# LAWS13016 *Jurisprudence*
## Term 2 - 2017

Profile information current as at 27/04/2024 01:01 am

All details in this unit profile for LAWS13016 have been officially approved by CQUniversity and represent a learning partnership between the University and you (our student). The information will not be changed unless absolutely necessary and any change will be clearly indicated by an approved correction included in the profile.

## Corrections

### Unit Profile Correction added on 05-09-17
The Assessments do not have a minimum mark or grade.

## General Information

### Overview
Unlike prior units which focus on law as it is - 'black-letter' law - this capstone unit considers more theoretical, analytical, doctrinal and philosophical aspects of the entire law enterprise - a specialised societal subsystem. This unit canvasses several philosophical doctrines including: natural law, legal positivism, sociological context of law and economic analyses of the law. These and related topics are explored in this unit to enable you to integrate legal knowledge into the broad inter-disciplinary mainstream and equip you with enhanced practical legal reasoning skills.

### Details
Career Level: *Undergraduate*
Unit Level: *Level 3*
Credit Points: *6*
Student Contribution Band: *10*
Fraction of Full-Time Student Load: *0.125*

### Pre-requisites or Co-requisites
Prerequisite: 96 credit points in law units
Important note: Students enrolled in a subsequent unit who failed their pre-requisite unit, should drop the subsequent unit before the census date or within 10 working days of Fail grade notification. Students who do not drop the unit in this timeframe cannot later drop the unit without academic and financial liability. See details in the Assessment Policy and Procedure (Higher Education Coursework).

### Offerings For Term 2 - 2017

- Distance

### Attendance Requirements
All on-campus students are expected to attend scheduled classes – in some units, these classes are identified as a mandatory (pass/fail) component and attendance is compulsory. International students, on a student visa, must maintain a full time study load and meet both attendance and academic progress requirements in each study period (satisfactory attendance for International students is defined as maintaining at least an 80% attendance record).

### Website
This unit has a website, within the Moodle system, which is available two weeks before the start of term. It is important that you visit your Moodle site throughout the term. Please visit Moodle for more information.

## Class and Assessment Overview

### Recommended Student Time Commitment

Each 6-credit Undergraduate unit at CQUniversity requires an overall time commitment of an average of 12.5 hours of study per week, making a total of 150 hours for the unit.

### Class Timetable

**Regional Campuses**
Bundaberg, Cairns, Emerald, Gladstone, Mackay, Rockhampton, Townsville

**Metropolitan Campuses**
Adelaide, Brisbane, Melbourne, Perth, Sydney

### Assessment Overview

1. **Written Assessment**
Weighting: 40%
2. **Group Discussion**
Weighting: 20%
3. **Written Assessment**
Weighting: 40%

### Assessment Grading

This is a graded unit: your overall grade will be calculated from the marks or grades for each assessment task, based on the relative weightings shown in the table above. You must obtain an overall mark for the unit of at least 50%, or an overall grade of 'pass' in order to pass the unit. If any 'pass/fail' tasks are shown in the table above they must also be completed successfully ('pass' grade). You must also meet any minimum mark requirements specified for a particular assessment task, as detailed in the 'assessment task' section (note that in some instances, the minimum mark for a task may be greater than 50%). Consult the University's Grades and Results Policy for more details of interim results and final grades.

## CQUniversity Policies

**All University policies are available on the CQUniversity Policy site.**
You may wish to view these policies:

- Grades and Results Policy
- Assessment Policy and Procedure (Higher Education Coursework)
- Review of Grade Procedure
- Student Academic Integrity Policy and Procedure
- Monitoring Academic Progress (MAP) Policy and Procedure – Domestic Students
- Monitoring Academic Progress (MAP) Policy and Procedure – International Students
- Student Refund and Credit Balance Policy and Procedure
- Student Feedback – Compliments and Complaints Policy and Procedure
- Information and Communications Technology Acceptable Use Policy and Procedure

This list is not an exhaustive list of all University policies. The full list of University policies are available on the CQUniversity Policy site.

