

This course explores the emerging notion of the 'sharing economy' and its potential contribution to urban sustainability, with a particular focus on the role of law and regulation. The sharing economy has been defined both narrowly, in terms of the ways in which information technology is used to empower individuals or organisations to distribute, share and re-use excess capacity in goods and services; and more broadly, with an emphasis on shared governance, cooperative work, shared information, crowdsourcing, crowdfunding, collective activity, community-building, the commons and cooperative ownership. Whether broad or narrow, the focus is on the ways in which ordinary people, perhaps frustrated with the inertia of government policies and large-scale corporate routines and practices, are experimenting with different ways of moving around, powering themselves, securing food and making a living, making these transactions less wasteful and potentially more social.

This course provides an introduction to an emerging area of relevance to both business and social activism, on which there is currently little or no direct scholarship. It builds innovative bridges across diverse disciplines, as well as between different areas of legal knowledge. It introduces legal students to interdisciplinary socio-legal approaches. It aligns with a number of thematic priorities for the Law School including experiential learning, environmental law, and interdisciplinarity. It also complements the new Social Impact Clinic course run by the Faculty of Law since July 2014.

Main Topics

1. The Sharing Economy
2. Activism and Enterprise
3. Sustainability
- 4 Cities
5. Legal Entities
6. Harm Prevention and Risk Management
7. Gifts and Contracts

Recommended Prior Knowledge

No prerequisites are required. Some knowledge of the structure and governance of business associations would be an advantage but is not essential.

Learning Outcomes

At the conclusion of this course, students should be able to:

1. Understand the plural meanings of the sharing economy in critical and historical perspective
2. Evaluate and contextualise primary materials including websites, blogs, reports, interview transcripts
3. Isolate legal issues in broad terms along with the policy issues salient to them
4. Conduct independent research on legal-doctrinal issues, design issues, sustainability analysis or business planning, depending on disciplinary background
5. Carry out small group projects bringing plural disciplinary research lines together on a focused issue
6. Demonstrate effective oral communication skills by discussing and debating course concepts in a scholarly, reflective and respectful manner that is accessible to multiple disciplinary backgrounds
7. Demonstrate effective written communication skills by articulating legal concepts clearly, persuasively and appropriately

Assessment

Class Participation 15%
Reflective Journals 20%
Research Essay 45%
Group Project Presentation 20%

DAY ONE: THE SHARING ECONOMY, LAW AND ACTIVISM

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Part One: What is the Sharing Economy?

Compare the perspective of the material on the website *Commons Transitions* (www.commonstransition.org) with the following two business press articles on the Sharing Economy:

1. Gardner, J. (2013). What is the new sharing economy? Forbes. <http://www.forbes.com/sites/emc/2013/07/30/what-is-the-new-sharing-economy/>
2. The Economist. (2013). The rise of the sharing economy. *The Economist*. <http://www.economist.com/news/leaders/21573104-internet-everything-hire-rise-sharing-economy>

Juliet Schor, 'Debating the Sharing Economy' (2014), Great Transition Initiative (including responses), <http://www.greattransition.org/publication/debating-the-sharing-economy>

Discussion Question: Please come prepared with a sense of how you would define the sharing economy, and identify at least three key issues about the diverse types of sharing economy initiatives that are provoking debate.

Does *this infographic* (<http://nextjuggernaut.com/blog/understanding-the-sharing-economy-infographic/>) on *The Sharing Economy* capture that diversity of the sharing economy as illustrated by the sources above?

Part Two: Is A Sharing Economy Lawyer an Activist?

The following five readings give you a framework for thinking about a) the role of law in the sharing economy, and b) whether that role amounts to what we traditionally think of as 'activism'. The first reading frames the economy as space of ethics, community and participation, the second outlines a way of practicing law in the spirit of this approach, and the third is a short recent piece written for non-academics, bringing together those perspectives along lines similar to the underlying structure of this course.

The third and fourth readings outline more traditional visions of 'lawyering in the public interest', and you should reflect on the degree to which they are relevant to the contexts outlined in the first two readings.

Gibson-Graham, Cameron and Healy, *Take Back the Economy* (Minnesota University Press 2013), Chapter One

Janelle Orsi, *Practicing Law in the Sharing Economy* (2012), Chapter One - if any difficulty in accessing, you can read instead, Orsi and Kassan, "The Legal Landscape of the Sharing Economy" (2012) 27 *Journal of Environmental Law and Litigation* 1

Bronwen Morgan, "Legal Imagination and the Sharing Economy", *Stir Magazine*, Spring 2015, copy emailed directly to all course participants

Burns Weston and David Bollier, *Green Governance: Ecological Survival, Human Rights, and the Law of the Commons* (Cambridge 2013), Chapter 1 (Chapters 5 and 6 of the full book may interest you for deeper work on this).

