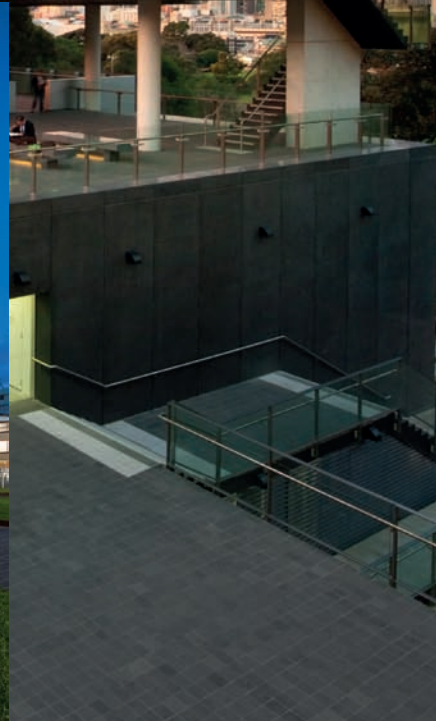
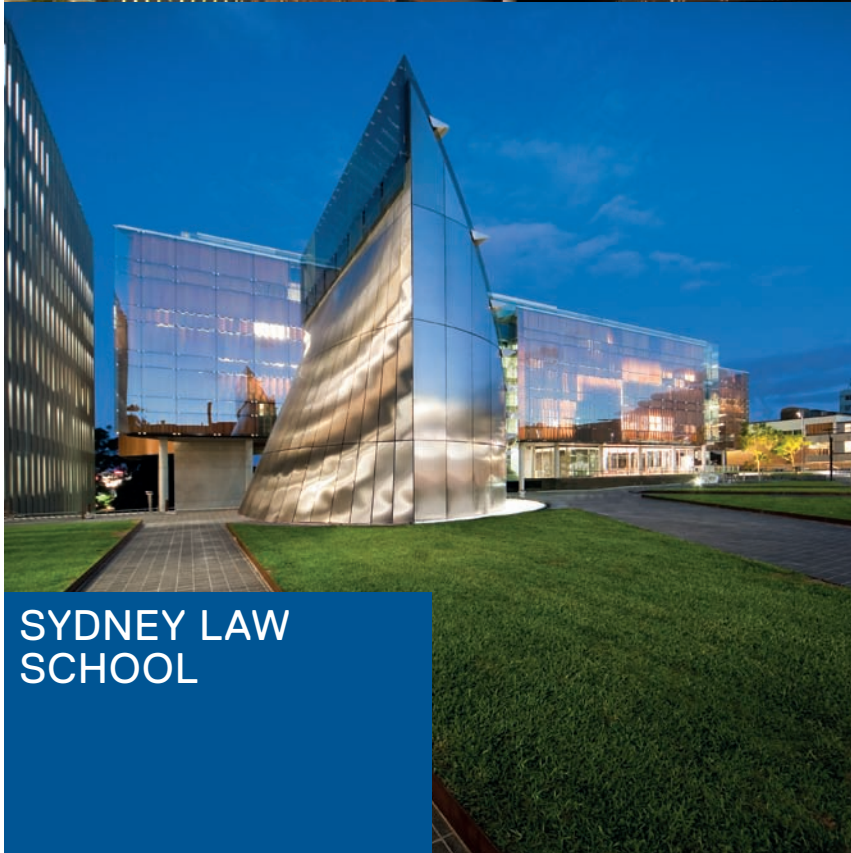


LAWS3478/5178
DEVELOPMENT, LAW & HUMAN RIGHTS
SEMESTER TWO, 2012



SYDNEY LAW
SCHOOL



THE UNIVERSITY OF
SYDNEY

LLB/JD

UNIT OUTLINE

sydney.edu.au/law

Lecturer – contact details

Title	Dr
Name	LIVINGSTON ARMYTAGE
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Preferred method of communication

Please feel free to contact me before/after classes or by email or phone.

With regards to correspondence with academic staff, students should remember to sign their name and provide their student identification number, especially when sending emails.

Overview

This unit of study provides an introduction and critical overview to law justice and development, sometimes called 'the rule of law' or 'legal and judicial reform' in international aid. Law justice development has grown substantially over the past 50 years and is now a billion dollar global enterprise. Despite this growth, there is a mounting chorus of disappointment in the literature over its performance. This unit focuses on judicial reform, to ask the question: is it failing and, if so, what can be done to improve it? It analyses the global reform experience over the past half-century. In particular, it interrogates the nature and justification(s) of reform 'theory', studies the empirical evidence of various approaches, and examines the conceptual/practical challenges of evaluating development endeavour, using case studies from the Asia/Pacific region.

Objectives

The aim of this unit is to encourage students to become informed and to think critically about development as a multi-disciplinary endeavour, involving law and justice, economics, and political science among other disciplines. Students enrolling in this course will develop an evidence-based understanding of the role and effects of law and justice reform in broader development strategies.

Specifically, the objectives of this unit are:

- To examine the history and global performance of law justice and development including recent initiatives
- To develop a detailed understanding of theoretical justifications for law justice and development;
- To critically consider the empirical evidence of global practice
- To evaluate the effectiveness of law justice and development with a view to exploring alternative theoretical and practical approaches.

Students enrolling in this unit will develop three main skills:

1. Skills of analysis and reasoning, including the capacity to engage in a critical analysis of the rationale for law justice and development, key policy arguments in the development discourse, and their underpinning theoretical and disciplinary justifications.
2. Skills of developmental problem solving: the ability to analyse complex fact situations involving issues of law justice and development, to identify those issues, and to apply relevant principles and logic to justice-related problems.

3. Skills of research and writing: the ability to use research methods to write in a clear and logical manner, using plain and concise language, on complex issues of law justice and development.