## Previous Student Feedback

### Feedback, Recommendations and Responses

Every unit is reviewed for enhancement each year. At the most recent review, the following staff and student feedback items were identified and recommendations were made.

### Feedback from Self and students.

**Feedback**

Dispensations from group discussions are now allowed for good reason.

**Recommendation**

The criteria for dispensations will be made more clear. Blanket across assessment dispensations will be expressly not allowed.

## Unit Learning Outcomes

**On successful completion of this unit, you will be able to:**

1. Undertake an account of the ancient and modern history concerning an enquiry into the nature and purpose of law
2. Demonstrate a sound knowledge of the main theories of law, disputes, doctrines, topics and principles canvassed in the unit and explain their ongoing relevance to current legal practice
3. Apply the analytical and critical legal skills developed in the unit to contemporary legal problems, issues and challenges
4. Undertake and effectively communicate research on topics and issues in this unit as well as formulating practical legal argumentation compliant with rationality requirements and acceptable modes of legal reasoning
5. Act and respond appropriately to the comments and opinions expressed by others.

## Alignment of Learning Outcomes, Assessment and Graduate Attributes

— N/A Level  • Introductory Level  • Intermediate Level  • Graduate Level  ◦ Professional Level  ◦ Advanced Level

### Alignment of Assessment Tasks to Learning Outcomes

| Assessment Tasks | Learning Outcomes | | | | |
|---|---|---|---|---|---|
| | 1 | 2 | 3 | 4 | 5 |
| 1 - Written Assessment - 40% | • | • | • | • | • |
| 2 - Group Discussion - 20% | • | • | • | • | • |
| 3 - Written Assessment - 40% | • | • | • | • | • |

### Alignment of Graduate Attributes to Learning Outcomes

| Graduate Attributes | Learning Outcomes | | | | |
|---|---|---|---|---|---|
| | 1 | 2 | 3 | 4 | 5 |
| 1 - Communication | • | • | • | • | • |

| Graduate Attributes | Learning Outcomes | | | | |
|---|---|---|---|---|---|
| | 1 | 2 | 3 | 4 | 5 |
| 2 - Problem Solving | • | • | • | • | • |
| 3 - Critical Thinking | • | • | • | • | • |
| 4 - Information Literacy | • | • | • | • | • |
| 5 - Team Work | • | • | • | • | • |
| 6 - Information Technology Competence | • | • | • | | • |
| 7 - Cross Cultural Competence | • | • | • | | • |
| 8 - Ethical practice | • | • | • | • | • |
| 9 - Social Innovation | | | | | |
| 10 - Aboriginal and Torres Strait Islander Cultures | | | | | |

## Alignment of Assessment Tasks to Graduate Attributes

| Assessment Tasks | Graduate Attributes | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|
| | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 |
| 1 - Written Assessment - 40% | | • | • | | | | | | | |
| 2 - Group Discussion - 20% | • | • | • | | • | | | | | |
| 3 - Written Assessment - 40% | | • | • | | | | | | | |

## Textbooks and Resources

### Textbooks

LAWS13016

**Prescribed**

**Jurisprudence**
Edition: 2nd (2013)
Authors: Suri Ratnapala
Cambridge UP
Melbourne , Victoria , Australia
ISBN: 9781107612570
Binding: Paperback
LAWS13016

**Supplementary**

**Legal Theory**
Edition: 2nd (2014)
Authors: Jonathan Crowe
Thomson Reuters
Sydney , NSW , Australia
ISBN: 9780455231259
Binding: Paperback
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**Supplementary**

**The Concept of Law**
Edition: 3rd (2012)
Authors: HLA Hart
Oxford UP
Oxford , United Kingdom
ISBN: 978-0199644704
Binding: Paperback

**Additional Textbook Information**
The **second** edition of Hart, *The Concept of Law* (1994) is equally acceptable. By now there should be a good supply of second hand copies of all the textbooks, prescribed and supplementary. However, if you prefer a new copy, you can purchase at the CQUni Bookshop here.

