

FOOD, FARMING, AND SUSTAINABILITY (LAW 796)

Fall 2018

Monday & Wednesday, 2:00 pm – 3:15 pm
Room 141

Professor Michael Fakhri
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COURSE GOALS

The purpose of this course is to learn about how laws structure processes of food production, distribution, and consumption. We will survey food and agricultural laws in order to discuss broader questions of ecological sustainability and commerce. You should leave the course with an appreciation of how questions regarding food and agricultural law do not neatly fit distinctions between the local and global, domestic and international. Finally, through your paper, you will develop regulatory research skills.

OFFICE HOURS

My office hours are in Room 357 on Tuesdays, 1:15 pm – 3:00 pm. Discussing the material in person is usually much better than e-mail. I ask students coming with a question during office hours to be prepared with what they think the answer is or how they might go about answering the question.

REQUIRED TEXTS

- Susan Schneider, *FOOD, FARMING AND SUSTAINABILITY* (2nd edition, 2016)
- Additional required readings will be circulated

RECOMMENDED TEXTS

- Mary Jane Angelo, Jason J. Czarnezki, and William S. Eubanks II, *FOOD, AGRICULTURE, AND ENVIRONMENTAL LAW* (2013)
- Lisa Heinzerling, *US FOOD LAW: CASES AND MATERIALS* (2017)

ACCESSIBLE EDUCATION FOR ALL STUDENTS

I recognize that students bring a variety of learning styles to the course, and that some learning styles may require adjustment to course structure. I am happy to talk with you about such adjustments. Please contact me if there are aspects of the instruction or design of this course that result in barriers to your participation as a result of learning style or diagnosed disability. For more information, you are also encouraged to contact the Accessible Education Center in 164 Oregon Hall at 541-346-1155 or uoaec@uoregon.edu.

INCLUSION AND COLLEGIALITY

It takes all of us to ensure that we work in an environment that is inclusive and fosters awareness, understanding, and respect for all types of diversity. If you feel excluded or threatened, please contact Associate Dean of Students Jennifer Espinola. The University Bias Response Team is also a resource that can assist you. See: <http://bias.uoregon.edu> or call 541-346-2037.

ACADEMIC INTEGRITY

Students are expected to demonstrate high levels of academic integrity and professionalism, and are prohibited from committing or attempting to commit any act that constitutes academic misconduct. Plagiarism and other forms of academic dishonesty will be grounds for automatic failure in the course. If you have questions about conduct please ask me or review the University Student Conduct Code, available at <http://conduct.uoregon.edu> or the UO policy at: http://www.uoregon.edu/~stl/programs/student_judi_affairs/conduct-code.htm

GRADING

The final grade will be comprised of a final essay (70%) and class participation (30%). I will provide my evaluation criteria for the final essay in a separate handout.

Class participation will be determined according to how well you are prepared are for class, how well you lead class discussion, and your attendance. This course is a broad survey and therefore, at times, there is a significant amount of reading. Nonetheless, I expect you to closely read and critically engage with the material. This will prepare you to participate in class. Also, the more adept you are with the material the better you will be able to situate your research within broader, ongoing debates. In sum, the more prepared you are and the more you participate the more you will get out of the course. I am looking for consistent high-quality participation, both in terms of responding to questions and asking questions.

You can demonstrate your grip on the material by answering questions in class in a way that identifies the relevant issues and applicable laws, and details how those laws may apply. The more specific you can be by referencing the readings and relevant provisions when discussing a problem the better – especially during more conceptual discussions. Students are also encouraged to ask questions during class. What matters is the quality of your participation and not the frequency.

Attendance is mandatory – you should email me if you anticipate that you will miss class for a legitimate reason. Your participation grade will be affected by poor attendance.

PARENTAL POLICY

If you are a parent, I appreciate that child-care is a principal concern. Little ones of all ages are very welcome in class and during office hours.

TOPIC & READING ASSIGNMENT	DATES
PART ONE: INTRODUCTION	
A. What is Food Law? What is Agricultural Law? TOPICS: What are the different ways to examine food and agriculture? What does it mean to study food in terms of a "system"? What role does law play? What is a farm?	
Why Study Food and Agricultural Law? - Schneider, pgs. 3-19	27 August (1)
How May We Study Food? A Food System Approach - Schneider, pgs. 19-60 - Andrea Crawford, "What's the Difference Between a Garden and a Farm", Slate (February 12, 2014): http://www.slate.com/articles/life/food/2014/02/farm_vs_garden_the_definition_depends_on_whether_you_ask_the_usda_or_the.html	29 August (2)
*** No class on 3 September *** Labor Day	
Intro to the Farm Bill and Farm Support Programs - Schneider, pgs. 61-79	5 September (3)
Research Workshop with Kelly Reynolds, Law Librarian	10 September (4)