Reading materials

Required reading

Armytage, L 2012, *Reforming Justice: a journey to fairness in Asia*, Cambridge University Press

Lecture times

Days	Time
Friday	9.00am – 4.00pm

Note: For up to date information regarding class times and venues, please visit:

LLB: <http://sydney.edu.au/law/cstudent/undergrad/timetables.shtml>

JD: <http://sydney.edu.au/law/cstudent/jd/timetables.shtml>

Assessment

Assessment regime

Assessment task	Due date	% of final mark	Assessment details/ additional instructions
Class Participation		20%	
Essay 1	Fri. 31 August, 5pm	40%	
Essay 2	Fri. 28 September, 5pm	40%	

Penalties

- The late submission of a piece of assessment, which has not been granted an extension, will attract a penalty of 10% of the total marks allocated to the piece of assessment per calendar day or part thereof.
- A piece of assessment which exceeds the prescribed word limit will attract a penalty of 10% of the total marks allocated to the piece of assessment for every 100 words, or part thereof, over the limit. The total word count for essays and other written assessments will:
 - exclude: bibliography; footnote numbers; footnote citations; cover page and
 - include: body text; headings and sub-headings; quotations; anything other than numbers and citations in footnotes.
- The prescribed word limit is strict. There is **no 10% leeway** or any other leniency applied to word limits.
- For full policy on penalties and other student policies please refer to the Faculty Handbook: http://sydney.edu.au/handbooks/law/rules/faculty_resolutions.shtml

Lecture schedule

DAY 1 FRIDAY, 3 AUGUST (x6)

LAW JUSTICE & DEVELOPMENT

What is law justice and development - synthesis of the discourse

- 1 **9.00-11.00 :** **Development and the rule of law**
History and context
Law and development, Washington Consensus and the rule of law
Exemplars: approaches of World Bank, USAID, other donors
Objectives, justifications and models
- 2 **11.00-12.00:** **Student discussion and exercises.**
- 3 **1.00-3.00:** **Reforms, critique and reinvention**
Nature of reforms – the ‘standard package’
Critiques of performance
- 4 **3.00-4.00:** **Student discussion and exercises.**

DAY 2 FRIDAY, 10 AUGUST (x6)

THEORY AND EMPIRICISM

- 5 **9.00-11.00:** **Theories of reform**
Philosophies: from Aristotle to North and Sen
Liberalism, institutionalism and humanism
- 6 **11.00-12.00:** **Student discussion and exercises.**
- 7 **1.00-3.00:** **Empirical evidence**
Economic justification and the historical determinants of growth
Justice and development – transplantation and legal origins
Are institutions trumps?
- 8 **3.00-4.00:** **Student discussion and exercises.**

DAY 3 FRIDAY, 17 AUGUST (x6)

THE THIRD MOMENT

- 9 **9.00-11.00:** **Reinvention: three green shoots**
- 10 **11.00-12.00:** **Student discussion and exercises**
- 11 **1.00-3.00:** **World Bank’s J4P approach –Saku Akmeemana**
Case study of the Indonesian experience
- 12 **3.00-4.00:** **Student discussion and exercises.**

DAY 4 FRIDAY, 31 AUGUST (x6)

CASE STUDIES OF PRACTICE & INNOVATION

Lessons being learned - where to from here?

- 13 9.00-10.30: ADB's experience**
Policy framework; evolving justifications for reform
Evaluation of experience
- 14 10.30-11.30: AusAID approach – Daniel Rowland**
Australia's approach to legal and judicial reform
- 15 12.30-1.30: Asian Pacific experience**
Challenges across the region
Evaluation of experience
- 16 1.30-2.30: Student discussion and exercises**
- 17 2.30-4.00: Human rights issues; towards convergence?**
Prof. David Kinley.

DAY 5 FRIDAY, 7 SEPTEMBER (x6)

EVALUATING PERFORMANCE

Issues of effectiveness - does it work?

- 18 9.00-11.00: Development evaluation**
From Paris to Accra: improving development effectiveness
Millennium Development Goals, and managing for development results
Arenas for debate
- 19 11.00-12.00: Student discussion and exercises**
- 20 1.00-2.30: Evaluating judicial reform**
Measuring performance, indicators, quantity or quality?
Evaluation gaps: synthesis and meta-evaluations of practice
An alternative approach.
- 21 2.30-3.00: Frameworks of measurement**
- 22 3.00-4.00: Student discussion and exercises**

DAY 6 FRIDAY, 14 SEPTEMBER (x6)

- 23 9.00-10.30: AusAID's experience in PNG**
- 24 10.30-12.00: Student discussion and exercises.**
- 25 1.00-2.00: Justice and conflict – Dr Douglas Porter**
World Development Report 2011
- 26 2.00-3.00: Student discussion and exercises**
- 27 3.00-4.00: Conclusions, review and wrap-up.**

DETAILED OUTLINE & READING GUIDE

DAY 1 FRIDAY, 3 AUGUST (x6)

1 9.00-11.00 : Development and the rule of law

Minimum reading:

- Carothers, T 2006, *Promoting the Rule of Law Abroad: In Search of Knowledge*, Carnegie Endowment for International Peace, Washington D.C; chapters 1, 2, 3 and 13 (Carothers T, Kleinfeld R).
- Trubek, D & Santos, A (eds) 2006, *The New Law and Economic Development: A critical appraisal*, Cambridge University Press, New York; chapter 1 and 3 (Trubek D).

Recommended reading:

- IDLO, 2010, *Legal and Judicial Development Assistance: Global Report*, Rome.
- Jensen, E & Heller T (eds) 2003, *Beyond Common Knowledge: Empirical Approaches to the Rule of Law*, Stanford University Press, California; chapters 9 and 11 (Hammergren L, Heller, T).
- World Bank, *World Development Report 2011: Conflict, Security and Development*; Overview pp 1-44. <http://wdr2011.worldbank.org/fulltext>

2 11.00-12.00: Student discussion and exercises.

- To be supplied after commencement.

3 1.00-3.00: Reforms, critique and reinvention

Minimum reading:

- Carothers, T (ed), *Promoting the Rule of Law Aboard*, Carnegie Endowment for International Peace, Washington D.C.; chapters 5 and 7 (Golub, S).
- Jensen, E & Heller T (eds) 2003, *Beyond Common Knowledge: Empirical Approaches to the Rule of Law*, Stanford University Press, California; chapter 10 (Jensen E).
- Messick, R 1999, 'Judicial Reform and Economic Development: a survey of the issues,' *The World Bank Research Observer*, vol. 14, no. 1, pp. 117-136.

