

Interdisciplinary Programmes

Academic year 2018-2019

Global Food Systems from a Legal Perspective

MINT055 - Spring - 6 ECTS

Course Description

The course explores the relevance of different areas of international law for understanding and regulating global food system. The starting point of this course is food regime theory, which attempts to understand and analyse the role of agriculture in the development of a world capitalist economy. The study of food regimes has been led by sociologists and geographers. The focus of this course is on how different areas of international law - including environmental law, trade law, human rights law, intellectual property law, food safety law, biodiversity law, climate change law - are relevant in understanding and shaping the current food regime. A central question is what contribution international law may make in achieving food security. The course is open to students with or without a legal background. It will enable students to become familiar with the different areas of international law that are pertinent in understanding and analysing processes of global production, trade, and consumption of food.

> PROFESSOR

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Syllabus

COURSE SCHEDULE:

Classes for this course will take place on Tuesdays from 14:15 – 16:00 in room S2.

COURSE ASSESSMENT:

Students in the course will be assessed through class attendance and participation (10%), preparation and participation in a class debate (30%), and a final essay (60%).

Students must participate in a class debate on an assigned topic between weeks 8 - 12 of the course. Group and topic assignments will be made in week 3.

Students will have a choice of questions to address for the final essays. Set questions will be made available in week 3 of the course. Final essays must be no longer than 4000 words, including footnotes, and are due by 27 May 2019 at 17:00h.

Detailed guidelines and evaluation criteria for the class debates and the final essay will be provided at the start of the course.

COURSE MATERIALS:

All the course readings and guidelines will be made available on Moodle.

COURSE OUTLINE:

PART 1: FOOD REGIME THEORY, FOOD SECURITY, AND REGIME COMPLEXES

1. Introduction (19 February 2019)

This first session will provide an introduction to the course. We will consider what a 'global food system' is and how international law is relevant to understanding global food systems. The course structure, objectives, expectations, and assessment will be explained in this first session.

'A food system is all processes and infrastructure involved in satisfying a population's food security, that is, the gathering/catching, growing, harvesting (production aspects), storing, processing, packaging, transporting, marketing, and consuming of food, and disposing of food water (non-production aspects). It includes food security outcomes of these activities related to availability and utilization of, and access to, food as well as other socioeconomic and environmental factors.'¹

Reading:

- [EAT-Lancet Commission on Healthy Diets From Sustainable Food Systems Food, Summary Report](#), January 2019.
(more information available at: <https://www.thelancet.com/commissions/EAT>)

2. Introduction to food regime theory (26 February 2019)

Readings:

- Bill Pritchard, 'Food Regimes' in *The International Encyclopedia of Human Geography*, ed. Rob Kitchin and Nigel Thrift (London: Elsevier, 2009), pp.221-225.
- Harriet Friedmann and Philip McMichael, 'Agriculture and the State System: The Rise and Fall of National Agricultures, 1870 to the Present' *Sociologia Ruralis* 29 (1989), pp.93-117.
- Philip McMichael, 'A Food Regime Genealogy' *The Journal of Peasant Studies* 36(1) (2009), pp.139-169.

¹ J.R. Porter et al. 'Food Security and Food Production Systems' in *Climate Change 2014: Impacts, Adaptation, and Vulnerability. Part A: Global and Sectoral Aspects. Contribution of Working Group II to the Fifth Assessment Report of the Intergovernmental Panel on Climate Change*. Cambridge University Press, 2014: 485-533. p.490: 7.1.1 Food Systems.

See also: [Food Systems Academy](#)

3. The neoliberal food regime (5 March 2019)

Readings:

- Harriet Friedmann, 'From Colonialism to Green Capitalism: Social Movements and Emergence of Food Regimes' in *New Directions in the Sociology of Global Development*, ed. Frederick H. Buttel and Philip McMichael (Elsevier, 2005), pp.227-264. (Read closely pages 251-259.)
- Philip McMichael, 'Global Development and the Corporate Food Regime' in *New Directions in the Sociology of Global Development*, ed. Frederick H. Buttel and Philip McMichael (Elsevier, 2005), pp.265-299. (Read closely pages 270-286; pages 286-291 as a prelude to next week's topic.)
- Henry Bernstein, 'Food Regimes and Food Regime Analysis: A Selective Survey', A paper presented at the conference *Land Grabbing, Conflict and Agrarian-Environmental Transformation: Perspectives from East and Southeast Asia*, 5-6 June 2015, Chiang Mai University.

4. Food sovereignty movements: resistance against the neoliberal food regime (12 March 2019)

Readings:

- Raj Patel, 'What Does Food Sovereignty Look Like?' *The Journal of Peasant Studies* 36(3) (July 2009), pp.663-673.
- Hannah Wittman, 'Food Sovereignty: A New Rights Framework for Food and Nature?' *Environment and Society: Advances in Research* 2 (2011), pp.87-105.
- Eric Holt-Giménez and Annie Shattuck, 'Food Crises, Food Regimes and Food Movements: Rumbblings of Reform or Tides of Transformation?' *The Journal of Peasant Studies* 38(1) (2011), pp.109-144.