TOPIC & READING ASSIGNMENT	DATES
PART TWO: PRODUCTION	
<p>A. Domestic Economic Support to Agriculture</p> <p>TOPICS: What are the different mechanisms in which US farms are economically supported by the state? How we understand the relationship of food and agriculture? How do we draw the distinction between state and market?</p> <p>RECOMMENDED: For those overwhelmed with the complexity of the farm programs as described, the USDA Farm Service Agency website has helpful fact sheets available for each program: http://www.fsa.usda.gov/FSA/</p>	
<p>The Farm Safety Net: Commodity Programs, Insurance Programs, and Disaster Relief</p> <p>- Schneider, pgs. 79-117</p>	<p>12 September</p> <p>(5)</p>

TOPIC & READING ASSIGNMENT	DATES
<p>Eating as a Matter of Farm Policy</p> <ul style="list-style-type: none"> - Schneider, pgs. 119-123 - Mark Bittman, Michael Pollan, Ricardo Salvador & Olivier De Schutter, "How a National Food Policy Could Save Millions of American Lives", Washington Post (November 7, 2014) - Mark Bittman, Michael Pollan, Ricardo Salvador & Olivier De Schutter, "Food and More: Expanding the Movement for the Trump Era", Civil Eats (January 16, 2017) - Abby Wilkerson, "Judging, Tasting, Knowing 'Good' Food" FOOD, CULTURE & SOCIETY (2016) <p><i>Recommended:</i></p> <ul style="list-style-type: none"> - Randy Alison Aussenberg & Kirsten Colello, "Domestic Food Assistance: Summary of Programs", Congressional Research Service R42353 (February 24, 2014) - Laurie J. Beyranevand & Emily M. Broad Leib, "Making the Case for a National Food Strategy in the United States" FOOD & DRUG LAW JOURNAL (2017) 	<p>17 September</p> <p>(6)</p>
<p>US Domestic Support and Global Politics</p> <ul style="list-style-type: none"> - Noah Zerbe, "Feeding the famine? American food aid and the GMO debate in Southern Africa" FOOD POLICY (2014) - Ntina Tzouvala, "Food for the Global Market: The Neoliberal Reconstruction of Agriculture in Occupied Iraq (2003-2004) and the Role of International Law" GLOBAL JURIST (2017) 	<p>19 September</p> <p>(7)</p>

TOPIC & READING ASSIGNMENT	DATES
<p>B. Agriculture and Environmental Law</p> <p>TOPICS: What does it mean to describe our ecosystem through environmental law rather than agricultural law?</p>	
<p>Agricultural Laws Relating to Environment; Environmental Law and Agricultural Exceptions</p> <ul style="list-style-type: none"> - Schneider, pgs. 125-200; 213-215 	<p>24 September (8)</p>
<p>Environmental Laws Relating to Agriculture; Regulatory Debates</p> <ul style="list-style-type: none"> - William Eubanks II, "Agriculture, Food, and the National Environmental Policy Act", in Mary Jane Angelo, Jason J. Czarnezki and William S. Eubanks II, <i>FOOD, AGRICULTURE, AND ENVIRONMENTAL LAW</i> (2013), pgs. 207-223 - Linda Wendling, "Food Safety Modernization Act - Regulatory Update"; and D. Bruce Myers Jr., "Getting Serious About Greenhouse Gas Emissions From U.S. Livestock Production" <i>ABA Section of Environment, Energy, and Resources, 19:3 Agricultural Management Committee Newsletter</i> (April 2015) pgs. 5-13 	<p>26 September (9)</p>
<p>C. Financing the Farming Operation</p> <p>TOPICS: What makes farm financing unique? What types of risks are associated with farming operations? How do different financing schemes mitigate risk?</p>	

TOPIC & READING ASSIGNMENT	DATES
<p>Overview of Farm Finances and Federal Credit Assistance</p> <ul style="list-style-type: none"> - Schneider, pgs. 217-260 <p style="text-align: center;">*** PAPER TOPICS DUE TODAY ***</p>	<p>1 October (10)</p>
<p>Farm Credit System and Financing</p> <ul style="list-style-type: none"> - Schneider, pgs. 260-275 [skim 274-275 and do not worry about exploring UCC Article 9 and answering the questions] - Kenneth Miller & Adam Prizio, "Innovative Use of the Law for Small-Scale Producers", 26 J. ENVTL. LAW AND LITIGATION 131-146 (2011) - Chris Idlebrook, "Taking Stock of Vermont's CSA Movement", VTDigger.org (Oct. 22, 2012) 	<p>3 October (11)</p>
<p>D. Who is the Farm Worker?</p> <p>TOPICS: How does agriculture raise issues of race, ethnicity, and gender? How does answering questions of identity in terms of labor and class differ than in terms of race, ethnicity, and gender? How do all these categories intersect?</p>	
<p>Labor and Employment Law</p> <ul style="list-style-type: none"> - Schneider, pgs. read: 355-405; skim: 405-427; read: 427-431 	<p>8 October (12)</p>

