UNSW Course Outline

JURD7222 Law and Social Theory - 2024

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General Course Information

Course Code : JURD7222
Year : 2024
Term : Term 3
Teaching Period : T3
Is a multi-term course? : No
Faculty : Faculty of Law and Justice
Academic Unit : School of Law, Society and Criminology
Delivery Mode : In Person
Delivery Format : Standard
Delivery Location : Kensington
Campus : Sydney
Study Level : Postgraduate
Units of Credit : 6

Useful Links

Handbook Class Timetable

Course Details & Outcomes

Course Description

*JURD7222 is a **prescribed theory elective** option. Students wishing to complete it as a **Law elective** should enrol in course code JURD7632. Enrolment into JURD7632 is by school consent, please contact the Nucleus Hub via webforms.*

In their practical day-to-day activities, lawyers and citizens take, and must take, much for granted, both about society in which they work and live and about its legal order. Lawyers practice within established legal systems, with more or less settled institutions, techniques, traditions and rules. Citizens live, and the laws operate, in societies in which specific social arrangements, structures, roles, expectations and conceptions of what is possible and what is right, are widely held and shape our views about law and about society. Customarily, most of us think within these categories and arrangements, rather than about them. Theoretical investigation looks beneath what we all too often take for granted, to see what accounts for it, how it works, and how it changes.

Social theory is a particular way of asking theoretical questions, which tries to explain why things are as they are by examining the social practices and institutions that shape the way that people live. To study law and social theory is to explore theoretical issues that arise when we see law as one part of this broader social context.

Some of the questions that we address in the course include: what social functions are played by legal systems, and the modern legal system in particular? How does law intersect with other social systems, practices, and forms of power? How, for example, is the legal system influenced by the economy, and how does it shape the economy in turn? What is the relationship between the legal system and political actors, such as the state, bureaucracy, classes and social movements? How does law shape, and how is it influenced by, socially dominant ways of thinking, such as ideology, rationality, or beliefs about class, gender, and race? What drives change in the legal system? Is it, for example, the practices of lawyers, politicians, or social movements? Is it the evolution of ideas? Or economic imperatives?

We will explore these questions in both an historical and contemporary context. We will examine the work of the foundational thinkers in the tradition of social theory, such as Karl Marx and Max Weber, who were responding to the massive social, economic, scientific and intellectual changes of the nineteenth century. Their work continues to provide insight into the relationship between law and society, because the contemporary world, has inherited many of the ideas and institutions that came to dominate society in their time, including the market economy, democracy, and liberal individualism. The course also engages with more contemporary theorists whose work responds to the changing social and legal landscape of the 20th and 21st centuries. This may include the work of Michel Foucault, systems theory, feminist criticism, or theories of biopolitics. We will draw on these thinkers, not only to reflect on the themes of the course, but to think about pressing issues, such as the impact of neoliberalism and globalisation

on the law, the treatment of refugees, emergency politics and constitutional democracy, and the legal and political response to climate change.

Studying theories of law and society will hopefully lead us beyond our original, and usually quite unreflective views of what is important in law, what role it plays in society, whose interests it serves, what causes legal change, and how important law is. In probing these questions, we might come to confirm, modify or abandon our original assumptions; we will always, however, find these assumptions are more problematic, controversial and puzzling than they appeared at first to be.

Course Aims

This course is concerned primarily with interrelationships between law and other institutions and practices in society, particularly modern society; with what law does in society and what other elements of society do to it. These questions are approached, first, by examination of the great social theorists - especially Marx, Durkheim and Weber - who sought to explain the distinctive character of modern societies, and then by examination of transformations in contemporary law and society (in particular globalisation) and of different theoretical attempts to understand that law and those transformations. Those attempts include critical theory, feminist, post-modernist and post-structuralist analyses. The course emphasises both appreciation of broad theoretical thinking about law and society, and the application of the results of this thinking to current legal and social reality.

