



NATIONAL LAW UNIVERSITY AND JUDICIAL ACADEMY, ASSAM

PROGRAMME: B.A.,LL.B. (HONS.) FYIC

DETAILS OF COURSE OFFERED

EVEN SEMESTER (II) – ACADEMIC YEAR

SL NO	COURSE CODE	COURSE TITLE	L	T/P	CR	CH
1	BL206	JURISPRUDENCE	4 PER WEEK	1 PER WEEK	4	

- A. CODE AND TITLE OF THE COURSE: BL206 , JURISPRUDENCE**
- B. COURSE CREDIT: 4 (TOTAL MARKS 200)**
- C. MEDIUM OF INSTRUCTION: ENGLISH**
- D. COURSE COMPILED BY: SAHEB CHOWDHURY**
- E. COURSE INSTRUCTOR: SAHEB CHOWDHURY**

1. COURSE OBJECTIVES

Jurisprudence, both as a philosophy or science of law, involves the study of the general theoretical questions about the nature of law and legal systems, about the relationship of law with justice and morality and about the socio-political nature of law. Law is primarily concerned with regulation and control of human conduct to realise and provide the cherished long term needs, expectations and goals of a society in the context of its prevailing social, economic and political order. Jurisprudence, as a subject, encourages the students to inculcate a free and independent thinking mind to question presumptions of law, 'law as it is' or 'law as it ought to be', and to develop a wider understanding of the nature and working of law under different legal norms and systems.

Jurisprudence does not provide answer to specific questions of law. The objective of the course is to teach the students the rudiments of law, its meaning, nature and evolution under different schools of thought which will offer pointers, clues, insights and give them an understanding of how the law shall operate in day to day life of an individual or the society as a whole and various questions legal and moral obligations. The course is intended to enhance in the students, giving the reasoning tools and the capacity to identify the morally right from the morally wrong thereby inculcating in them a sense of justice irrespective of the career they undertake.

2. TEACHING METHODOLOGY

The teaching methodology to be adopted in this course paper shall be a collaboration of lecture method as well as discussion method. The former method is a direct instruction method by the teacher while the latter is a kind of co-operative learning wherein it gives enough scope to the students for an active participation in the classroom discussion. The lecture method can be used to introduce a new topic or idea to the students and this can be ideally followed by a discussion method which is an applied or analytical approach based on the basic theoretical or the foundational understanding of the topics taught. The students shall be asked to apply their theoretical understanding to practical problems or issues. The students shall be required from time to time to give class room presentation on the topics assigned to them either in groups or individually. This will facilitate student's capabilities to think freely and independently. The students shall be informed in advance about the topic which would be taught and discussed in the class and along with the relevant study reference materials. The teacher summarizes after the students have

completed their discussion, and any clarification on the queries raised by the students is entertained. These methods will give ample scope to the teacher to reach out to individual students, to identify their shortcomings, to supervise their overall performance and to effectively carry out continuous assessment of the performance by the students. To train and inculcate research skills among the students, project assignments shall be given to the students and the topics shall be allotted in advance during the vacation before the semester begins in order to allow the students to invest their time in research work. The students are also encouraged to develop publishable research papers on the project topics assigned to them. In the classroom, every student is required to present his/her topic and to have his/her doubt cleared through discussion. The teacher will be helping and guiding the students in their pursuits of legal learning. The overall teaching method shall enable to achieve the primary role of a teacher which is to coach and facilitate student learning and overall comprehension of the course material.

3. EXPECTED OUTCOMES OF THE COURSE

On completion of the Course, the students are expected to develop a comprehensive understanding of the various theoretical approaches in understanding the concept of law and legal system. They are also expected to be able to understand the real-world relevance of these approaches. Further, the students are expected to acquire the skill of analytical in-depth research to produce publishable research work. The students are also expected to overcome the problem of lack of confidence and clarity during classroom presentation and to inculcate the habit independent critical thinking.

4. COURSE EVALUATION METHOD

All theory Courses (with the exception of Clinical Papers and CBCC) will be evaluated on 200 marks. The Evaluation Scheme would be as follows:

Internal Assessment: 70% (140 marks)

Semester End Examination: 30% (60 marks)

Sl. No.	Marks Distribution	
1	Project Work	40 marks
2	Seminar/Group Discussion	20 marks
3	Assignment/Assessment	30 marks
4	Mid-Semester Test	40 marks

5	Attendance in class	10 marks
6	Semester End Examination	60 marks

5. DETAILED STRUCTURE OF THE COURSE (SPECIFYING COURSE MODULES AND SUB-MODULES)

MODULE I

Introduction:

Jurisprudence: Definitions, Difficulties in Defining Jurisprudence and Legal Theory

What is Legal Philosophy?

