

## Interdisciplinary Programmes

Academic year 2020-2021

### Global Food Systems from a Legal Perspective

#### MINT055 - Autumn - 6 ECTS

Thursday 10h15 - 12h00

#### Course Description

The course explores the relevance of different areas of international law for understanding and regulating global food systems. 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

[Anne Saab](#)

[Office hours](#)

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#### > ASSISTANT

[Victoria Priori](#)

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## Syllabus

#### COURSE SCHEDULE:

Classes for this course will take place on Thursdays from 10:15 – 12:00 in room S4. The course will be offered in-person as well as live-streamed and recorded for those students unable to attend.

#### 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%).

Detailed guidelines and assessment criteria are included in Annex I to this syllabus, and will also be discussed during the first class on 17 September 2020.

### **COURSE MATERIALS:**

The syllabus contains all the course readings and a list of further readings is included in Annex II. All the readings, guidelines, and relevant course information will also be made available on Moodle.

### **COURSE OUTLINE:**

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

### **1. Introduction (17 September 2020)**

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. We will also introduce and discuss some of the main challenges to our current global food system, which will be covered also later in the course. 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.'<sup>1</sup>

#### **Reading:**

- FAO, IFAD, UNICEF, WFP, WHO, ['The State of Food Security and Nutrition in the World: Transforming Food Systems for Affordable Healthy Diets'](#) (Rome: 2020). Please read the Executive Summary.
- [EAT-Lancet Commission on Healthy Diets From Sustainable Food Systems Food, Summary Report](#), January 2019.

### **2. Introduction to food regime theory (24 September 2020)**

#### **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.

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<sup>1</sup> 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.

- Philip McMichael, 'A Food Regime Genealogy' *The Journal of Peasant Studies* 36(1) (2009), pp.139-169.

See also: [Food Systems Academy](#)

### 3. The neoliberal food regime (1 October 2020)

#### 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 (8 October 2020)

#### 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 (15 October 2020)

#### 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: Transforming Food Systems for Affordable Healthy Diets' (Rome: 2020), Part 1.

### 6. Regimes complexes (22 October 2020)

### 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 (29 October 2020)**

#### 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 (5 November 2020)**

#### 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](http://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](http://www.wto.org/english/tratop_e/dispu_e/cases_e/1pagesum_e/ds26sum_e.pdf);

#### **Today's debate topics:**

- 🚩 The EC was justified in banning hormone-treated beef.
- 🚩 The Codex Alimentarius should be made into hard law.

### **9. Agricultural subsidies (12 November 2020)**

#### 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 topics:**

- 🚩 Agricultural subsidies are contrary to the interests of small farmers in developing countries.
- 🚩 The Agreement on Subsidies and Countervailing Measures is an effective instrument in regulating agricultural subsidies.

**10. The legal regulation of GM foods (19 November 2020)**

**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.
- 🚩 Genetically modified foods are necessary to feed the world in times of climate change.

**11. Intellectual property and agriculture (26 November 2020)**

**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.

- 🚩 The TRIPS Agreement is a valuable instrument in achieving food security.

## 12. The human right to food (3 December 2020)

### 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.
- 🚩 The right to food is open to appropriation by seed corporations such as Monsanto.

## 13. In-class preparation for final essay (10 December 2020)

This class will be dedicated to working on students' final essay, due at the end of the course. The session will allow students to share their work and get inputs from peers and teaching faculty.

## 14. Class discussion: What contribution does international law make – if any – to achieving food security? (17 December 2020)

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.

## Annex I

### Assessment guidelines and marking criteria

#### 1. Class attendance and participation (10%)

Each student is expected to attend all classes, unless (s)he has a justified reason for absence. Active participation in classes is also expected; this includes active listening. Due consideration will be given to those students following (part of the) classes online.

#### 2. Class debates (30%)

Each student will be assigned to participate in a debate on one of the topics listed for classes 8-12 (food safety, agricultural subsidies, GM foods, intellectual property, right to food). Students will be assigned a specific question to debate, as well as a side to argue.

PLEASE NOTE: depending on final class size, there may be more than one student assigned to argue a specific side. You are required to submit a handout individually.

#### **Guidelines:**

- Research the question you have been assigned (additional to the assigned course readings). Study both your own position and the opposing party's views.
- Prepare a one-page handout with an overview of the arguments you will present to defend your position. Include at least one legal argument.
- The overview should include a list of references used in the research (at least three references should be additional to mandatory course readings), in a clear and consistent bibliography.
- The handout must be submitted in the relevant folder on Moodle by Wednesday before the class at noon (e.g.: those students leading the class debate on food safety on 5 November must submit their handout by noon on 4 November).
- In class, each student will receive maximum 5 minutes to present his or her arguments in favour or against the proposition. After all the arguments are presented, the debate is opened up to the rest of the class.

**Marking criteria** (you can earn between 0-1 points for each of these criteria)

- **Handout contains arguments that support your position.**
- **Additional research is done.**
- **References are properly cited in the handout.**
- **The presentation of arguments in class is clear and convincing.**
- **The time limit for the initial presentation of arguments is respected.**
- **Student engages with and responds to opposing arguments.**

### 3. Final essay (60%)

Each student must write a final essay addressing one of the following statements:

- 1) Food sovereignty is a useful concept in the attempt to achieve global food security. Discuss.
- 2) Choose one specific area of international law and explain how it shapes / is shaped by food regime theory.
- 3) What are the strengths and limitations of food regime theory? Address also the international legal dimensions.

#### **Guidelines:**

- The final essay should not exceed 4,000 words (including footnotes).
- Essay should be submitted via Moodle **by 17:00h (Geneva time) on 18 December 2020.**
- Although the broad topics/questions are set, there is a lot of discretion reserved in how to focus your essay.
- The essay must present a well-substantiated response to the statement/question chosen.
- Any citation style may be used, as long as it is used consistently. (Frequently used citation styles include OSCOLA [[https://www.law.ox.ac.uk/sites/files/oxlaw/oscola\\_4th\\_edn\\_hart\\_2012quickreferenceguide.pdf](https://www.law.ox.ac.uk/sites/files/oxlaw/oscola_4th_edn_hart_2012quickreferenceguide.pdf)], Harvard style [author and date, in-text citations], and Chicago style [[http://www.chicagomanualofstyle.org/tools\\_citationguide.html](http://www.chicagomanualofstyle.org/tools_citationguide.html)].)
- Please submit your essay in pdf format.
- Please include a cover page with your name, the title of your essay, the name of the course, and the date.

#### **Marking criteria** (you can earn between 0-1 points for each of these criteria)

- **Thesis/main argument** – The thesis or the main argument of the essay must be clearly articulated and the essay should provide a substantiated answer to the question.
- **Structure** – The essay should be well-structured, with an introduction, the main body divided into distinct but related arguments, and a coherent conclusion.
- **Clarity of analysis** – The arguments in the essay should reflect independent and critical analysis that engages directly with the question, in an analytical rather than a descriptive manner.
- **Research/use of sources** – The essay should demonstrate both a breadth and a depth of reading. The research should go beyond the assigned readings for the course and cover materials relevant for the essay topic.
- **Citations/referencing** – References used must be cited correctly and consistently.
- **General presentation** – The essay should be well-presented, with a cover page, a title, sub-headings, and page numbers. It should be submitted on time and in the correct format.



## Annex II

### Further readings/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 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.
- ✓ Burch, David and Geoffrey Lawrence, '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 Fording 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, 'Via 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.