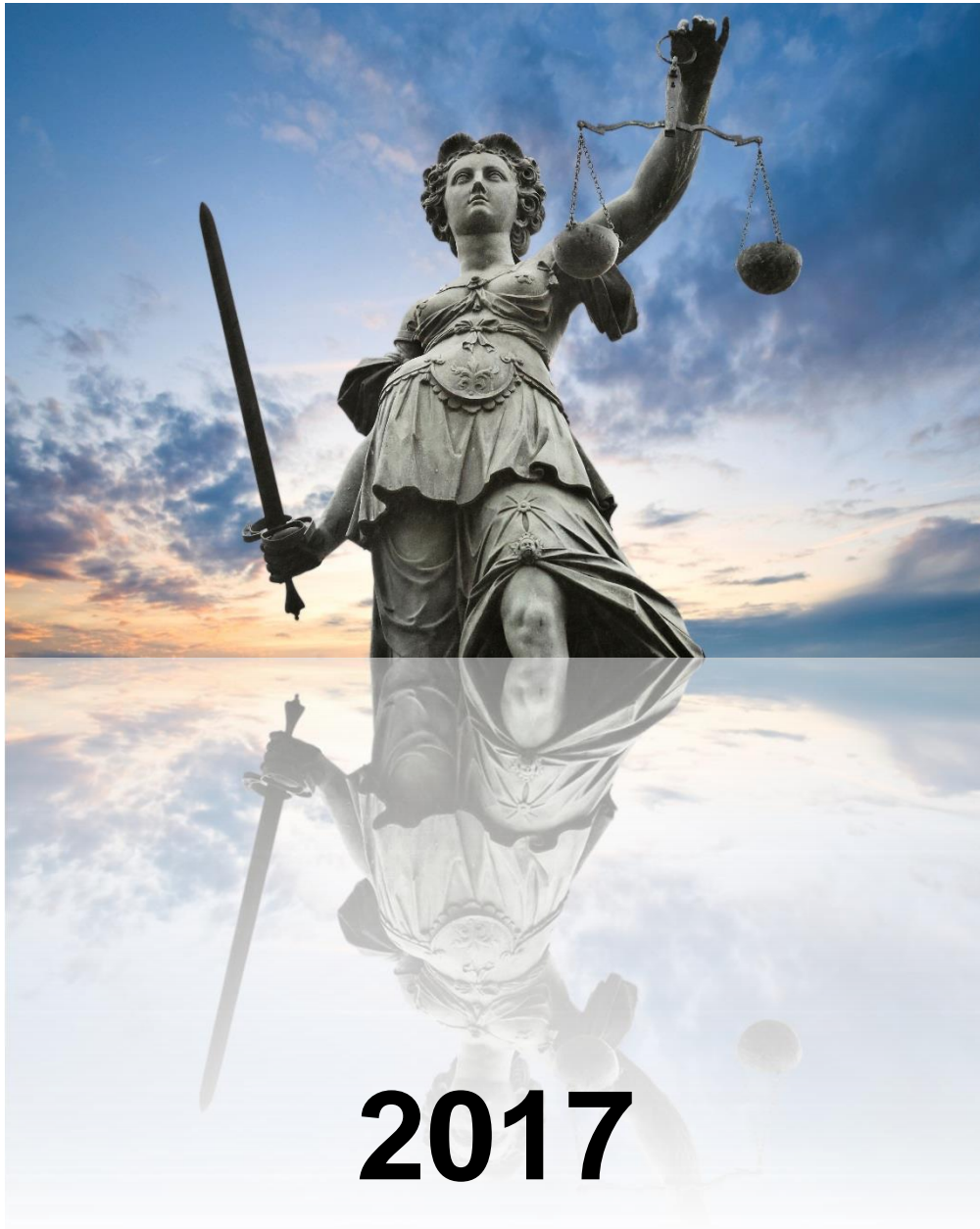


# Jurisprudence



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## **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. 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.

#### **1.2 Credit 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 the topics described below. In general the lectures be based around 2 or 3 questions to consider for the week, 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 afterwards. Lectures are compulsory, and students who miss lectures prejudice themselves. A student may not miss more than six lectures throughout the semester without a valid excuse.

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 2017” and the enrolment key will be announced in class.

## **4. Course content**

The course will be based on the topics in the prescribed text, but it will not follow them in order. Below is a suggested order for the course, but this order may change subject to which topics the class finds most interesting:

- i. Why Obey the Law?
- ii. Why Punish?
- iii. Critical Legal Studies (Whose Law?)
- iv. Rights
- v. Historical and Anthropological Jurisprudence
- vi. Theories of Justice

- vii. Natural Law
- viii. Classical Legal Positivism
- ix. Modern Legal Positivism
- x. Dworkin and the Moral Integrity of Law
- xi. Legal Realism

## **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.

## **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.

Assignment:

The assignment topic will be given in the first lecture. Students will be required to submit a bibliography for the assignment by the end of the second week of lectures, and this bibliography will count 5 marks toward the overall assignment. The assignment itself will then be submitted by the official due date. This assignment will then be assessed by a peer (out of 20 marks). The assessed assignment will then be reassessed, and the fairness of the assessor will be given a mark out of 5. In total the assignment will count 30 marks.

Test:

The test will be written in the 4<sup>th</sup> term and will count 25% of the class mark component of the course, or 10% of the final mark. 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 first term.

Vicky Heideman

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