

Module : **Jurisprudence**

Theme : **Principles of Law**

Aims

This module aims to provide students with:

- An awareness and understanding of the nature and scope of jurisprudence and the interrelationship of law and society
- An understanding of the arguments embodied within the doctrines of the principal schools of jurisprudential thought
- The ability to analyse legal principles, doctrines and provisions in light of these jurisprudential schools, and identify their personal legal philosophical preference, thereby maturing as a lawyer.

Syllabus

Natural Law

- Development of natural Law from Greek origins.
- Natural Law, from Aquinas to 18th Century.
- Revival of Natural Law and modern statements including Finnis/Fuller/Dworkin.

Pure Theory of Law

- Kelsen
- Kant v Hume
- Norms
- Hierarchy of Norms and Law making
- Modern Trends, Harts Concept of Law

Utilitarianism and Positivism

- The Utilitarians – Bentham
- Philosophical Background to Positivism – Comte.
- Analytical Positivism – Austin

The Anthropological and Sociological Schools

The Historical and Marxist Schools

- German Positivists – Savigny
- British Theorists – Maine
- Marxist School

American and Scandinavian Realist

- American Realists – Holmes, Frank, Llewellyn, Schubert
- Scandinavian Realists – Hagarstrom

Problems in Jurisprudence

- The concept of Duties and Rights
- The concept of Custom
- Problems of Precedent and Statutory Interpretation
- Should the Law be codified

Workload

Contact	90 hours
Directed Learning Time	30 hours
Independent Learning Time	60 hours
Assessment Time	20 hours
Total	200 hours

Teaching Method and Learning Methods

This module will be delivered through a combination of formal and participative lectures, incorporating question and answer sessions. This will be supported by tutorials, where previous lecture and assignment-based material will be reviewed. Material presented will be based on the standard textbooks and treatise (see essential reading list) and students will also be introduced to the less mainstream schools of jurisprudential thought.

Integration & Linkage

Jurisprudence has an impact on all legal subjects particularly Constitutional law and Human Rights Law. By studying this subject the student gains knowledge as to why certain rights are cherished by the Constitution. This reasoning can be extended to include further subjects such as Criminal Law. Jurisprudence is the common strand, which connects these varied topics. Knowledge of this subject assists the student in understanding other legal topics.

Assessment

This module will be assessed by way of a written assignment (30%) and a traditional closed book examination (70%). Both the assignment and examination will consist of questions or motions, which students are expected to consider, and will demand both a knowledge of the main jurisprudential schools and jurists, but also the ability to engage in detailed analysis of these schools and expose the student's personal viewpoint on the tenants of those schools.

Learning Outcomes

On module completion the student should be able to:

- Critically analyse the fundamental principles of juristic thought, including the interrelationship of law and society, morality and the law, natural law and the pure theory of law

- Compare and contrast the main elements of the different schools of jurisprudence, and the works of individual jurists
- Evaluate the different schools of jurisprudence, informed by detailed knowledge of those schools.

Reading List

Essential

Hart (1997) *The Concept of Law*, Oxford University Press

Kelly (1992) *A Short History of Western Legal Thought*, Oxford University Press

Bix (1996) *Jurisprudence – Theory and Context*, Sweet & Maxwell

Davies (1996) *Asking the Law Question*, Sweet & Maxwell

Recommended

Dias (1985) *Jurisprudence*, Butterworth

Lloyd (1994) *Introduction to Jurisprudence*, Sweet & Maxwell

Devlin (1968) *The Enforcement of Morals*, Oxford University Press

Hart (1963) *Law, Liberty and Morality*, Oxford University Press

Dworkin (1998) *Law's Empire*, Fontana Press