**View textbooks at the CQUniversity Bookshop**

### IT Resources

**You will need access to the following IT resources:**

- CQUniversity Student Email
- Internet
- Unit Website (Moodle)
- Access to the Internet App zoom.us is essential. The Discussions, which are Assessment Two take place via Zoom.

## Referencing Style

All submissions for this unit must use the referencing style: Australian Guide to Legal Citation, 3rd ed
For further information, see the Assessment Tasks.

## Teaching Contacts

**Christopher Walshaw** Unit Coordinator
c.walshaw@cqu.edu.au

## Schedule

**Week 1 - 10 Jul 2017**

| Module/Topic | Chapter | Events and Submissions/Topic |
|---|---|---|
| Legal Theory | Suri Ratnapala, *Jurisprudence* (2nd ed, 2013) Chs 1 and 9; Jonathan Crowe, *Legal Theory* (2nd ed, 2014) Chs 1 and 5; Lon Fuller "The Case of the Speluncean Explorers"(1949) 62 *Harvard L Rev* 616-645. | |

**Week 2 - 17 Jul 2017**

| Module/Topic | Chapter | Events and Submissions/Topic |
|---|---|---|
| Legal Positivism | Suri Ratnapala, *Jurisprudence* (2nd ed, 2013) Chs 2, 3 and 4; Jonathan Crowe, *Legal Theory* (2nd ed, 2014) Ch 3; HLA Hart, *The Concept of Law* (2nd ed, 1994 or 3rd ed, 2014). | |

**Week 3 - 24 Jul 2017**

| Module/Topic | Chapter | Events and Submissions/Topic |
|---|---|---|
| Some Challenges to Legal Positivism | Suri Ratnapala, *Jurisprudence* (2nd ed, 2013) Ch 8; Jonathan Crowe, *Legal Theory* (2nd ed, 2014) Ch 4. | |

**Week 4 - 31 Jul 2017**

| Module/Topic | Chapter | Events and Submissions/Topic |
|---|---|---|
| Natural Law and the claim for rationality | Suri Ratnapala, *Jurisprudence* (2nd ed, 2013) Chs 6 and 7; Jonathan Crowe, *Legal Theory* (2nd ed, 2014) Chs 2 and 4. | |

**Week 5 - 07 Aug 2017**

| Module/Topic | Chapter | Events and Submissions/Topic |
|---|---|---|
| Theories of Adjudication | Suri Ratnapala, *Jurisprudence* (2nd ed, 2013) Chs 5 and 10; Jonathan Crowe, *Legal Theory* (2nd, 2014) Chs 6 and 8; Walshaw, *Interpretation of Statutory Rules as Application: A Legal Hermeneutics* (2012) (Link in Notes). | |

**Vacation Week - 14 Aug 2017**

| Module/Topic | Chapter | Events and Submissions/Topic |
|---|---|---|
| | | **Written Assessment** Due: Vacation Week Friday (18 Aug 2017) 10:00 pm AEST |

**Week 6 - 21 Aug 2017**

| Module/Topic | Chapter | Events and Submissions/Topic |
|---|---|---|
| Discussion Topic: Law and cultural values | References in Study Guide Topic 6 and posted in Moodle for Week 6. | |

**Week 7 - 28 Aug 2017**

| Module/Topic | Chapter | Events and Submissions/Topic |
|---|---|---|
| Discussion Topic: Evil laws | References in Study Guide Topic 7 and posted in Moodle for Week 7. | |

**Week 8 - 04 Sep 2017**

| Module/Topic | Chapter | Events and Submissions/Topic |
|---|---|---|

| | | |
|---|---|---|
| Discussion Topic: Balancing rights | References in Study Guide Topic 8 and posted in Moodle for Week 8. | |

**Week 9 - 11 Sep 2017**

| Module/Topic | Chapter | Events and Submissions/Topic |
|---|---|---|
| Discussion Topic: Law and revolution | References in Study Guide Topic 9 and posted in Moodle for Week 9. | |