Christopher Arup, "Educating Cause Lawyers in Australia After South Africa" (2010) *Law in Context* 28

DAY TWO: SUSTAINABILITY AND CITIES

• 2

Discussion of group projects/reflective journals

Part One: Sustainability

Heinrichs H. (2013) "The Sharing Economy: A Potential New Pathway to Sustainability". *Gaia* 22: 228-231

Demailly and Novel (2014). *The Sharing Economy: Make it Sustainable*, [IDDRI Report 03/2014](#), Institute for Sustainable Development and International Relations (IDIRRI), 2014 :<http://www.iddri.org/Publications/Economie-du-partage-enjeux-et-opportunités-pour-la-transition-écologique>

McGuirk, P., Dowling, R., Brennan, C. & Bulkeley, H. "Urban Carbon Governance Experiments: The Role of Australian Local Governments". *Geographical Research*. 2015;53:39-52.

Part Two: Cities

Agyreman, McLaren & Shaeffer-Borrego, *Sharing Cities* London. Friends of the Earth
(2013): www.foe.co.uk/sites/default/files/downloads/agyeman_sharing_cities.pdf

Amelia Thorpe, 'Participation in planning: Lessons from the green bans' (2013)
30 Environmental and Planning Law Journal 93

Iveson, K. (2014), Building a City For "The People": The Politics of Alliance-Building in the Sydney Green Ban Movement. *Antipode*, 46: 992–1013

Guiding question for reflective journal

Discussion topic: Does the idea of 'placemaking' help to bring together activist, legal and commercial aspects of urban sustainability?
(See http://www.pps.org/reference/what_is_placemaking/)

DAY THREE: LEGAL ENTITIES - SOCIAL ENTERPRISE, COOPERATIVES, BENEFIT CORPORATIONS

• 3

Readings

Wishart D. (2013) Snark hunting: Progressive transformative possibilities in Australia's corporate law. *Australian Journal of Corporate Law* 28, 16-34

Simon Deakin, "The Corporation as Commons: Rethinking Property Rights, Governance and Sustainability in the Business Enterprise", (2012) 37:2 *Queen's Law Journal* 339-381

Ridley-Duff and Bull, Introduction to *Understanding Social Enterprise: Theory and Practice* textbook, 2008 edition, at <http://www1.lsbu.ac.uk/bus-cgcm/conferences/serc/2008/speakers/theory-and-practice-paper.pdf>

Smith, G. and S. Teasdale. "Associative Democracy and the Social Economy: Exploring the Regulatory Challenge." (2012) *Economy and Society* 41: 151-176

Conaty and Bollier, "Toward an Open Cooperativism: A New Social Economy Based on Open Platforms, Cooperative Models and the Commons", <http://commonstransition.org/toward-an-open-co-operativism>

Gibson-Graham, Cameron and Healy, *Take Back the Economy*, Chapter 3 ("Take Back Business")

Applied material Achermann et al, *Benefit corporations – A Case Study of the US and Lessons for Australia*, A Report Prepared for B-Lab Australia by Social Impact Hub, July 2014

Malcolm Rodgers et al, *Legal Models Working Group Report*, Social Innovation, Enterprise and Entrepreneurship Alliance (SIEE), June 2014, <http://www.employeeownership.com.au/social-enterprise-legal-models/>

Ridley-Duff, Rory and BULL, Mike (2013). The FairShares Model: a communitarian pluralist approach to constituting social enterprises? In: *ISBE Conference 2013*, Cardiff, [http://shura.shu.ac.uk/7503/1/FairShares_Model_\(Phase_1\)_ISBE.pdf](http://shura.shu.ac.uk/7503/1/FairShares_Model_(Phase_1)_ISBE.pdf)

Ridley-Duff and Hurst (2014). *Responsible management in the Co-operative Movement : a report by Sheffield Business School*. 12 minute video at P2P Foundation, 'Open Cooperatives' http://p2pfoundation.net/Open_Cooperatives

Rory Ridley Duff, *The Dragon's Apprentice: a Social Enterprise Novel* (Amazon Publishing 2014), Chapters 1-5 (or more if you wish) or *The Take* (Klein and Avi documentary)

Guiding question for reflective journal

Compare two of the various legal entity structures covered by today's readings, evaluating the extent to they support a sharing economy. *(most easily done by identifying two or three specific aspects of each structure you choose).