Recommended reading:

- Hammergren, L 2000, 'Fifteen Years of Judicial Reform in LA: Where we are and why we haven't made more progress,' USAID/G/DG Global Center for Democracy and Governance. <http://www.pogar.org/publications/judiciary/linn2/latin.pdf>
- Davis, K & Trebilcock, M 2001, 'Legal Reforms and Development,' *Third World Quarterly*, vol. 22, no. 1, pp. 21-36.
- Hammergren L, *Envisioning Reform: improving judicial performance in Latin America*, Pennsylvania State University Press, 2007.
- North, D, Wallis, J, Webb, S & Weingast, B 2007, 'Limited Access Orders in the Developing World: A New Approach to the Problems of Development', working paper no. 4359, Independent Evaluation Group, World Bank.
- Peerenboom, R 2009, 'The Future of Rule of Law: Challenges and Prospects for the Field', *Hague Journal on the Rule of Law*, vol. 1, pp. 5-14.
- Tamanaha, B & Bilder, R 1995, 'The Lessons of Law-and-Development Studies,' *American Journal of International Law*, vol. 89, pp. 470-486.
- Trubek, D & Santos, A (eds) 2006, *The New Law and Economic Development: A critical appraisal*, Cambridge University Press, New York; chapter 6 (Rittich K).

- Weingast, B 1993, 'Constitutions as Governance Structures: the political foundations of secure markets,' *Journal of Institutional and Theoretical Economics* vol. 149, no. 1, pp. 286-311.

4 3.00-4.00: Student discussion and exercises.

- To be supplied after commencement.

DAY 2 FRIDAY, 10 AUGUST (x6)

5 9.00-11.00: Theories of reform

Minimum reading:

- North, D 1990, *Institutions, Institutional Change, and Economic Performance*, Cambridge University Press, Cambridge; Chapters 1, 2, 7 and 12.
- Rawls, J 1985, 'Justice as Fairness: Political not Metaphysical', *Philosophy and Public Affairs*, vol. 14, no. 3., pp. 223-251.
- Sen, A 1999, *Development as Freedom*, Random House, New York; Introduction, and Chapters 1, 3 and 12.

Recommended reading:

- North, D 1991, 'Institutions,' *The Journal of Economic Perspectives*, vol. 5, no. 1, pp. 97-112.
- Sen, A 1999, *Development as Freedom*, Random House, New York; Introduction, and Chapter 2.
- Aristotle, *Nicomachean Ethics*, Thomson, J (transl), 1955 (Revised 2004), Penguin, London, Book V.
- Bentham, J 1789, *An Introduction to the Principles of Morals and Legislation*, Burns, J & Hart, HLA (eds) 1970, Athlone, London.
- Harvey D (n.d.), *Neoliberalism and the Restoration of Class Power*, <http://gsnas.files.wordpress.com/2007/10/harvey080604.pdf>
- Harvey, D 2005, *Neoliberalism: A brief history*, Oxford University Press, Oxford; Chapter 1 and 6.
- Locke, J 1690 'The Second Treatise of Government' in Peardon T (ed) 1952, *The Second Treatise of Government*, Liberal Arts Press, New York.
- Mill JS, 1859, *On Liberty*, Shields C (ed) 1956, Library of Liberal Arts, New York.
- Montesquieu C, Baron de Secondat, 1748 *The Spirit of the Laws*, Cohler A, Miller B & Stone H (eds), 1989, Cambridge University Press.
- Rousseau, JJ 1762, *The Social Contract & Discourses* (Cole G trans, rev ed, 1973) Dent, London.
- Sen, A 2009, *The Idea of Justice*, Penguin, London; Chapters 17 and 18.
- Smith A 1776, *An Inquiry into the Wealth of Nations*, Cannan E (ed; 5th ed.) Methuen & Co, London, Vol. 1.

6 11.00-12.00: Student discussion and exercises.

- To be supplied after commencement.

7 1.00-3.00: Empirical evidence

Minimum reading:

- Armytage, L 2012, *Reforming Justice: a journey to fairness in Asia*, Cambridge University Press; Chapter 5.
- Chang, H 2003, 'Kicking Away the Ladder: Infant industry promotion in historical perspective', *Oxford Development Studies*, Vol. 31, 1, 21-32.
- Collier, P 2008, *The Bottom Billion*, Oxford University Press; Chapters 1 and 7.
- Polanyi, K 2001, *The Great Transformation: The Political and Economic Origins of Our Time*, 2nd edn, Beacon, Boston; Foreword (Stiglitz), and Chapter 1.

- Rajan, R 2004, 'Assume Anarchy? Why an Orthodox Economic Model might not be the Best Guide for Policy', *Finance and Development*, September, pp. 56-57, <<http://www.imf.org/external/pubs/ft/fandd/2004/09/pdf/straight.pdf>> .
- Rodrik, D 2004, 'Getting Institutions Right', *DICE Report*, Harvard, pp. 10-16, <<http://www.ifo.de/pls/guestci/download/CEsifo%20DICE%20Report%202004/CEsifo%20DICE%20Report%202/2004/dicereport204-forum2.pdf>>

Recommended reading:

- Acemoglu, D, Johnson, S & Robinson, J 2001, 'The Colonial Origins of Comparative Development: An Empirical Investigation', *American Economic Review*, vol. 91, no. 5, pp. 1369-1401.
- Arndt, C & Oman, C 2006, *Use and Abuse of Governance Indicators*, OECD Development Centre, Paris; Chapter 4, in particular, 49-58.
- Berkowitz, D, Pistor K & Richard, J 2003, 'The Transplant Effect', *American Journal of Comparative Law*, vol. 51, pp. 163-190.
- Burnside, C & Dollar D 2000 'Aid, Policies, and Growth,' *The American Economic Review*, vol. 90, No.4, 847-868.
- Djankov, S, La Porta, R, Lopez-de-Silanes, F, & Shleifer A 2003, 'Courts', *Quarterly Journal of Economics*, vol. 118, no. 2, pp. 453-517.
- Djankov, S, La Porta, R, Lopez-de-Silanes, F, & Shleifer, A 2002, *Appropriate Institutions*, World Bank, Washington D.C.
- Dollar, D & Kraay, A 2000, *Growth Is Good for the Poor*, World Bank, Washington D.C., 27; <http://siteresources.worldbank.org/DEC/Resources/22015_Growth_Is_Good_for_Poor.pdf>
- Easterly, W 2006, *The White Man's Burden*, Penguin, New York; Chapters 1 and 11.
- Easterly, W 2001, *The Elusive quest for Growth: Economists' Adventures and Misadventures in the Tropics*, MIT Press, Cambridge, Massachusetts; Prologue and Chapter 14.
- Feld, L & Voigt, S 2003, 'Economic Growth and Judicial Independence: Cross Country Evidence Using a New Set of Indicators', *European Journal of Political Economy*, vol. 19, pp. 497-527.
- Kaufmann, D & Kraay, A 2002, *Growth without Governance*, World Bank, Washington, D.C. <<http://siteresources.worldbank.org/INTWBIGOVANTCOR/Resources/growthgov.pdf>>
- La Porta, R, Lopez-de-Silanes, F, Pop-Eleches, C, Shleifer, A 2004, 'Judicial Checks and Balances', *Journal of Political Economy*, vol. 112, no. 2, pp. 445-470.
- La Porta, R, Lopez-de-Silanes, F, Shleifer, A & Vishny, R, 1998, 'Law and Finance', *The Journal of Political Economy*, vol. 106, no.6, pp. 1113-1155.
- Mauro, P 1995, 'Corruption and Growth,' *Quarterly Journal of Economics*, vol. 110, no. 3, pp. 681-712.
- Sachs, J 2005, *The End of Poverty*, Penguin, New York; Chapters 13, 14 and 16.
- Stiglitz, J 2002, *Globalization and its Discontents*, Penguin, London; Chapters 1 and 9.
- Stiglitz, J 2006, *Making Globalisation Work*, Norton, New York.
- Thomas M 2009, 'What Do the Worldwide Governance Indicators Measure?' *European Journal of Development Research*, <http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1007527>
- World Bank 2005, *World Development Report 2006: Equity and Development*, World Bank, Washington D.C, <<http://go.worldbank.org/LOTTGBE9I0>>; Chapters 4 and 8.