**Week 10 - 18 Sep 2017**

| Module/Topic | Chapter | Events and Submissions/Topic |
|---|---|---|
| Discussion Topic: Adjudication | References in Study Guide Topic 10 and posted in Moodle for Week 10. | |

**Week 11 - 25 Sep 2017**

| Module/Topic | Chapter | Events and Submissions/Topic |
|---|---|---|
| Discussion Topic: Completion of Research Assignment | | |

**Week 12 - 02 Oct 2017**

| Module/Topic | Chapter | Events and Submissions/Topic |
|---|---|---|
| Completion of Research Assignment | | **Written Assessment** Due: Week 12 Friday (6 Oct 2017) 10:00 pm AEST |

**Review/Exam Week - 09 Oct 2017**

| Module/Topic | Chapter | Events and Submissions/Topic |
|---|---|---|

**Exam Week - 16 Oct 2017**

| Module/Topic | Chapter | Events and Submissions/Topic |
|---|---|---|

## Assessment Tasks

### 1 Written Assessment

**Assessment Type**
Written Assessment

**Task Description**
A written assessment in the form of a take home paper posted on 11 August 2017 at 18.00 (AEST), to be completed and posted within 48 hours between the day and time the student opens the exam paper and the day and time the student posts her or his answer. The paper contains four compulsory questions each worth 10%. Word limit for each answer for each of the questions is 500 words, excluding references. References are not required, except to avoid plagiarism. The paper questions will test your knowledge of Topics 1 – 5.
Answers are posted in one document on Moodle.

**Assessment Due Date**
Vacation Week Friday (18 Aug 2017) 10:00 pm AEST

**Return Date to Students**
Week 8 Friday (8 Sept 2017)

**Weighting**
40%

**Minimum mark or grade**
40%

**Assessment Criteria**
1. Demonstrate a sound knowledge of the main theories of law canvassed in the unit.
2. Demonstrate an ability to formulate and express your own point of view about the main theories of law canvassed in the unit.
3. Apply appropriate and professional written language skills.
4. Demonstrate problem solving and critical thinking skills in response to each of the questions.
Rubrics for marking

The rubrics apply to each of the four questions, hence out of 10%.
The benchmark for each criterion includes each of the benchmark levels before it. For example to achieve a distinction you also need to meet the criteria for a credit and pass.
Students must achieve ALL the minimum benchmark criteria at a particular grade level to be awarded an overall final grade at that level. Marks are not divided among each individual criterion, but are benchmarked to minimum standards.
Pass 5 - 6
Identifies the topic relevant to the question and makes a coherent answer to the question. Basic understanding of the topic and basic confidence with the jurisprudential materials. Some deficiencies in written language skills.
Credit 7
Good presentation and moderate written language skills. Demonstrates some understanding of the topic and some confidence with the jurisprudential materials. Provides an accurate but incomplete answer to the question. Demonstrates some critical thinking.
Distinction 8
Superior presentation and written language skills. Demonstrates good understanding of the topic and confidence with the jurisprudential materials. Demonstrates critical thinking. Demonstrates a willingness and ability to form and express own point of view, supported by relevant materials. Provides a relatively complete answer to the question.
High Distinction 9 - 10
Demonstrates superior understanding of the topic, superior confidence with the jurisprudential materials and strong critical thinking. Demonstrates clearly a willingness and ability to form and express own point of view, supported by relevant materials together with an ability to think for oneself, supported with discussion of key theorists. Provides a complete answer to the question.

**Referencing Style**

- Australian Guide to Legal Citation, 3rd ed

**Submission**
Online

**Learning Outcomes Assessed**

- Undertake an account of the ancient and modern history concerning an enquiry into the nature and purpose of law
- Demonstrate a sound knowledge of the main theories of law, disputes, doctrines, topics and principles canvassed in the unit and explain their ongoing relevance to current legal practice
- Apply the analytical and critical legal skills developed in the unit to contemporary legal problems, issues and challenges
- Undertake and effectively communicate research on topics and issues in this unit as well as formulating practical legal argumentation compliant with rationality requirements and acceptable modes of legal reasoning
- Act and respond appropriately to the comments and opinions expressed by others.