DAY FOUR: HARM PREVENTION AND RISK MANAGEMENT

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Readings

Dubber and Valverde, "Perspectives on the Power and Science of Police", Chapter 1 of *The New Police Science: The Police Power in Domestic and International Governance*, (eds Dubber and Valverde), Stanford University Press 2006, available at http://www.sup.org/books/extra/?id=10151&i=Introduction_pages

Ericson and Doyle, *Risk and Morality*, pp.1-20 (University of Toronto Press 2003).

Koopman, Mitchell and Thierer. "The Sharing Economy and Consumer Protection Regulation: The Case for Policy Change." Mercatus Working Paper, Mercatus Center at George Mason University, Arlington, VA, December 2014. <http://mercatus.org/sites/default/files/Koopman-Sharing-Economy.pdf>

Take Back the Economy, Chapters 2 and 4 ("Take Back Work" and "Take Back the Market")

Applied material

Moira McGregor, Barry Brown and Mareike Glöss, "Disrupting the cab: Uber, ridesharing and the taxi industry" (2015) *Journal of Peer Production*, January 2015 special issue *Disruption and the Law*

Brishen Rogers, "The Social Costs of Uber" (2015) *82 U Chi L Rev Dialogue* 85

Roberta A. Kaplan & Michael L. Nadler, "Airbnb: A Case Study in Occupancy Regulation and Taxation" (2015) *82 U Chi L Rev Dialogue* 103

Guiding question for reflective journal

Consider the descriptions of Maya's and Josef's days in Chapter 2 of *Take Back the Economy*. Do either or both of these illustrates harms we might want to prevent in sharing economies? What regulatory approaches might assist us to prevent such harms?

DAY FIVE: GIFTS, CONTRACTS AND COMMONS

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Readings

Janelle Orsi, *Practicing Law in the Sharing Economy*, Ch 3, pp 95-119 on agreements

Take Back the Economy, Chapters 5 (“Take Back Property”) and 6 (“Take Back Finance”)

Erik Davis, (2006), “The Gift – Mauss, Bataille, Hyde and Derrida”, <http://erikwdavis.wordpress.com/2006/10/26/the-gift-mauss-bataille-hyde-and-derrida/>

Laboratory for the Governance of Commons: <http://blog.p2pfoundation.net/the-city-as-commons-michel-bauwens-interviews-professor-christian-iaione/2015/02/24>

Applied Material

Crowdfunding

Treasury of Government of Australia, Crowd-Sourced Equity Funding, Discussion Paper, Dec 2014, <http://www.treasury.gov.au/~media/Treasury/Consultations%20and%20Reviews/Consultations/2014/Crowd%20Sourced%20Equity%20Funding/Downloads/PDF/CSEF%20Discussion%20Paper.ashx>

Declan Kuch, Bronwen Morgan and Jess Ngo, Submission to Crowd-Sourced Equity Financing Enquiry, Corporations and Market Activity Committee, Australian Federal Government, 2013

Open source intellectual property

Michel Bauwens, "Commons-Based Reciprocity Licences", <http://commonstransition.org/commons-based-reciprocity-licenses/>

Vieira, Miguel Said and De Filippi, Primavera, Between Copyleft and Copyfarleft: Advanced Reciprocity for the Commons (June 11, 2014). *Journal of Peer Production* (JoPP), Issue #4: Value and currency, January 2014, <http://peerproduction.net/issues/issue-4-value-and-currency/invited-comments/between-copyleft-and-copyfarleft-advance-reciprocity-for-the-commons/>

P2P Foundation, "Peer Production Licence", http://p2pfoundation.net/Peer_Production_License

DAY SIX: GROUP PROJECT PRESENTATIONS AND CONCLUDING DEBATE

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GROUP PROJECT OPTIONS /PRESENTATIONS

1. Regulating AirBnB: USA, Australia and Cuba
 2. Enabling Crowdfunding: Local Economies Securities Act (Calif) and Australia
 3. Legalizing Seed Libraries Across the US
 4. Community-Owned Renewable Energy
 5. Bitcoin, Faircoin and Community Currencies
 6. Reforming Legal Professional Training
 7. Social Impact Investment: implications for Australia of UK Alternative Commission on Social Investment
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CONCLUDING SESSION DEBATE

Compare the two following ambitious visions for the future from the US and UK, considering to what extent each is relevant to the broader vision of where a sharing economy could lead:

Alperowitz, Speth and Guinan, *The Next System Project: New Political-Economic Possibilities for the 21st Century*, Democracy Collaborative, March 2015, accessible at http://thenextsystem.org/wp-content/uploads/2015/03/NSPReport1_Digital1.pdf (USA)

and

Anna Coote, *People, Planet, Power: Towards a New Social Settlement* (UK), New Economics Foundation, February 2015, accessible at http://b.3cdn.net/nefoundation/eafb0135c69d8a9152_yum6bt9zh.pdf