5. Food security (19 March 2019)

Readings:

- Per Pinstrup-Andersen, 'Food Security: Definition and Measurement', *Food Security* 1(5-7) (2009).
- H. Charles J. Godfray, John R. Beddington, Ian R. Crute et al, 'Food Security: The Challenge of Feeding 9 Billion People', *Science* 327 (2010).
- FAO, 'Rome Declaration on World Food Security and World Food Summit Plan of Action, World Food Summit 13-17 November 1996' (Rome, 1996). See also more generally on the [World Food Summit](#).
- FAO, '[An Introduction to the Basic Concepts of Food Security](#)', EC - FAO Food Security Programme 2008.
- FAO, IFAD, Unicef, WFP, WHO, 'The State of Food Security and Nutrition in the World: Building Climate Resilience for Food Security and Nutrition' (Rome: FAO, 2018), Part 1.

6. Regimes complexes (26 March 2019)

Readings:

- Raustiala, Kal and David G. Victor, 'The Regime Complex for Plant Genetic Resources', *International Organization* 58(2) (2004), pp.277-309.
- Matias E. Margulis, 'The Regime Complex for Food Security' *Global Governance* 19 (2013), pp.53-67.

PART 2: FOOD ... WHAT'S LAW GOT TO DO WITH IT?

7. Food security and international (trade) law (2 April 2019)

Readings:

- Peter Berry-Ottaway and Sam Jennings, 'Continuing Legal Barrier to International Food Trade' in G. Steier and K.K. Patel (eds) *International Food Law and Policy* (Springer, 2016), pp.179-209.
- Anne Orford, 'Food Security, Free Trade, and the Battle for the State', *Journal of International Law and International Relations* 11(2) (2015), pp.1-67. Parts I, II, and V compulsory readings; parts III and IV optional.
- Jennifer Clapp, 'Food Security and Contested Agricultural Trade Norms', *Journal of International Law and International Relations* 11(2) (2015), pp.104-115.

8. Food safety (9 April 2019)

Readings:

- Ching-Fu Lin, 'The WHO in Global Food Safety Governance: A Preliminary Mapping of Its Normative Capacities and Activities' in G. Steier and K.K. Patel (eds) *International Food Law and Policy* (Springer, 2016), pp.51-65.
- Dale E. McNiel, 'The First Case Under the WTO's Sanitary and Phytosanitary Agreement: The European Union's Hormone Ban' *Virginia Journal of International Law* 39 (1998), pp.89-134.
- Agreement on the Application of Sanitary and Phytosanitary Measures (SPS Agreement), 1867 U.N.T.S. 493
- Codex Alimentarius, see: <http://www.fao.org/fao-who-codexalimentarius/about-codex/en/>
- EC-Hormones case:
 - trade.ec.europa.eu/doclib/docs/2003/november/tradoc_114718.pdf;
 - www.wto.org/english/tratop_e/dispu_e/cases_e/1pagesum_e/ds26sum_e.pdf;

Today's debate:

- ✚ The EC was justified in banning hormone-treated beef.

9. Agricultural subsidies (16 April 2019)

Readings:

- Jean-Christophe Bureau, David Laborde, and David Orden, 'US and EU Farm Policies: The Subsidy Habit', Chapter 6 in the 2012 Global Food Policy Report, International Food and Policy Research Institute (IFPRI). World Trade Organization, 'Agriculture: Fairer Markets for Farmers'.
- Jayati Ghosh, 'Why Farming Subsidies Still Distort Advantages and Cause Food Insecurity', *The Guardian*, 27 November 2013.
- Agreement on Agriculture, 15 April 1994, Marrakesh Agreement Establishing the World Trade Organization, Annex 1A, The Legal Texts: The Results of the Uruguay Round of Multilateral Trade Negotiations 33 (1999), 1867 U.N.T.S. 410.
- Agreement on Subsidies and Countervailing Measures, 15 April 1994, Marrakesh Agreement Establishing the World Trade Organization, Annex 1A, The Legal Texts: The Results of the Uruguay Round of Multilateral Trade Negotiations 231 (1999), 1869 U.N.T.S. 14.

Today's debate:

- ✚ Agricultural subsidies are contrary to the interests of small farmers in developing countries.