**Graduate Attributes**

- Problem Solving
- Critical Thinking

## 2 Group Discussion

**Assessment Type**
Group Discussion

**Task Description**
Group discussions of five topics in each of Weeks 6 to 10 as appears in the Scheme of Work. Each student presents one topic and all students attend and participate each week. The UC will discuss with students the distribution of discussion topics.
In the event that a student is unable to attend a discussion topic for good reason, the student may contact the Unit Coordinator before the first tutorial in the relevant week and arrange to submit by email attachment a brief response to the topic for that week in lieu of attendance.

**Assessment Due Date**

Marking will be progressive during Weeks 6 - 12.

**Return Date to Students**

Marking will be progressive during Weeks 6-10 and will be returned from time to time during Weeks 10 - 12 and Exam Week.

**Weighting**
20%

**Minimum mark or grade**
20%

**Assessment Criteria**
1. Demonstrate a sound knowledge of the main theories of law canvassed in the unit.
2. Demonstrate an ability to formulate and express orally your own point of view about each of the discussion topics as they relate to the main theories of law canvassed in the unit.
3. Demonstrate problem solving and critical thinking skills in response to the assigned topic in which you lead discussion and generally in respect of each of the discussion topics.
4. Act and respond appropriately to the comments and opinions expressed by others.
Rubrics for marking
0 - 12 marks for preparing and making an oral presentation of approximately 5 minutes duration relevant to the Topic in the selected or appointed Week.
0 marks for absence; 1 – 3 marks minimal content; 4 – 6 marks good content; 7 – 9 marks very good content; 10 - 12 marks excellent content including original ideas.
PLUS 0 - 8 marks for attending and participating in the discussions in the other four weeks, i.e. 2 marks for participation each Week. Participation requires active engagement in the discussion.

**Referencing Style**

- Australian Guide to Legal Citation, 3rd ed

**Submission**
Offline

**Learning Outcomes Assessed**

- Undertake an account of the ancient and modern history concerning an enquiry into the nature and purpose of law
- Demonstrate a sound knowledge of the main theories of law, disputes, doctrines, topics and principles canvassed in the unit and explain their ongoing relevance to current legal practice
- Apply the analytical and critical legal skills developed in the unit to contemporary legal problems, issues and challenges
- Undertake and effectively communicate research on topics and issues in this unit as well as formulating practical legal argumentation compliant with rationality requirements and acceptable modes of legal reasoning
- Act and respond appropriately to the comments and opinions expressed by others.

**Graduate Attributes**

- Communication
- Problem Solving
- Critical Thinking
- Team Work

## 3 Written Assessment

**Assessment Type**
Written Assessment

**Task Description**
In the course of Weeks 6 - 12 each student prepares a written assessment in the form of a Research Assignment: an essay on a theme relevant to (a) the discussion topic in which the student makes her or his presentation and (b) at least one aspect of Topics 1-5. Maximum word count is 1,500 words, excluding references.

**Assessment Due Date**
Week 12 Friday (6 Oct 2017) 10:00 pm AEST

**Return Date to Students**
Exam Week Friday (20 Oct 2017)

**Weighting**
40%

**Minimum mark or grade**
40%

**Assessment Criteria**
1. Demonstrate an ability to formulate and express your own point of view on the topic you have chosen.