- 8 **3.00-4.00: Student discussion and exercises.**
- To be supplied after commencement.

DAY 3 FRIDAY, 17 AUGUST (x6)

9 **9.00-11.00: Reinvention: three green shoots**

Minimum reading:

- Unsworth, S 2009, 'What's Politics Got to do with It? Why donors find it so hard to come to terms with politics, and why this matters', *Journal of International Development*, vol. 21, iss. 6, pp. 883-894.
- Leftwich, A 2007, 'The Political Approach to Institutional Formation, Maintenance and Change,' discussion paper no. 14, IPPG, University of Manchester

Recommended reading:

- Alston, P 2005, 'Ships Passing in the Night: The Current State of the Human Rights and Development Debate Seen Through the Lens of the Millennium Development Goals', *Human Rights Quarterly* vol. 27, 755–829.
- Decker, K, McInerney-Lankford, S & Sage, C n.d, 'Human Rights and Equitable Development: "Ideals", issues and implications', working paper, World Bank, Washington D.C, 17.
<http://siteresources.worldbank.org/INTWDR2006/Resources/477383-1118673432908/Human_Rights_and_Equitable_Development_Ideals_Issues_and_Implications.pdf>
- Leftwich A 1994, 'Governance, the State and the Politics of Development,' *Development and Change*, vol. 25, pp. 363-386.

- 10 **11.00-12.00: Student discussion and exercises.**
- To be supplied after commencement.

11 **1.00-3.00: World Bank's J4P approach**

Minimum reading:

- Sage, C, Menzies, N, & Woolcock, M 2009, *Taking the Rules of the Game Seriously: Mainstreaming Justice in Development*, Justice & Development Working Paper Series 51845, World Bank, DC.
http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1710096

Recommended reading: TBA.

- 12 **3.00-4.00: Student discussion and exercises.**
- To be supplied after commencement.

DAY 4 FRIDAY, 31 AUGUST (x6)

13 **9.00-10.30: ADB's experience**

Minimum reading:

- Armytage L, 2011, "Judicial reform in Asia: case study of ADB's experience: 1990-2007", *Hague Journal on the Rule of Law*, 3.1, 70-105.

Recommended reading: TBA.

14 **10.30-11.30: AusAID approach**

Minimum reading:

- AusAID, 2006, *Australian Aid: Promoting Growth and Stability – a White Paper on the Australian Government's Overseas Aid Program*, AusAID, Canberra.
<http://www.aisaid.gov.au/Publications/Documents/whitepaper.pdf>
- AusAID, 2007, *Governance*, <<http://www.aisaid.gov.au>> .
- AusAID, 2007, *Annual Review of Development Effectiveness: Key Findings*, Canberra.

- AusAID, 2010, Australian Framework for Law and Justice Engagement in the Pacific
- AusAID, 2010, ODE Law and Justice Evaluation Concept Note
- AusAID, 2010, *Law & Justice Evaluation: Issues Paper*, Canberra, <http://www.ode.usaid.gov.au/publications/pdf/law-justice-concept-note.pdf> .

Recommended reading:

- AusAID Budget Papers 2011-2012
- AusAID, 2008, Tracking Development and Governance in the Pacific
- AusAID, 2011, *Statistical Summary 2008-9: Australia's International Development Cooperation*, Canberra. <http://www.usaid.gov.au>

15 12.30-1.30: Asian Pacific experience

Minimum reading:

- Armytage, L 2009, 'Introduction', in Armytage L & Metzner L (eds), [*Searching for Success in Judicial Reform: Voices from the Asia Pacific Experience*](#), Oxford University Press, New Delhi, pp. 3 – 42.

Recommended reading: TBA.

16 1.30-2.30: Student discussion and exercises

- To be supplied after commencement.

17 2.30-4.00: Human rights issues; towards convergence?

Minimum reading:

- Kinley, D 2006, Human Rights and the World Bank: Practice, Politics and Law, in Sage, C & Woolcock, M (eds) *World Bank Legal Review: Law, Equity and Development*, World Bank, Washington D.C., pp. 353-383.

Recommended reading:

- Darrow, M & Tomas A 2005, 'Power, Capture, and Conflict: A Call for Human Rights Accountability in Development Cooperation,' *Human Rights Quarterly*, vol. 27, pp. 471–538.
- Core UN treaties, including: Universal Declaration of Human Rights (UDHR); International Covenant on Civil and Political Rights (ICCPR); International Covenant on Economic, Social and Cultural Rights (ICESCR); International Convention on the Elimination of Racial Discrimination (ICERD); Convention against Torture and Other Cruel, Inhuman or Degrading Treatment (CAT); Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW); Convention on the Rights of the Child (CRC), plus optional protocols; <http://www2.ohchr.org/english/law/index.htm#core> .