***** NO CLASS on 23 April 2019 due to Easter break *****

10. The legal regulation of GM foods (30 April 2019)

Readings:

- Anne Saab, 'GMOs' in J. Vinuales and E. Lees (eds) *Oxford Handbook of Comparative Environmental Law*, forthcoming 2019.
- Lyle Glowka for the FAO Legal Office, 'Law and Modern Biotechnology: Selected Issues of Relevance to Food and Agriculture' (2003) FAO Legislative Study 78.
- Gregory Shaffer and Mark Pollack, *When Cooperation Fails: The International Law and Politics of Genetically Modified Foods*, Oxford University Press 2009. Chapter 1, pp.1-32.
- Doug Gurian-Sherman, 'High and Dry: Why Genetic Engineering Is Not Solving Agriculture's Drought Problem in a Thirsty World' (Cambridge, MA: Union of Concerned Scientists, June 2012).

Today's debate:

- ✚ The precautionary approach must prevail in regulating genetically modified foods.

11. Intellectual property and agriculture (7 May 2019)

Readings:

- Laurence R. Helfer, 'Intellectual Property Rights in Plant Varieties: International Legal Regimes and Policy Options for National Governments', FAO Legislative Study 85 (2004), Part 1.
- Michael Blakeney, 'Agricultural Innovation: Patenting and Plant Variety Rights Protection' in G. Steier and K.K. Patel (eds) *International Food Law and Policy* (Springer, 2016), pp.145-176.
- Agreement on Trade-Related Aspects of Intellectual Property Rights, 15 April 1994, Marrakesh Agreement Establishing the World Trade Organization, Annex 1C, The Legal Texts: The Results of the Uruguay Round of Multilateral Trade Negotiations 320 (1999), 1869 U.N.T.S. 299, 33 I.L.M. 1197 (1994).
- ['Food Security, Climate Change, and IP Rights'](#), WIPO Magazine, June 2011.

Today's debate:

- ✚ Intellectual property rights should not be applied to food crops.

12. The human right to food (14 May 2019)

Readings:

- Bart Wernaart and Bernd van der Meulen, 'The Right to Food in International Law with Case Studies from the Netherlands and Belgium' in G. Steier and K.K. Patel (eds) *International Food Law and Policy* (Springer, 2016), pp.67-99.
- Food and Agriculture Organization, 'Voluntary Guidelines to Support the Progressive Realization of the Right to Adequate Food in the Context of National Food Security' (Rome: FAO, 2005).
- Article 25(1), Universal Declaration of Human Rights (1948).
- Article 11, International Covenant on Economic, Social and Cultural Rights (1976).
- UN Committee on Economic, Social and Cultural Rights (CESCR), General Comment No. 12: The Right to Adequate Food (Art. 11 of the Covenant), 12 May 1999.
- Office of the United Nations High Commissioner for Human Rights, '[Special Rapporteur on the Right to Food](#)'.

Today's debate:

- ✚ The human right to food is crucial to the realization of food security.

13. Class discussion: What contribution does international law make – if any – to achieving food security? (21 May 2019)

This class will be dedicated to a discussion around a set of questions in an attempt to bring together the different parts of this course. Students will be asked to prepare answers to the discussion questions, on the basis of all the topics and materials discussed during the course. The class discussion will be informed by (and will likewise inform) students' final essay work.

Further reading/resources:

Documentaries and other resources:

- ✓ [International Monsanto Tribunal in The Hague](#) – October 2016.
- ✓ [Fresco's Paradise](#) (see also Louise Fresco's [website](#)).
- ✓ [Seeds of Freedom](#).
- ✓ [Food, Inc.](#)

Food regimes:

- ✓ Araghi, Farshad, 'Food Regimes and the Production of Value: Some Methodological Issues' *Journal of Peasant Studies* 20, no. 2 (2003): 41-70.
- ✓ Burch, David and Geoffrey Lawrence, 'Towards a Third Food Regime: Behind the Transformation' *Agriculture and Human Values* 26, no. 4 (2009): 267-279.
- ✓ ———, 'Supermarket Own Brands, Supply Chains and the Transformation of the Agrofood System' *International Journal of the Sociology of Agriculture and Food*, 13, no. 1 (2005): 1–18.
- ✓ Goodman, David and Michael Watts, 'Reconfiguring the Rural or Forging the Divide?: Capitalist Restructuring and the Global Agro-Food System' *Journal of Peasant Studies* 22, no. 1 (1994): 1-49.
- ✓ Lambek, Nadia, Priscilla Claeys, Adrienne Wong, and Lea Brilmayer (eds), *Rethinking Food Systems: Structural Challenges, New Strategies and the Law* (Springer, 2014).
- ✓ McMichael, Philip, 'Tensions Between National and International Control of the World Food Order: Contours of a New Food Regime' *Sociological Perspectives* 35, no. 2 (1992): 343–65.
- ✓ Philip McMichael, 'La Restructuration Globale Des Systèmes Agro-Alimentaires' *Mondes en Développement* 30 (2002).
- ✓ Oosterveer, Peter, and David Allan Sonnenfeld, *Food, Globalization and Sustainability*. Abingdon; New York: Earthscan, 2012.
- ✓ Sage, Colin, 'The Interconnected Challenges for Food Security from a Food Regimes Perspective: Energy, Climate and Malconsumption' *Journal of Rural Studies* 29, no. 1 (2013): 71-80.
- ✓ Thompson, John, and Ian Scoones, 'Addressing the Dynamics of Agri-Food Systems: An Emerging Agenda for Social Science Research' *Environmental Science & Policy* 12 (2009): 386-97.