Law As It Is and Law As It Ought To Be

Law and Ethics, Law and Morality, Law and Justice

Nature of Jurisprudence: Jurisprudence as a Study of Divine Law, Jurisprudence as a Philosophy of Law, Jurisprudence as a Science of Law, Jurisprudence as a Social Science of Law, Jurisprudence as a Lawyer's Extraversion

Legal Exposition, Legal History and Science of Legislation

Relationship of Law with: Morality, Social Change, Social Justice, Right to Life

MODULE II

THE NATURAL LAW SCHOOL: Basic Tenets of the Natural Law School, History of the Natural Law Philosophy:

The Greek Period: The Ancient Greek Theories, Socrates (469 – 3990 BC), Heraclitus (535 – 475 BC), Plato (427 – 347 BC), Aristotle (384 – 322 BC)

The Roman Period: The Ancient Roman Theories, Marcus Tullius Cicero Roman's Three Fold Classification of Law: Jus Civile, Jus Genitum and Jus Naturale

The Age of Christian Theology: St. Augustine (354 – 430), St. Thomas Aquinas (1225 - 1274)

The Modern Classical Theology: Thomas Hobbes, John Locke

The Revival of the Natural Law Recent Theories of Natural Law: Rudolf Stammler (1856 – 1938), John Rawls (1921 – 2002), Joseph Kohler (1839 –1919), Jerome Hall (1901- 1987)

Natural Law and the Indian Constitution, Natural Justice and Public Interest

Litigation in India.

MODULE III

THE ANALYTICAL SCHOOL

Background of the Analytical School, Reaction against the Natural Law School

Legal Positivism

The Exponents of the Analytical Schools: John Austin and His Command Theory,

Jeremy Bentham (1748-1832), H.L.A. Hart and His Rules of Recognition (1952-

1969), Hans Kelsen and His Pure Theory of Law

The Hart- Fuller Debate, The Hart- Devlin Debate.

THE HISTORICAL SCHOOL

Background of the Historical School, Reaction Against Natural Law Thinking

Exponents of the Historical School: Friedrich Karl Von Savigny and His Theory of

‘Volkgeist’, George Friedrich Puchta and His Doctrine of General Will, Henry

Maine and the Anthropological Theory: Stages of Development of Law: Static Society,

Progressive Society, Status to Contract and Contract to Status

Historical School and Indian Law

THE SOCIOLOGICAL SCHOOL

Background of the Sociological School, Sociological Jurisprudence and the

Sociology of Law

Exponents of Sociological School: Rudolf Von Ihering’s Social Utilitarianism,

Eugene Ehrlich’s Theory of Living Law, Leon Duguit’s Principal of Social

Solidarity, Roscoe Pound and the Theory of ‘Social Engineering’, Individual

Interests, Public Interests, Social Interests, Jural Postulates

Sociological Jurisprudence: The Indian Position

MODULE IV

THE REALIST SCHOOL, CRITICAL LEGAL STUDIES MOVEMENT AND FEMINIST JURISPRUDENCE

Legal Realism: Background of the Realist School

The American Realist’s Movement

Exponents of the Realist School: O.W. Holmes' View, John Chipman Gray's View,
Jerome Frank's View

The Scandivian Realist School

Exponents of the Scandivian Realist School: Axel Hagerstrom, Alf Ross

Comparison of the Scandivian and the American Realism

Basic Tenets of the Realist School

Critical Legal Studies Movement: Need for the CLS Movement, Essential Targets and
Achievements of the movement.

Feminist Jurisprudence: Feminist Jurisprudence and its versions, Appraisal of its
Achievements and Targets.

6. PRESCRIBED READINGS

1. Austin, John, *The Province of Jurisprudence Determined*, Universal Publishing Company, Delhi, 2005.
2. Bhargava, Rajeev, Michael Dushe, Helmut Reiffield et. al., *Justice- Political, Social, Juridical*, Sage Publications Inc., New Delhi, 2008.
3. Bentham, Jeremy, *A Fragment of Government; or, A Comment on the Commentaries*, Second Edition, W. Pickering, London, 1823.
4. Bix, Briann, *Jurisprudence: Theory and Context*, Sweet and Maxwell, London, 2006.
5. Bodenheimer *Jurisprudence, The Philosophy and Methods of Law*, Delhi: Universal Publication, 1996.
6. Buyse, Antoine, Michael Hamilton, et. al., *Transitional Jurisprudence and the ECHR- Justice, Politics and Rights*, Cambridge University Press, New York, 2011.
7. Jules Coleman, Scott Shapiro, Kenneth Einar Himma (eds.), *The Oxford Handbook of Jurisprudence and Philosophy of Law*, New York: Oxford University Press, 2002.
8. Coleman, Jules, *The Practice of Principles: In Defense to Pragmatic Approach to Legal Theory*, Oxford University Press, Oxford University Press, Oxford, 2001
9. Detmold, M.J., *The Unity of Law and Morality: A refutation of Legal Positivism*, Routledge and Kegan Paul, London, 2001
10. Dhyanni, S.N., *Fundamentals of Jurisprudence- The Indian Approach*, Third Edition, Central Law Agency, Allahabad, 2011.
11. Dickson, Julie, *Evaluation and Legal Theory*, Hart Publishing, Oxford, 2011.