DAY 5 FRIDAY, 7 SEPTEMBER (x6)

18 9.00-11.00: Development evaluation

Minimum reading:

- Armytage, L, 2011, "Evaluating Aid: an adolescent discipline", *Evaluation*, 2011, 17.3, 261-276.
- Banerjee, A 2007, *Making Aid Work*, MIT Press, Cambridge, Massachusetts. Extract at <<http://iis-db.stanford.edu/evnts/4741/MakingAidWork.pdf>>
- Guba E & Lincoln Y, 'Guidelines and Checklist for Constructivist Evaluation,' *Evaluation Checklist Project*, University West Michigan, http://www.wmich.edu/evalctr/archive_checklists/constructivisteval.pdf
- OECD- DAC, 2010, *Quality Standards for Development Evaluation*, OECD, Paris, <http://www.oecd.org/dataoecd/55/0/44798177.pdf> ;

- OECD, 2010, *Evaluating Development Cooperation – Summary of Key Norms & Standards*, OECD, DAC, Paris
<http://www.oecd.org/dataoecd/12/56/41612905.pdf>
- *Paris Declaration on Aid Effectiveness: Ownership, Harmonisation, Alignment, Results and Mutual Accountability*, 2005,
<<http://www.oecd.org/dataoecd/11/41/34428351.pdf>> .
- *United Nations Millennium Declaration*, GA Res 55/2, UN GAOR, 55th Sess, Supp no. 49, U.N. Doc. A/55/49 (2000)
<<http://www.un.org/millennium/declaration/ares552e.htm>> .

Recommended reading:

- Picciotto, R 2002, 'Development Cooperation and Performance Evaluation: The Monterrey Challenge', Working Paper, World Bank Operations Evaluations Department, Washington D.C.
- OECD, 2010, *Evaluation in Development Agencies*, Paris
- OECD, *DAC Criteria for Evaluating Development Assistance*
<http://www.oecd.org/document/22/0,2340,en_2649_34435_2086550_1_1_1_1,00.html> .
- Norton, J 2001, 'International Financial Institutions and the Movement towards Greater Accountability and Transparency: the case of legal reform programs and the problem of evaluation' *International Lawyer*, vol. 35, pp. 1443 – 1479.
- Gasper, D 2000, 'Evaluating the Logical Framework Approach: Towards learning orientated development evaluation' *Public Administration and Development*, vol. 20 17-28.
- Baker J 2000, *Evaluating the Impact of Development Projects on Poverty: a Handbook for Practitioners*, World Bank, Washington D.C., 12,
<<http://go.worldbank.org/8E2ZTGBOI0>> .
- Binnendijk, A 2000, *Results-based Management in Development Cooperation Agencies: a Review of Experience*, OECD-DAC, Paris.
- Cracknell, B 2000, *Evaluating Development Aid: Issues, Problems and Solutions*, Sage, London
- Foresti, M 2007, 'Evaluation Policies and Practices in Development Agencies', Série Notes Méthodologiques no. 1, December, Agence Française de Développement, Paris / ODI, London.
- Guba, E & Lincoln, Y 1989, *Fourth Generation Evaluation*, Sage, California.
- Leeuw, F & Furubo, J 2008, 'Evaluation Systems: What Are They and Why Study Them?' *Evaluation*, vol. 14, no. 2, pp. 157 – 169.
- MacKay, K 2002, 'The World Banks ECB Experience' *New Directions for Evaluation*, no. 93, Spring, pp. 81-99.
- OECD-DAC 1991, *Principles for Evaluation of Development Assistance*, OECD, Paris.
- OECD 2002, *Glossary of Key Terms in Evaluation and Results-based Monitoring*, OECD, DAC, Paris.
- Patton M 2002, *Qualitative Research and Evaluation Methods*, 3rd edn, Sage, Thousand Oaks California.
- Perrin, B 1998, 'Effective Use and Misuse of Performance Measures', *American Journal of Evaluation* vol. 19, no. 3, 367-379.
- Van Thiel, S & Leeuw, F 2002, 'The Performance Paradox in the Public Sector' *Public Performance & Management Review* vol. 25, no. 3, 267-281.
- White, H 2005, 'Challenges in Evaluating Development Effectiveness', IDS Working Paper no. 242, Institute of Development Studies, Brighton.
- World Bank 1998, *Assessing Aid: What Works, What Doesn't, and Why*, Oxford University Press, New York.

19 **11.00-12.00: Student discussion and exercises**

- To be supplied after commencement.

20 **1.00-2.30: Evaluating judicial reform**

Minimum reading:

- Armytage, L 2012, *Reforming Justice: a journey to fairness in Asia*, Cambridge University Press; Chapter 7.
- Blair, H & Hansen, G 1994, *Weighing in on the Scales of Justice: Strategic Approaches for Donor-Supported Rule of Law Programs*, USAID Program and Operations Assessment Report No. 7, USAID, Washington D.C.; summary (vii-x) and chts 1+2
- Bollen, K, Paxton, P & Morishima, R 2005, 'Assessing International Evaluations: An Example From USAID's Democracy and Governance Program', *American Journal of Evaluation*, vol. 26, no. 2, pp. 189-203.
- Hammergren L, 2002, 'Performance Indicators for Judicial Reform Projects,'
[1;<http://siteresources.worldbank.org/INTLAWJUSTINST/Resources/Hammergrenperformance.pdf>](http://siteresources.worldbank.org/INTLAWJUSTINST/Resources/Hammergrenperformance.pdf).
- McMahon E 2001, 'Assessing USAID's Assistance for Democratic Development: Is it Quantity versus Quality?' *Evaluation* vol. 7, no. 4, pp.453-467.
- Messick, R, *Key Functions of Legal Systems with Suggested Performance Measures*, (World Bank, date unknown),
<<http://www.gsdr.org/go/display/document/legacyid/282>>
- Trubek, D, 2003, 'The "Rule of Law" in Development Assistance: Past, Present, and Future', paper,
<http://www.law.wisc.edu/facstaff/trubek/RuleofLaw.pdf> .