Course Learning Outcomes

Course Learning Outcomes
CLO1 : Demonstrate awareness of principles of theories of law and justice and their relationship to the broader context (PLOs 1 & 3)
CLO2 : Engage in critical analysis of legal institutions and their connection to specific social and cultural institutions (PLOs 1, 2 & 8)
CLO3 : Engage in critical analysis of the law on one hand and personal and public morality on the other (PLOs 1 & 11)
CLO4 : Produce scholarly writing that demonstrates: (1) acquaintance with legal and social theoretical terminologies and styles; (2) analysis, synthesis, critical judgment, reflection and evaluation; and (3) cites a range of practical and scholarly interdisciplinary research sources (PLOs 5, 6 & 8)
CLO5 : Demonstrate effective oral communication skills by discussing and debating course concepts in a scholarly, reflective and respectful manner (PLOs 9 & 10)
CLO6 : Demonstrate self-management through self-assessment of capabilities and performance and use of previous feedback received in the course (PLOs 12)

Course Learning Outcomes	Assessment Item
CLO1 : Demonstrate awareness of principles of theories of law and justice and their relationship to the broader context (PLOs 1 & 3)	• Class Participation • Assignment • Research Essay
CLO2 : Engage in critical analysis of legal institutions and their connection to specific social and cultural institutions (PLOs 1, 2 & 8)	• Class Participation • Assignment • Research Essay
CLO3 : Engage in critical analysis of the law on one hand and personal and public morality on the other (PLOs 1 & 11)	• Class Participation • Assignment • Research Essay
CLO4 : Produce scholarly writing that demonstrates: (1) acquaintance with legal and social theoretical terminologies and styles; (2) analysis, synthesis, critical judgment, reflection and evaluation; and (3) cites a range of practical and scholarly interdisciplinary research sources (PLOs 5, 6 & 8)	• Assignment • Research Essay
CLO5 : Demonstrate effective oral communication skills by discussing and debating course concepts in a scholarly, reflective and respectful manner (PLOs 9 & 10)	• Class Participation
CLO6 : Demonstrate self-management through self-assessment of capabilities and performance and use of previous feedback received in the course (PLOs 12)	• Assignment • Research Essay

Learning and Teaching Technologies

Moodle - Learning Management System

Assessments

Assessment Structure

Assessment Item	Weight	Relevant Dates
Class Participation Assessment Format: Individual	25%	
Assignment Assessment Format: Individual	25%	
Research Essay Assessment Format: Individual	50%	

Assessment Details
Class Participation

Assessment Overview

This assessment requires you to prepare for and actively engage in class-based and online activities.

Course Learning Outcomes

- CLO1 : Demonstrate awareness of principles of theories of law and justice and their relationship to the broader context (PLOs 1 & 3)
- CLO2 : Engage in critical analysis of legal institutions and their connection to specific social and cultural institutions (PLOs 1, 2 & 8)
- CLO3 : Engage in critical analysis of the law on one hand and personal and public morality on the other (PLOs 1 & 11)
- CLO5 : Demonstrate effective oral communication skills by discussing and debating course concepts in a scholarly, reflective and respectful manner (PLOs 9 & 10)

Detailed Assessment Description

The class participation mark is broken into two components. The majority is for class participation. A smaller portion is awarded for completion of online modules.

In Class

Students are marked on the level and quality of their participation in class. Please note that the mark for in class participation is not simply for attendance.   No marks will be given simply for turning up to class. It is imperative that students participate in discussions if they wish to receive a pass mark for this aspect of the assessment.

Online

The Online classes are a very important part of this course. They cover important issues, are designed to facilitate a stronger understanding of the materials we cover in class, and to thereby promote discussion in class. Marks are awarded automatically for completion of each module. To get those mark, students are expected not only to complete them but to make a serious attempt at answering the questions - marks will only be awarded where your teacher deems that a good faith attempt at completing the activities has been made.

Assessment Length

n/a

Assignment submission Turnitin type

Not Applicable

Generative AI Permission Level

Simple Editing Assistance

In completing this assessment, you are permitted to use standard editing and referencing functions in the software you use to complete your assessment. These functions are described below. You must not use any functions that generate or paraphrase passages of text or other media, whether based on your own work or not.