TOPIC & READING ASSIGNMENT	DATES
<p>Racial Justice</p> <p>- Schneider, pgs. 303-354</p> <p>Recommended: Rachel Kelly and Rich Prog, <i>An Annotated Bibliography on Structural Racism Present in the U.S. Food System</i> (5th ed.): https://www.canr.msu.edu/resources/structural_racism_in_us_food_system</p> <p style="text-align: center;">GUEST SPEAKER:</p> <p style="text-align: center;">MARISSA ZARATE (JD UO 2011)</p> <p style="text-align: center;">EXECUTIVE DIRECTOR HUERTO DE LA FAMILIA</p>	<p>10 October</p> <p>(13)</p>
<p>Urban Farming with Harper Keeler, Director of UO Urban Farm</p> <p><i>Please note that we will spend at least two hours working on the Urban Farm. This will involve a significant amount of physical exertion – please dress accordingly (work boots, old clothes, work gloves, etc.). There will be tasks for all levels of physical ability. Nonetheless, please let me know if you are unable to participate and I will accommodate your request.</i></p> <p>TOPICS: We shall revisit the question of the difference between a farm and a garden. At this point in the course, however, you should have more knowledge to answer the question of why these distinctions may matter in law. During the day you should also keep in mind that working the land and lawyering are both labor-intensive, pragmatic, skilled work – can we learn anything from the practice and ethic of urban farming and apply it to our sense of good lawyering?</p>	<p>12 October</p> <p><i>Make-up class</i></p> <p><i>Location: UO Urban Farm</i></p> <p>10:00 am – 12:30 pm</p> <p>(14-15)</p>

TOPIC & READING ASSIGNMENT	DATES
<p>Forms of Slavery</p> <ul style="list-style-type: none"> - Schneider, pgs. 431-432 	<p>15 October (16)</p>
PART THREE: POLITICAL ECONOMY AND SOCIAL MOVEMENTS	
<p>Antitrust Law</p> <ul style="list-style-type: none"> - Lina Khan, "Obama's Game of Chicken" <i>The Washington Monthly</i> (Nov/Dec 2012) - Christine A. Varney, "The Capper-Volstead Act, Agricultural Cooperatives, and Antitrust Immunity" <i>The Anti-Trust Source</i> (2010) <p><i>Recommended: US DOJ, Competition and Agriculture: Voices from the Workshops on Agriculture and Antitrust Enforcement in our 21st Century Economy and Thoughts on the Way Forward</i> (May 2012)</p>	<p>17 October (17)</p>
<p>Food Sovereignty</p> <ul style="list-style-type: none"> - Priscilla Claeys, "The Creation of New Rights by the Food Sovereignty Movement: The Challenge of Institutionalizing Subversion" (2012) 46 <i>Sociology</i> 844-860 - Kyle Powys Whyte, "Indigenous Food Sovereignty, Renewal and Settler Colonialism" in M. Rawlinson & C. Ward, <i>The Routledge Handbook of Food Ethics</i> (2016) pp. 354-365 - Declaration of Nyéléni (2007) 	<p>22 October (18)</p>

TOPIC & READING ASSIGNMENT	DATES
<p>Plants and Property</p> <ul style="list-style-type: none"> - Lucile Brockway, "Plant Imperialism" (1983) 33 <i>History Today</i> 31–36 - Jack Kloppenburg, "Re-Purposing the Master's Tools: The Open Source Seed Initiative and The Struggle for Seed Sovereignty" (2014) 41 <i>Journal of Peasant Studies</i> 1225–1246 - Cristian Timmermann and Zoë Robaey, "Agrobiodiversity Under Different Property Regimes" (2016) 29 <i>Journal of Agricultural and Environmental Ethics</i> 285–303 <p><i>Recommended: Vandana Shiva, "Sowing Seeds of Freedom" in Vandana Shiva (ed.), Seed Sovereignty, Food Security: Women in the Vanguard of the Fight Against GMOs and Corporate Agriculture (2016), pp. 287-296</i></p>	<p>24 October (19)</p>
<p>Genetically Modified Organisms – What's At Stake?</p> <ul style="list-style-type: none"> - Schneider, pgs. 547 – 561 - Alison Bernstein, Anastasia Bodnar, Layla Katiraei, Kavin Senapathy, and Jenny Splitter, "The Social Consequences of the GMO Debate" <i>SciMoms</i> (10 June 2018) - Greg Trotter, "Report: GMO crops not harmful to humans, but weed resistance is a problem" <i>Chicago Tribune</i> (17 May 2016) - Dianne Lugo, "U.S. Senate passes GM food labeling bill" <i>Science</i> (8 July 2016) - Howard Weiss-Tisman, "USDA Publishes New GMO Label Rules Ahead of July 29 Deadline" <i>Vermont Public Radio</i> (4 May 2018) 	<p>29 October (20)</p>