Recommended reading:

- Toope, S 2003, 'Legal and Judicial Reform through Development Assistance: Some Lessons,' *McGill Law Journal*, vol. 48, pp. 357-417.
- Trubek, D & Galanter, M 1974, 'Scholars in Self-Estrangement: Some Reflections on the Crisis in Law and Development Studies in the United States', *Wisconsin Law Review*, no. 4, pp.1062-1102.
- Trubek, D 1996, 'Law and Development: Then and Now', *American Society of International Law Proceedings*, Vol. 90, 223-226.
- Hammergren L, 2002, 'Assessments, Monitoring, Evaluation, and Research: Improving the Knowledge Base for Judicial Reform Programs',
<http://www.pogar.org/publications/judiciary/linn1/knowledge.pdf>
- Dakolias, M 2005, 'Methods for Monitoring and Evaluating the Rule of Law', *Applying the "Sectoral Approach" to the Legal and Judicial Domain: CILC's 20th Anniversary Conference*, Centre for International Legal Cooperation, Leiden, pp. 9-26.
- Dakolias, M, 1999, 'Court Performance Around the World: A Comparative Perspective', *Yale Human Rights & Development Law Journal*, vol. 2, pp. 87-142.
- De Vries, W 2001, 'Meaningful Measures: Indicators on Progress, Progress on Indicators,' *International Statistical Review*, vol. 69, no. 2, pp. 313-331.
- Gupta P, Kleinfeld, R, & Salinas, G 2002, *Legal and Judicial Reform in Europe and Central Asia*, World Bank, Washington D.C.
- Harvard Kennedy School, 2008, *Indicators of Safety and Justice: Their Design, Implementation and Use in Developing Countries*, summary of workshop, 13-15 March,
http://www.hks.harvard.edu/var/ezp_site/storage/fckeditor/file/pdfs/center-s-programs/programs/criminal-justice/justice_indicators_workshop_2008.pdf

- Landman, T & Hausermann, J 2003, *Map-making and analysis of the main international initiatives on developing indicators on democracy and good governance*, Final Report, University of Essex Human Rights Centre.
- Reiling, D, Hammergren, L & Di Giovanni, A 2007, *Justice Sector Assessments - A Handbook*, World Bank, Washington D.C.
- UN 2008, *Report on Indicators for Promoting and Monitoring the Implementation of Human Rights*, UN Doc HRI/MC/2008/3; <http://www2.ohchr.org/english/issues/indicators/index.htm>.
- UNDP 2004, *Governance Indicators: A Users Guide*, United Nations Development Programme Bureau for Development Policy, New York.
- United States General Accounting Office (GAO) 2001, 'Former Soviet Union: U.S. Rule of Law Assistance Has Had Limited Impact', Report to Congressional Requesters, GAO, Washington D.C.

21 2.30-3.00: Frameworks of measurement

Minimum reading:

- Agrast M, Botero J & Ponce A, 2010, *Rule of Law Index*, The World Justice Project -www.worldjusticeproject.org. Cht 2 (pp21-39) + country profiles.
- American Bar Association, *The Judicial Reform Index 2009*, <http://www.abanet.org/rol/publications/judicial_reform_index.shtml> .
- European Commission for the Efficiency of Justice (CEPEJ) 2010, *Report on European Judicial Systems - Edition 2010 (2008 data): An Overview*, CEPEJ, Strasbourg. Also: *The European Commission for the efficiency of Justice 2009*, Council of Europe, <http://www.coe.int/t/dghl/cooperation/cepej/default_en.asp>.
- Henderson, K & Autheman, V 2003, 'A Model Framework for a State of the Judiciary Report for the Americas: Lessons Learned and Monitoring and Reporting Strategies to Promote the Implementation of the Next Generation of Reforms', http://www.ifes.org/files/rule-of-law/Tool-kit/Transparency_Checklist_EN.pdf
- National Center for State Courts 2005, *Courtools, Trial Court Performance Measures*, National Center for State Courts, Williamsburg.
- National Center for State Courts 2008, *International Framework for Court Excellence*, National Center for State Courts, Williamsburg.
- Productivity Commission 2008, *Report on Government Services*, 2011, Canberra, Justice Preface, C.1 and C.2, respectively, <http://www.pc.gov.au/gsp/>
- *RechtspraakQ, A Quality System for the Courts*, 2004, <<http://siteresources.worldbank.org/INTLAWJUSTINST/Resources/rechtspraakcompletereport.doc>> .

Recommended reading:

- Armytage, L 2012, *Reforming Justice: a journey to fairness in Asia*, Cambridge University Press; Annex A.
- Albers, P 2003, *Evaluating Judicial Systems: A balance between variety and generalisation*, CEPEJ, Strasbourg.
- Blank J and others, 2004, *Benchmarking in an International Perspective - An International Comparison of the Mechanisms and Performance of the Judiciary System*, Rotterdam; <<http://siteresources.worldbank.org/INTLAWJUSTINST/Resources/Benchmarking.pdf>> .
- Blankenburg, E n.d, *Indicators of growth of the systems of justice in Western Europe of the 1990s: The legal profession, courts, litigation and budgets*, Amsterdam, <<http://siteresources.worldbank.org/INTLAWJUSTINST/Resources/comparativeData.pdf>> .

- Freedom House 2011, *Freedom in the World*, <http://www.freedomhouse.org>.
- Global Integrity 2010, *Global Integrity Index*, <http://commons.globalintegrity.org/2010/01/freedom-in-world-2010.html> .
- Hyden, G & Court, J 2002, 'Governance and Development: World Governance Survey', discussion paper no. 1, United Nations University.
- Hyden, G, Court, J & Mease, K 2004, *Making Sense of Governance: Empirical Evidence from Sixteen Developing Countries*, Lynne Rienner, Boulder, 191; http://www.odi.org.uk/wga_governance/Index.htm
- Transparency International 2007, *Global Corruption Report: Corruption in Judicial Systems*, Cambridge University Press, Cambridge.
- Transparency International, *Combating Corruption in Judicial Systems: Advocacy Toolkit*, Transparency International, Berlin, <www.transparency.org/content/download/27437/413264/file/Judiciary_Advocacy_ToolKit.pdf>
- Vera Institute of Justice 2003, *Measuring Progress toward Safety and Justice: A Global Guide to the Design of Performance Indicators across the Justice Sector*, Vera Institute of Justice, New York.
- World Bank 2009, *World Development Indicators 2009*, World Bank, Washington D.C.
- World Bank 2011, *Doing Business* <<http://www.doingbusiness.org/Downloads/>>
- *World Development Indicators 2009*, <<http://go.worldbank.org/U0FSM7AQ40>> .

22 3.00-4.00: Student discussion and exercises

- To be supplied after commencement.