If your Convenor has concerns that your submission contains passages of AI-generated text or media, you may be asked to account for your work. If you are unable to satisfactorily demonstrate your understanding of your submission you may be referred to UNSW Conduct & Integrity Office for investigation for academic misconduct and possible penalties.

For more information on Generative AI and permitted use please see here.

Assignment

Assessment Overview

This assessment requires you to prepare a written response to an assignment.

Course Learning Outcomes

- CLO1 : Demonstrate awareness of principles of theories of law and justice and their relationship to the broader context (PLOs 1 & 3)
- CLO2 : Engage in critical analysis of legal institutions and their connection to specific social and cultural institutions (PLOs 1, 2 & 8)
- CLO3 : Engage in critical analysis of the law on one hand and personal and public morality on the other (PLOs 1 & 11)
- CLO4 : Produce scholarly writing that demonstrates: (1) acquaintance with legal and social theoretical terminologies and styles; (2) analysis, synthesis, critical judgment, reflection and evaluation; and (3) cites a range of practical and scholarly interdisciplinary research sources (PLOs 5, 6 & 8)
- CLO6 : Demonstrate self-management through self-assessment of capabilities and performance and use of previous feedback received in the course (PLOs 12)

Detailed Assessment Description

Detailed instructions for will be provided through the Moodle page.

Assessment Length

1000 words

<u>Generative AI Permission Level</u>

Simple Editing Assistance

In completing this assessment, you are permitted to use standard editing and referencing functions in the software you use to complete your assessment. These functions are described below. You must not use any functions that generate or paraphrase passages of text or other media, whether based on your own work or not.

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Research Essay

<u>Assessment Overview</u>

This assessment requires you to write a research essay.

<u>Course Learning Outcomes</u>

- CLO1 : Demonstrate awareness of principles of theories of law and justice and their relationship to the broader context (PLOs 1 & 3)
- CLO2 : Engage in critical analysis of legal institutions and their connection to specific social and cultural institutions (PLOs 1, 2 & 8)
- CLO3 : Engage in critical analysis of the law on one hand and personal and public morality on the other (PLOs 1 & 11)
- CLO4 : Produce scholarly writing that demonstrates: (1) acquaintance with legal and social theoretical terminologies and styles; (2) analysis, synthesis, critical judgment, reflection and evaluation; and (3) cites a range of practical and scholarly interdisciplinary research sources (PLOs 5, 6 & 8)
- CLO6 : Demonstrate self-management through self-assessment of capabilities and performance and use of previous feedback received in the course (PLOs 12)

<u>Detailed Assessment Description</u>

Detailed instructions for each essay will be provided when the questions are released.

<u>Assessment Length</u>

2000 words

<u>Assignment submission Turnitin type</u>

This assignment is submitted through Turnitin and students can see Turnitin similarity reports.

<u>Generative AI Permission Level</u>

Simple Editing Assistance

In completing this assessment, you are permitted to use standard editing and referencing functions in the software you use to complete your assessment. These functions are described below. You must not use any functions that generate or paraphrase passages of text or other media, whether based on your own work or not.

If your Convenor has concerns that your submission contains passages of AI-generated text or media, you may be asked to account for your work. If you are unable to satisfactorily demonstrate your understanding of your submission you may be referred to UNSW Conduct & Integrity Office for investigation for academic misconduct and possible penalties.

For more information on Generative AI and permitted use please see here.

General Assessment Information

For further information on generative AI use in the Faculty of Law & Justice, please review the section titled 'Academic Honesty and Plagiarism' under the 'Other Useful Information' tab.