12. Doherty, Michael, Jurisprudence- The Philosophy of Law, Old Bailey Press, London, 2011.
13. George, Robert, PI (Ed.) The Autonomy of Law: Essay on Legal Positivism, Clarendon Press, Oxford, 1995.
14. Hart, H.L.A., The Concept of Law, Second Edition, Oxford University Press, New Delhi, 2010.
15. Raymond Wacks, The Philosophy of Law: A Very Short Introduction, New York: Oxford University Press, 2006.
16. Suri Ratnapala, Jurisprudence, United Kingdom: Cambridge University Press, 2009.
17. Rawls, John, A Theory of Justice, Universal Law Publishing Company Private Limited, Delhi- 2011.
18. Salmond on Jurisprudence, Universal Law Publishing Co. Indian Rept., Twelfth Edn.
19. Tebbit, Mark, Philosophy of Law, Second Edition, Routledge, New York, 2005.
20. Fitzgerald, (ed.) Salmond on Jurisprudence (1999).
21. W. Friedman, Legal Theory, Delhi: Universal Publishing House, 1944.
22. V. D. Mahajan, Jurisprudence and Legal Theory, Lucknow: Eastern Books, Re. 1996.
23. M.D.A. Freeman (ed.), Lloyd's Introduction to Jurisprudence, (1994), Sweet and Maxwell.
24. Paton G. W., Jurisprudence, Oxford, ELBS, 1972.
25. H.L.A. Hart, The Concept of Law (1970), Oxford, ELBS.
26. John Rawls, A Theory of Justice (1971), HUP.
27. Ronald Dworkin, Law's Empire, (1986), HUP.
28. Ronald Dworkin, Taking Rights Seriously, (1977), HUP.
29. Tom Bingham, The Rule of Law,
30. Thomas Holland, The Elements of Jurisprudence, New Delhi: Universal Law Publishing Co. Ltd., 13th edn., 2010.
31. Roscoe Pound, Introduction to the Philosophy of Law (1998 Re-print), Universal Publication, Delhi.
32. Dias, Jurisprudence, New Delhi: Adithya Books, (1994).
33. Dhyani S. N., Jurisprudence: A Study of Indian Legal Theory, New Delhi:

34. Metropolitan, 1985. M.P. Tondon, Jurisprudence Legal Theory, Allahabad: Allahabad Law Agency.
35. Nigel E Simmonds, Central Issues in Jurisprudence, London: Sweet and Maxwell Ltd., 3rd edn., 2008, 2010.
36. N.V. Jayakumar, Lectures in Jurisprudence, 2nd Ed., Lexis-Nexis.
37. G.C. Venkata Subba Rao, Jurisprudence and Legal Theory, Eastern Book Comp
38. Autar Krishen Koul, A Textbook of Jurisprudence, New Delhi: Satyam Law International, 2009.
39. The Purpose and Usefulness of Jurisprudence: Peter Wahlgren
40. What is Jurisprudence?: R H S Tub
41. Legal Philosophy as Practical Philosophy: Jesus Vega
42. What is 'General Jurisprudence? A Critique of Universalistic Claims by Philosophical Concepts of Law: Brian Z. Tamanaha
43. The Nature of law: Available at Stanford Encyclopaedia of Philosophy
44. The Law and its Limitations: G Hay
45. Natural Law by Robert P. George
46. Natural Law and Legal Positivism: R D Lumb
47. Natural Natural Law and Positive Natural Law: Roscoe Pound
48. Positivism and Separation of Law and Morals: HLA Hart
49. Hard Cases: Ronald Dworkin
50. Natural Law and Natural Rights Old Problems and Recent Approaches: Brian Tierney
51. A Critical Guide to Vehicles in the Park: Frederick Schauer
52. Hans Kelsen and His Pure Theory of Law: Edwin W Patterson
53. Sociology of Law and Sociological Jurisprudence: Roscoe Pound
54. Legal Realism as Theory of Law: Michael Steven Green