2. Demonstrate problem solving and critical thinking skills in response to the topic you have chosen, in particular in relating your research assignment to aspects of the main theories of law canvassed in the unit.
3. Demonstrate an ability to engage in relevant research.
4. Apply appropriate and professional written language skills.
Rubrics for marking
The benchmark for each criterion includes each of the benchmark levels before it. For example to achieve a distinction you also need to meet the criteria for a credit and pass.
Students must achieve ALL the minimum benchmark criteria at a particular grade level to be awarded an overall final grade at that level. Marks are not divided among each individual criterion, but are benchmarked to minimum standards.
Pass 20 - 25
Identifies a theme relevant to the discussion topic and addresses that theme with reference to at least one aspect of the main theories of jurisprudence canvassed in the unit. Basic understanding of the topic and basic confidence with the jurisprudential materials. Some deficiencies in written language skills. Limited research.
Credit 26 - 29
Good presentation and moderate written language skills. Some research. Moderate development of the theme. Demonstrates some understanding of the topic and some confidence with the jurisprudential materials
Distinction 30 - 33
Superior presentation and written language skills. Good and interesting development of the topic supported by relevant research. Demonstrates good understanding of the topic and confidence with the jurisprudential materials Demonstrates critical thinking. Demonstrates a willingness and ability to form and express own point of view, supported by relevant materials.
High Distinction 34 - 40
Very high standard of presentation and written language skills comparable to jurisprudential articles referred to in the unit. Superior understanding, of the topic and superior confidence with the jurisprudential materials. Demonstrates superior critical thinking. Demonstrates clearly an ability to think for oneself. Superior research, supported by relevant materials.

**Referencing Style**

- Australian Guide to Legal Citation, 3rd ed

**Submission**
Online

**Learning Outcomes Assessed**

- Undertake an account of the ancient and modern history concerning an enquiry into the nature and purpose of law
- Demonstrate a sound knowledge of the main theories of law, disputes, doctrines, topics and principles canvassed in the unit and explain their ongoing relevance to current legal practice
- Apply the analytical and critical legal skills developed in the unit to contemporary legal problems, issues and challenges
- Undertake and effectively communicate research on topics and issues in this unit as well as formulating practical legal argumentation compliant with rationality requirements and acceptable modes of legal reasoning
- Act and respond appropriately to the comments and opinions expressed by others.

**Graduate Attributes**

- Problem Solving
- Critical Thinking

## Academic Integrity Statement

As a CQUniversity student you are expected to act honestly in all aspects of your academic work.

Any assessable work undertaken or submitted for review or assessment must be your own work. Assessable work is any type of work you do to meet the assessment requirements in the unit, including draft work submitted for review and feedback and final work to be assessed.

When you use the ideas, words or data of others in your assessment, you must thoroughly and clearly acknowledge the source of this information by using the correct referencing style for your unit. Using others' work without proper acknowledgement may be considered a form of intellectual dishonesty.

Participating honestly, respectfully, responsibly, and fairly in your university study ensures the CQUniversity qualification you earn will be valued as a true indication of your individual academic achievement and will continue to receive the respect and recognition it deserves.

As a student, you are responsible for reading and following CQUniversity's policies, including the **Student Academic Integrity Policy and Procedure**. This policy sets out CQUniversity's expectations of you to act with integrity, examples of academic integrity breaches to avoid, the processes used to address alleged breaches of academic integrity, and potential penalties.

**What is a breach of academic integrity?**
A breach of academic integrity includes but is not limited to plagiarism, self-plagiarism, collusion, cheating, contract cheating, and academic misconduct. The Student Academic Integrity Policy and Procedure defines what these terms mean and gives examples.

**Why is academic integrity important?**
A breach of academic integrity may result in one or more penalties, including suspension or even expulsion from the University. It can also have negative implications for student visas and future enrolment at CQUniversity or elsewhere. Students who engage in contract cheating also risk being blackmailed by contract cheating services.

**Where can I get assistance?**
For academic advice and guidance, the Academic Learning Centre (ALC) can support you in becoming confident in completing assessments with integrity and of high standard.

**What can you do to act with integrity?**

**Be Honest**
If your assessment task is done by someone else, it would be dishonest of you to claim it as your own

**Seek Help**
If you are not sure about how to cite or reference in essays, reports etc, then seek help from your lecturer, the library or the Academic Learning Centre (ALC)

**Produce Original Work**
Originality comes from your ability to read widely, think critically, and apply your gained knowledge to address a question or problem