Food sovereignty:

- ✓ Altieri, Miguel A., 'Agroecology, Small Farms, and Food Sovereignty' *Monthly Review* 61, no. 3 (2009).
- ✓ Alison Hope Alkon, 'Food Justice, Food Sovereignty and the Challenge of Neoliberalism' A paper presented at the conference *Food Sovereignty: A Critical Dialogue Conference*, paper no.38, International Conference Yale University, 14-15 September 2013.
- ✓ Claeys, Priscilla, '[From Food Sovereignty to Peasants' Rights: an Overview of Via Campesina's Struggle for New Human Rights](#)', January 2013.
- ✓ Claeys, Priscilla, 'Vía Campesina's Struggle for the Right to Food Sovereignty: From Above or from Below?' in *Rethinking Food Systems: Structural Challenges, New Strategies and the Law*, edited by Nadia Lambek, Priscilla Claeys, Adrienne Wong, and Lea Brilmayer, 29-52, Springer, 2014.
- ✓ Pimbert, Michel, 'Towards Food Sovereignty', *Gatekeeper* 141 (November 2009), International Institute for Environment and Development (IIED).

Intellectual property rights/GM food:

- ✓ Aoki, Keith, *Seed Wars: Controversies and Cases on Plant Genetic Resources and Intellectual Property*. Durham, N.C.: Carolina Academic Press, 2008.
- ✓ Blakeney, Michael, 'Recent Developments in Intellectual Property and Power in the Private Sector Related to Food and Agriculture' *Food Policy* 36, supplement 1 (2011): 109-113.
- ✓ Bové, José, and François Dufour, *The World Is Not for Sale: Farmers against Junk Food*. London: Verso, 2001.
- ✓ Linarelli, John, 'TRIPS, Biotechnology and the Public Domain: What Role will World Trade Law Play?' in *Agriculture and International Trade: Law, Policy, and the WTO*, edited by Michael N. Cardwell, Margaret R. Grossman, and Christopher P. Rodgers, 193-214, Oxon, UK: CABI Publishing 2003.
- ✓ Mechlem, Kerstin, and Terri Raney, 'Agricultural Biotechnology and the Right to Food' in *Biotechnologies and International Human Rights*, Studies in International Law, edited by Francesco Francioni, 131-160, Oxford: Hart Publishing, 2007.
- ✓ Nature, 'GM Crops: A Story in Numbers', in 'GM Crops: Promise and Reality' *Nature* 497, Special Edition (2 May 2013): 22-23.
- ✓ Paarlberg, Robert L., *Starved for Science: How Biotechnology Is Being Kept out of Africa*. Cambridge, MA: Harvard University Press, 2008.

Food security/hunger:

- ✓ Butterly, John R., and Jack Shepherd, *Hunger: The Biology and Politics of Starvation*. Hanover, N.H.: Dartmouth College Press: Published by University Press of New England, 2010.
- ✓ Cépède, Michel, 'The Fight against Hunger: Its History on the International Agenda' *Food Policy* 9, no. 4 (1984): 282-90.
- ✓ Collier, Paul, 'The Politics of Hunger' *Foreign Affairs* 87, no. 6 (2008): 67-79.
- ✓ Davis, Mike, *Late Victorian Holocausts: El Niño Famines and the Making of the Third World*. New York: Verso, 2001.
- ✓ Dibden, Jacqui, David Gibbs, and Chris Cocklin, 'Framing GM Crops as a Food Security Solution' *Journal of Rural Studies* 29 (2013): 59-70.
- ✓ Lang, Tim, and Michael A. Heasman, *Food Wars: The Global Battle for Mouths, Minds and Markets*. London: Earthscan, 2004.
- ✓ Sen, Amartya Kumar, *Poverty and Famines: An Essay on Entitlement and Deprivation*. Oxford; New York: Clarendon Press; Oxford University Press, 1981.
- ✓ Millman, Sarah, and Robert W. Kates, 'Toward Understanding Hunger' in *Hunger in History: Food Shortage, Poverty and Deprivation*, edited by Lucile F. Newman and William Crossgrove, 3-24, Oxford: Basil Blackwell, 1989.
- ✓ Patel, Raj, *Stuffed and Starved: Markets, Power and the Hidden Battle for the World Food System*. London: Portobello, 2007.