DAY 6 FRIDAY, 14 SEPTEMBER (x6)

23 9.00-10.30: AusAID's experience in PNG

Minimum reading:

- Armytage L, 2010, "[Judicial reform in Asia: case study of AusAID's experience in Papua New Guinea: 2003-2007](#)", *Journal of Development Effectiveness*, Vol. 2, No. 4, December, 442–467.
- Armytage, L 2008, "[Legal and judicial reform performance monitoring: the PNG approach](#)", *European Journal of Development Research (EJDR)* 20.1, 141-157.
- *The National Law & Justice Policy and Plan of Action 2000*, Government of Papua New Guinea Law and Justice Sector <<http://www.lawandjustice.gov.pg/www/html/50-overview.asp>> .

Recommended reading: TBA.

24 10.30-12.00: Student discussion and exercises.

- To be supplied after commencement.

25 1.00-2.00: Justice and conflict

Minimum reading:

- World Bank, *World Development Report 2011: Conflict, Security and Development*; Overview pp 1-44. <http://wdr2011.worldbank.org/fulltext>

Recommended reading: TBA.

26 2.00-3.00: Student exercise

- To be supplied after commencement.

27 3.00-4.00: Conclusions, review and wrap-up.

Instructions for written work

- Essays should be typed, double-spaced, and should contain appropriate referencing and a bibliography. Hard copies may be printed double-sided.
- With regards to referencing, students should use the Australian Guide to Legal Citation (AGLC): <http://mulr.law.unimelb.edu.au/go/aglc>
- Where material used in assignments has been obtained from the internet, appropriate references must be provided. Internet material should be cited by providing the address of the site accessed and the date on which it was accessed.
- Students must retain a copy of their essays and assignments.

Assignment submission guidelines

You are required to submit your assignment in electronic form and an **identical hard copy**. **Both the online and hardcopy assessments must be submitted by the submission deadline.**

Electronic copy

All assignments must be submitted online via the Assignment Dropbox on the relevant LMS site for your subject. Instructions on how to submit your assessment online are available on each LMS site. The time and date of submission as recorded on the LMS site will be taken as the **official (final) record of submission**. Please allow plenty of time to upload your assignment.

If you experience difficulties submitting your assignment electronically, please contact the eLearning/LMS Administrator on 02 9351 0328 **prior to the submission deadline or your paper may be marked as late and marking penalties applied.**

Printed copy

The hard copy should be submitted at the Information Desk, Level 3, New Law School Building, Camperdown Campus **or** at the counter on Level 12 of the Old Law School Building, Phillip St.

An Assignment Coversheet **must be submitted** with the hardcopy version **ONLY**. (By submitting via the LMS site you have agreed to the conditions set out in the Assignment Dropbox.) Assignment Coversheets are available online: <http://sydney.edu.au/law/cstudent/coursework/forms.shtml>. Forms can also be obtained from the Student Information Desk: Level 3, New Law School Building. The Law School reserves the right not to mark assignments that do not have coversheets attached with all fields completed.

All assessments submitted to the Law School may be subject to analysis by similarity detecting software, at the lecturer's discretion. The software is used as a tool to assist in identification of work that is poorly referenced or has been cut and pasted from other people's work without attribution, and to assist the Faculty in its educational function of ensuring that students learn to attribute the words and ideas of others appropriately. Students should therefore note that either all or a random selection of assignments submitted in this unit of study will be submitted to similarity detecting software.

Assignment deadline extensions ("Simple Extensions")

A Simple Extension is an extension of *up to 7 calendar days* which is granted **in writing** directly by a lecturer. A student *should not* submit a special consideration form for such a request. For more information see:

LLB:<http://sydney.edu.au/law/cstudent/undergrad/exams.shtml>.

JD:<http://sydney.edu.au/law/cstudent/jd/exams.shtml>

Applications for special consideration

See LLB: <http://sydney.edu.au/law/cstudent/undergrad/exams.shtml#specialcon>

JD: <http://sydney.edu.au/law/cstudent/jd/exams.shtml#specialcon>

Please note:

- Applications must be submitted ASAP, and no later than 5 days following the exam/assessment due date. (Where possible, applications should be submitted *before* the exam or assessment due date.)
- If awarded, Special Consideration will take the form of a replacement assessment or formal extension. **No additional marks or leniency in marking will apply.**

Academic Dishonesty and Plagiarism

University practice on plagiarism and academic honesty is governed by the University's *Academic Dishonesty and Plagiarism in Coursework Policy* 2012. The policy can be accessed via: <http://sydney.edu.au/policies/>. Students are expected to familiarise themselves with this policy, which contains the University's principles of academic honesty as well as definition of plagiarism and information about other forms of academic dishonesty. Students are expected to act honestly, ethically and with integrity. When presenting work for assessment, students must acknowledge where they have used words or ideas which are not their own. The policy requires students to submit a signed statement of compliance for all work submitted for assessment. Therefore, **all students must submit their essay with the Assignment Coversheet** (see *Assignment submission guidelines* section for links to coversheet forms) and must give the Declaration on Plagiarism set out on the Assignment Coversheet.

"Co-operation is not legitimate if it unfairly advantages a student or group of students over others." As a general rule, students should not discuss the details of take-home exams and should be careful when discussing other assessments. This includes private conversations, informal discussions, formal study groups, and posting on message boards or other public forums. If you are in doubt about these boundaries you should review the definition of legitimate co-operation in the Policy

Students who are suspected to have engaged in academic dishonesty will be reported to the Dean's nominee for academic dishonesty and plagiarism and will be required to attend a formal meeting to discuss the possible outcomes. A record is kept in relation to each instance. Serious cases and repeat cases will be referred to the University Registrar and could result in exclusion from the University. Information on honest academic practices and avoiding plagiarism can be found at:

WriteSite (<http://writesite.elearn.usyd.edu.au/>):

to assist with writing skills, quoting, paraphrasing and referencing.

iResearch (<http://sydney.edu.au/library/skills/>):

short learning tools for referencing and avoiding plagiarism.

The Learning Centre (http://sydney.edu.au/stuserv/learning_centre/index.shtml):

workshops and resources on a variety of research and writing skills such as study skills, academic reading and writing and oral communication skills.

Help Manual

http://sydney.edu.au/law/cstudent/coursework/docs_pdfs/helpmanualstyleguide.pdf

contains information about making an academic argument (p11), referencing (p12) and plagiarism (p17).