<u>Grading Basis</u>

Standard

Course Schedule

Teaching Week/Module	Activity Type	Content
Week 1 : 9 September - 15 September	Topic	1.1 What is Social Theory? 1.2 The Commodity Exchange Theory of Law
Week 2 : 16 September - 22 September	Topic	2.1 Labor, Class Struggle and the Law 2.2 Law, Violence and 'Primitive Accumulation'
Week 3 : 23 September - 29 September	Topic	3.1 Poulantzas on Law, Ideology and the State 3.2 Social Movements and Legal Change
Week 4 : 30 September - 6 October	Topic	4.1 Weber on the dialectic of rationalisation in modernity 4.2 Weber on Bureaucracy, Law and Political Legitimacy
Week 5 : 7 October - 13 October	Topic	5.1 Foucault on Discipline 5.2 Foucault on Biopower and Sovereignty
Week 6 : 14 October - 20 October	Other	Reding Week - no classes
Week 7 : 21 October - 27 October	Topic	7.1 Moreton-Robinson on Indigenous Sovereignty 7.2 Gender, Capitalism and Exploitation
Week 8 : 28 October - 3 November	Topic	8.1 Post-Structural Feminism and the Critique of Rights 8.2 Neoliberalism: Hayek on the Market, Society and Law
Week 9 : 4 November - 10 November	Topic	9.1 Law and the Morals of the Market 9.2 Sovereignty, Emergency and Security
Week 10 : 11 November - 17 November	Topic	10.1 Chronic Emergency - COVID-19 and Climate Change 10.2 The Green New Deal: climate change, the market, and the state

Attendance Requirements

Please see information about attendance requirements in **Law & Justice Assessment Procedure and Student Information** located in the Other Useful Information tab in the Academic Information field.

Please be advised there will be no classes on public holidays. If your class falls on a public holiday, alternative arrangements will be made by the course convenor to make up the missed class.

Course Resources

Prescribed Resources

All prescribed resources are available through the Moodle page as pdfs or as links to websites.

Recommended Resources

All recommended resources are available through the Moodle page as pdfs or as links to websites.

Course Evaluation and Development

We gather feedback from discussion with students in and out of class, as well as from myExperience surveys. Over time, we have made changes to both the content and delivery of the course to address issues including diversity, relevance, participation, and level of difficulty. Levels of satisfaction with Law and Social Theory have been consistently high over the past few years, but we continuously adjust both the materials and the in class experience in response to feedback.

Staff Details

Position	Name	Email	Location	Phone	Availability	Equitable Learning Services Contact	Primary Contact
Convenor	Daniel McLoughlin					Yes	Yes

Other Useful Information

Academic Information

Upon your enrolment at UNSW, you share responsibility with us for maintaining a safe, harmonious and tolerant University environment.

You are required to:

- Comply with the University's conditions of enrolment.
- Act responsibly, ethically, safely and with integrity.
- Observe standards of equity and respect in dealing with every member of the UNSW community.
- Engage in lawful behaviour.
- Use and care for University resources in a responsible and appropriate manner.
- Maintain the University's reputation and good standing.

For more information, visit the UNSW Student Code of Conduct Website.

UNSW Law & Justice Assessment Policy

It is essential that all students undertaking this course read and abide by the UNSW Law & Justice Assessment Policy & Student Information. This document includes information on Class Attendance, Late Work, Word Limits, Marking, Special Consideration, Workload, and Academic Misconduct & Plagiarism. More information can also be found at Assessment & Exam Information.

Information regarding Course Outlines are subject to change and students are advised to check updates. If there is a discrepancy between the information posted here and the handbook or the UNSW Law & Justice website, please contact Student Services via The Nucleus Hub for advice. UNSW Law & Justice reserves the right to discontinue or vary such courses or staff allocations at any time. If your course is not here, please visit Handbook for information.

Academic Honesty and Plagiarism

As a student at UNSW you are expected to display academic integrity in your work and interactions. Where a student breaches the UNSW Student Code with respect to academic integrity, the University may take disciplinary action under the Student Misconduct Procedure. To assure academic integrity, you may be required to demonstrate reasoning, research and the process of constructing work submitted for assessment.

To assist you in understanding what academic integrity means, and how to ensure that you do comply with the UNSW Student Code, it is strongly recommended that you complete the [Working with Academic Integrity](#) module before submitting your first assessment task. It is a free, online self-paced Moodle module that should take about one hour to complete.