TOPIC & READING ASSIGNMENT	DATES
PART FOUR: EATING	
A. Food Safety TOPICS: What are the notions of risk that inform food safety laws? What are the politics of food safety? How are these notions of risk and politics in food safety laws different than those informing agricultural production laws?	
Government Regulation <ul style="list-style-type: none"> - Lisa Heinzerling, US FOOD LAW: CASES AND MATERIALS (2015), pgs. 232-260 - Wendell Berry, "Solving for Pattern" (1981) 	31 October (21)
Organic Food <ul style="list-style-type: none"> - Schneider, pgs. 659 - 682 	5 November (22)
B. The Local Food Movement TOPICS: What do different people mean by "local"? What are the global implications of buying local? What is the relationship amongst the local and global food movements?	
Local Government Law <ul style="list-style-type: none"> - Gerald Frug, "The City as a Legal Concept", 93 HARVARD LAW REVIEW 1057 (1980): read pgs. 1057-1080; 1120-1154 <p style="text-align: center;">*** OPTIONAL FIRST DRAFT DUE TODAY ***</p>	7 November (23)

TOPIC & READING ASSIGNMENT	DATES
<p>Local Food Movement</p> <ul style="list-style-type: none"> - Schneider, pgs. 683 – 710 	<p>12 November (24)</p>
<p>Critical Understandings of Urban Agriculture</p> <ul style="list-style-type: none"> - Michael Roberts & Margot Pollans, “Setting the Table for Urban Agriculture”, in Martha H. Chumblor, Sorell E. Negro and Lawrence E. Bechler (eds.), URBAN AGRICULTURE: POLICY, LAW, STRATEGY, AND IMPLEMENTATION (2015), pgs. 3-22 - Sara M. Albert, “Urban Agriculture: Scales and Models”, in Martha H. Chumblor, Sorell E. Negro and Lawrence E. Bechler (eds.), URBAN AGRICULTURE: POLICY, LAW, STRATEGY, AND IMPLEMENTATION (2015), pgs. 23-47 - Tom Perkins, “On urban farming and 'colonialism' in Detroit's North End neighborhood” <i>Detroit Metro Times</i> (20 December 2017) <p><i>Recommended:</i></p> <ul style="list-style-type: none"> - Susan Schneider, Nicole Civita, and Lauren Bernadett, “Local Food Policies: Reconnecting People to their Food”, in Martha H. Chumblor, Sorell E. Negro and Lawrence E. Bechler (eds.), URBAN AGRICULTURE: POLICY, LAW, STRATEGY, AND IMPLEMENTATION (2015), pgs. 49-63 - Nathan McClintock, “Radical, Reformist, and Garden-Variety Neoliberal: Coming to Terms with Urban Agriculture's Contradictions” <i>19 Local Environment: The International Journal of Justice and Sustainability</i> 147-171 (2014) 	<p>14 November (25)</p>
<p>WRITING WORKSHOP</p> <p><i>Please circulate your draft to the class by 18 November at noon</i></p>	<p>19 November (26)</p>

TOPIC & READING ASSIGNMENT	DATES
<p>*** Classes cancelled on 21 November *** Thanksgiving</p>	
<p>C. Obesity, Hunger, Poverty</p> <p>TOPICS: How are hunger and obesity defined? How are hunger or obesity legal concepts? What are the implications of judging food as good or bad?</p>	
<p>How Do People Frame Something as a Problem?</p> <ul style="list-style-type: none"> - Schneider, pgs. 714 – 720 - Julie Guthman, “Can’t Stomach It: How Michael Pollan et al. Made Me Want to Eat Cheetos” <i>GASTRONOMICA</i> (2007) - Chin Jou, “Make America’s (Foodways) Great Again: Nostalgia, Early Twentieth-Century Dietary Critiques, and the Specter of Obesity in Contemporary Food Commentary” <i>GASTRONOMICA</i> (2017) 	<p>26 November</p> <p>(27)</p>
<p>How Do People Purport to Solve a Problem?</p> <ul style="list-style-type: none"> - Patricia Allen, “The Disappearance of Hunger in America”, 7:2 <i>Gastronomica</i> 10-23 (2007) - Margot Sanger-Katz, “Giving the Poor Easy Access to Health Food Doesn’t Mean They’ll Buy It” <i>New York Times</i> (May 8, 2015) 	<p>28 November</p> <p>(28)</p>
<p>*** Classes Cancelled 3 December & 5 December ***</p>	