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Jurisprudence 2022



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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. **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 (during COVID: some sources will have to be accessed online);
- 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 online;
- communicate effectively in online forums, zoom debates 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

The course will be presented in the Moot Room in person, according to the Law Faculty timetable. Where there are disruptions due to COVID or other events, the course lectures will continue in the form of online video lectures, arranged around the topics described in the reading list. Lectures are based on the original readings contained in the prescribed textbook **which is available online as an ebook**, which students will be encouraged to debate on forums and in person where possible. 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. 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

THIS BOOK IS AVAILABLE AS AN EBOOK ON THE RHODES LIBRARY WEBSITE

5.2 Recommended reading

Wacks R *Understanding Jurisprudence: An Introduction to Legal Theory* 6 ed (2021) OUP

THIS BOOK IS ONLY AVAILABLE IN THE LAW LIBRARY: IT IS THE VERY LATEST JURISPRUDENCE TEXT TO COME OUT. WHERE POSSIBLE, I WILL POST MATERIAL ON RUCONNECTED FROM THIS TEXT, WITHIN LEGAL LIMITS.

Where possible, students should read more widely than the texts available. Some other jurisprudence texts are set out here for your ease of reference:

- 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 spend time on various journal databases for topics related to jurisprudence. 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:

Jurisprudence test (10%): 29 March 2022

Jurisprudence assignment (20%): 3 May 2022

6.3 Examination

One examination will be written in June. The examination will be out of 60 marks. There are usually 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. You will be advised on its format (online or in person) closer to the examination time.

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 Kruuse
February 2022