All Your Own Work http://sydney.edu.au/student_affairs/plagiarism_index.shtml

A guide to avoiding plagiarism, cheating and copying.

Students should note that plagiarism, academic dishonesty, and other forms of academic misconduct (including misstatement of word count or submitting a hard copy which is not identical to the electronic version of an assessment) **can have serious consequences on admission to practice.**

Assessment grading guidelines

These guidelines are designed to provide students with an understanding of the standards applied when grading assessments. Students should note that the type of assessment will affect the relevance of each factor. For example, the amount and type of research required will vary between a research essay, which will require independent research beyond the prescribed materials, and a problem question which may only require appropriate analysis of the prescribed materials.

These standards may be applied in conjunction with specific marking criteria.

Fail (Below 50%)

Work may fail for any or all of the following reasons:

- Does not answer the question.
- Contains significant or numerous errors.
- Few or no identifiable arguments.
- Content that is inappropriate or irrelevant.
- Lack of research or analysis.
- Difficult or impossible to understand through poor grammar, expression or structure.
- Overall, does not demonstrate the minimum level of competence in the assessment.

Pass (50-64%)

Work receiving a pass grade will generally exhibit the following characteristics:

- Identifies the key issues, but does not follow through with a reasoned argument.
- Contains some significant errors.
- Displays satisfactory engagement with the key issues.
- Offers descriptive summary of material relevant to the question.
- Superficial use of material, and may display a tendency to paraphrase.
- Demonstrates little evidence of in-depth research or analysis.
- Adequate expression.
- Overall, demonstrates the minimum level of competence in the assessment and satisfies the requirements to proceed to higher-level studies in the degree or subject area.

Credit (65-74%)

Work receiving a credit grade will generally exhibit the following characteristics:

- Covers main issues fairly well in answering the question.
- Contains no significant errors
- Demonstrates an attempted critical approach to the issues.
- Demonstrates reasonably sound research and analysis in addressing the key issues.
- Has a clear structure and reasonably clear expression.

Distinction (75-84%)

Work receiving a distinction grade will generally exhibit the following characteristics:

- Completely answers the question.
- Achieves a critical and evaluative approach to the issues.
- Content and structure is well organised in support of the argument.
- Demonstrates extensive research and analysis to support a well-documented argument.
- Generally well expressed and free from errors.
- Has a clear structure and is well articulated.

High Distinction (85% +)

Work receiving a high distinction grade will generally exhibit the following characteristics:

- Completely answers the question.
- Contains striking originality of approach or analysis.
- Demonstrates exhaustive or innovative research (where independent research required).
- Exceptionally well written, structured and expressed.
- Is otherwise exceptional in some way.

Moderation of Grades Policy

Results in this unit of study are subject to the Faculty's moderation of grades policy:

LLB: http://sydney.edu.au/law/cstudent/undergrad/moderation_grades.shtml

JD: http://sydney.edu.au/law/cstudent/jd/moderation_grades.shtml

Collecting Your Assignments

The Faculty maintains a list of assignments available for collection:

LLB: http://sydney.edu.au/law/cstudent/undergrad/returned_assignments.shtml

JD: http://sydney.edu.au/law/cstudent/jd/returned_assignments.shtml

Attendance requirement

Students are required to attend 70% of the formal classes in each unit of study. Failure to meet this requirement may result in a student being precluded from sitting the final assessment, and being discontinued from the unit of study.

Appeals against Academic Decisions

The Faculty procedure clearly sets out the steps a student must take to appeal an academic decision. See:

LLB: <http://sydney.edu.au/law/cstudent/undergrad/appeals.shtml>

JD: <http://sydney.edu.au/law/cstudent/jd/appeals.shtml>

Advice and support for appeals and the appeals process is available from the Students Representative Council (SRC) (undergraduate students) or SUPRA (postgraduate students).

Recording and use of lecture material

Lectures are literary works subject to the copyright of the lecturer. Students have a limited licence to make use of these lectures by taking notes and making a limited number of copies for their own research and study. That licence does not extend to making multiple copies of these notes, publishing them, electronically transmitting them or making them available online in any form.

Lectures may not be recorded without the express personal permission of the lecturer to the student concerned.

The University Learning Management System (LMS)

The University Learning Management System (LMS) is used by the Faculty of Law to manage online course content. A LMS site is developed for each unit of study. Material on these sites is supplemental and supportive to your face-to-face studies and includes: Unit of study outlines, class handouts, PowerPoint slides, notices, and links to policies and student resources. Students are strongly advised to check their LMS sites regularly as some important notices and assessment details may be posted to the site. LMS sites are available on the first day of classes for semester-length units of study.

To login go to <http://elearning.sydney.edu.au>. You will require your unikey login to access the site. For more information please contact your eLearning/LMS Administrator via email at law.elearning@sydney.edu.au or visit: <http://sydney.edu.au/elearning/student/index.shtml>

Withdrawal from Units of Study

For more information please see:

LLB: http://sydney.edu.au/law/cstudent/undergrad/docs_pdfs/2012Importantdates.pdf

JD: http://sydney.edu.au/law/cstudent/jd/docs_pdf/Dates2012.pdf

General enquiries

Telephone: 02 9351 0351 Fax: 02 9351 0200

E-mail: law.info@sydney.edu.au

Address: Information Officer
Faculty of Law, Level 3, Law School Building F10
Eastern Avenue, Camperdown Campus
The University of Sydney NSW 2006

Website: sydney.edu.au/law

Other useful contacts and resources:

Disability Services: <http://sydney.edu.au/stuserv/disability/>

Counselling and Psychological Services (CAPS): <http://sydney.edu.au/stuserv/counselling/>

Sydney University Law Society (SULS): <http://www.suls.org.au/>

Learning Centre: http://sydney.edu.au/stuserv/learning_centre/index.shtml

Code of Conduct for Students

We remind all students of the Student Code of Conduct – its requirement for students to treat each other with respect – and not to harass or discriminate against other students. This would include not only interactions in class but also posting of inappropriate material and comments about other students and staff of the University in social media. Breach of the Student Code of Conduct may have serious consequences, including disciplinary proceedings brought by the University. Please see the attached link to the Code of Conduct for Students

<http://sydney.edu.au/policies/showdoc.aspx?recnum=PDOC2011/215&RendNum=0>