Generative AI

Using generative AI to conduct research or to organise your argument is not prohibited but is not encouraged. We note that the output from generative AI tools is often incorrect and almost always more superficial than is required to achieve a passing grade. Moreover, any substantive errors in the assessment, such as inappropriate references or incorrect statements, will be regarded negatively by the marker, just as they would if not generated by AI. You should limit your use of AI to simple editorial assistance, such as standard editing and referencing functions in word processing software in the creation of your submission. You must not use any functions that generate or paraphrase passages of text, whether based on your own work or not. If your marker or Turnitin identify the wrongful use of generative AI in the text of your assessment submission, including the use of paraphrasing software, your assessment may be referred to the Student Integrity team for investigation. Please go to the link for further information about [referencing and acknowledging the use of artificial intelligence tools](#).

Prohibition on use of translation apps

With limited exceptions for language study, the course of study and assessment in Australian universities must be in English (Higher Education Standard Framework (Threshold Standards) 2021 1.5 6(c)).

In Law & Justice many classes have assessable class participation. This must be in English. **Use of a translation device to assist with contributions to class discussion is not allowed.** Marks for class participation may be reduced where use of translation devices is detected. Similar prohibitions apply to use of any other generative text app that is not specifically permitted by the class teacher. However, use of translation software to assist a student to understand material outside of class, or to assist with preparation for assessment is generally permitted.

Further considerations apply to LLB and JD students. International lawyers who seek to be admitted in NSW must satisfy an English proficiency test. That test is expressed as equivalent to IELTS scores of 7.0 -8.0 across the tests. It is assumed that UNSW graduates are at or above those levels of English proficiency. Use of translation apps can impede the attainment of that

level of proficiency. Students should avoid behaviours that put them at risk of breach of legal requirements which can have significant consequences, including potential consequences for your admission as a lawyer.

Submission of Assessment Tasks

Before submitting assessment items all students must read and abide by the [UNSW Law & Justice Assessment Policy & Student Information](#).

Special consideration

Special consideration is primarily intended to provide you with an extra opportunity to demonstrate the level of performance of which you are capable. To apply, and for further information, see Special Consideration on the UNSW [Current Students](#) page.

Feedback

UNSW Law & Justice appreciates the need for students to have feedback on their progress prior to the last date for withdrawal without failure. All courses will therefore provide feedback to students prior to this date, as well as throughout the course. However, students should note that feedback does not take the form only of formal grades and written comments on written assessments. Rather, formative feedback, which helps students to self-assess, to identify misunderstandings, and to identify areas requiring further work, will occur during class and possibly online. For example, where a teacher asks the class a question, all students should think about how they might answer. Even though not all students will necessarily be able to respond orally, everyone can reflect on their tentative answer in light of the teacher's response and subsequent class discussion. If you are struggling to understand what is being asked in class, or if your tentative answers prove incorrect and subsequent discussion does not clear things up, then you should continue to ask questions (of yourself, your peers or your teacher). Similarly, you can get a sense of your ability in a course through peer feedback during group work, your teacher's responses to your in-class contributions, and your own response to in-class problems and examples (whether or not you are called on to relay your answer to the class) and also your online activities and responses by others to those activities. Students enrolled in this course may check their Moodle course page for details on the specific feedback used in this course.

Faculty-specific Information

Additional support for students

- Student support: https://www.student.unsw.edu.au/support
- Academic Skills and Support: https://student.unsw.edu.au/academic-skills
- Student Wellbeing, Health and Safety: https://student.unsw.edu.au/wellbeing
- Equitable Learning Services: https://student.unsw.edu.au/els
- UNSW IT Service Centre: https://www.myit.unsw.edu.au

Course improvement

Student feedback is very important to continual course improvement. This is demonstrated within the Faculty of Law & Justice by the implementation of the UNSW online student survey myExperience, which allows students to evaluate their learning experiences in an anonymous way. myExperience survey reports are produced from each survey. They are released to staff after all student assessment results are finalised and released to students. Course convenors will use the feedback to make ongoing improvements to the course. Students enrolled in this course may check their Moodle course page for details on the actions taken in response to evaluation feedback in Student Survey.

School Contact Information

Please contact Nucleus Student Hub for all enquiries. The Nucleus acts as a central communications hub for UNSW and will distribute your enquiry to the best person to respond.