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Feeding the World in Times of Climate Change
Anne Saab
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NARRATIVES OF HUNGER IN INTERNATIONAL LAW

This book explores the role that the language of international law plays in constructing understandings – or narratives – of hunger in the context of climate change. The story is told through a specific case study of genetically engineered seeds purportedly made to be ‘climate ready’. Two narratives of hunger run through the storyline: the prevailing neo-liberal narrative that focuses on increasing food production and relying on technological innovations and private-sector engagement, and the oppositional and aspirational food sovereignty narrative that focuses on improving access to and distribution of food and rejects technological innovations and private-sector engagement as the best solutions. This book argues that the way in which voices in the neoliberal narrative use international law reinforces fundamental assumptions about hunger and climate change, and the way in which voices in the food sovereignty narrative use international law fails to question and challenge these assumptions.

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Feeding the World in Times of Climate Change

ANNE SAAB

Graduate Institute of International and Development Studies



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UNIVERSITY PRESS

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CAMBRIDGE
UNIVERSITY PRESS

Shaftesbury Road, Cambridge CB2 8EA, United Kingdom
 One Liberty Plaza, 20th Floor, New York, NY 10006, USA
 477 Williamstown Road, Port Melbourne, VIC 3207, Australia
 314–321, 3rd Floor, Plot 3, Splendor Forum, Jasola District Centre, New Delhi – 110025, India
 103 Penang Road, #05–06/07, Visioncrest Commercial, Singapore 238467

Cambridge University Press is part of Cambridge University Press & Assessment,
 a department of the University of Cambridge.

We share the University's mission to contribute to society through the pursuit of
 education, learning and research at the highest international levels of excellence.

www.cambridge.org
 Information on this title: www.cambridge.org/9781108473378
 DOI: 10.1017/9781108670906

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First published 2019

A catalogue record for this publication is available from the British Library

Library of Congress Cataloging-in-Publication data

Names: Saab, Anne, 1986-, author.

Title: Narratives of hunger in international law : feeding the world in times of climate
 change / Anne Saab, Graduate Institute of International and Development Studies.

Description: New York, NY : Cambridge University Press, 2019. | Series: Cambridge
 studies in international and comparative law | Includes bibliographical references.

Identifiers: LCCN 2018048003 | ISBN 9781108473378 (hardback)

Subjects: LCSH: Right to food. | Hunger. | Law–Language. | Climate change. |
 Human rights.

Classification: LCC K3260 .S23 2019 | DDC 341.4/83–dc23

LC record available at <https://lcn.loc.gov/2018048003>

ISBN 978-1-108-47337-8 Hardback

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PROLOGUE

The argument that I make in this book is based on PhD research that I carried out in the Law Department at the London School of Economics between 2011 and 2015. But the story of this project begins a few years before that. Having freshly graduated with a master's degree in public international law in 2009, I was offered a job as a policy officer at the Ministry of Agriculture in the Netherlands. I had not specifically applied for a job at this ministry, but had rather applied for a general two-year government traineeship. On the basis of all the applications, each of the ministries then chooses the applicants that they are interested in hiring. Having studied international law, I was not quite sure what to expect at the Ministry of Agriculture, working on topics I felt I had not been trained for and knew very little about. But I took the job, and fortunately so.

During my two-year employment at the Ministry of Agriculture, I worked on four projects in different departments. My first two assignments dealt respectively with national climate change adaptation policy and sustainable food policy, looking specifically at how to incentivize consumers to eat more sustainably. I had long since taken a keen interest in environmental issues, and these assignments further incited my curiosity about the big questions related to food and climate. In my second year of work, I shifted from policy assignments to legal assignments. I spent six months seconded to the International Law Division of the Foreign Office, where I worked primarily on law of the seas and bilateral investment treaties. The final assignment brought me to the Intellectual Property Division of the Economic Affairs Department, again at the Ministry of Agriculture, where I worked on drafting intellectual property legislation for the Caribbean parts of the Netherlands.

The projects I worked on all seemed quite unrelated at the time. In hindsight, however, these seemingly disconnected topics had an immense influence on the questions that I posed and the issues I explored in my

doctoral research, which I commenced immediately after completing my last project at the Ministry of Agriculture.

I applied for the PhD programme during the second year of my government work, and my proposal focused on food security, climate change, and international law. By the time I started my last assignment at the Intellectual Property Division, I had already been admitted to the PhD programme at the London School of Economics. One of my colleagues in the Intellectual Property Division was an expert on plant patents, and he introduced me to the fascinating and complex field of intellectual property and agriculture, even though I was not working on these issues directly myself. I came across crops genetically engineered to be resistant to certain climatic conditions, and was particularly drawn to the fierce debates about intellectual property rights on those seeds. Once I entered the PhD programme, I spent a great deal of time further exploring intellectual property, agriculture, and climate change.

My PhD research was motivated by concern about the impacts of climate change on food security, and my initial intention was to propose ways in which international law could contribute to tackling climate change-induced food insecurity. I spent a lot of time in the first year of my PhD research delving into the debates surrounding so-called climate-ready seeds. These seeds are presented as possible adaptation strategies to climate change that could ensure adequate food production despite adverse climatic conditions. Critics, however, are concerned with the increasing number of patent applications for these seeds filed by a handful of large corporations and argue that this practice denies access to these potentially valuable technologies to those who need them most. I was drawn by the passionate rejections of these genetically engineered seeds and my initial research objective was to find ways in which international law could contribute to countering the evil corporations patenting allegedly climate-resilient seeds. I was determined to bolster support for more effective, more just means of feeding the world in times of climate change through better access and distribution, rather than by developing high-tech and highly privatized new seeds monopolized by a few large corporations.

I had intuitively followed my curiosity and focused my early research efforts on the very specific example of climate-ready seeds – something most people will have never heard of. I soon found myself wondering what kind of larger argument I might be making outside of this particular example. What do the debates about climate-ready seeds say about

broader questions concerning food, climate change, and international law? How could this specific example be relevant to overarching concerns about governing the global food system? I then spent some time reading about global food systems and became familiar with food regime theory, an analytical tool used mostly by sociologists and geographers to study and explain the role of agriculture in global capitalism. I found that the narrow debates about allegedly climate-resilient seeds very much reflected broader debates about contemporary global food systems. And so I set the discussions concerning climate-ready seeds in the context of food regime analysis. The promotion of climate-ready seeds reflects the dominant neoliberal food regime and the opposition to climate-ready seeds reflects food sovereignty movements that seek to reject the neoliberal regime. Throughout this book, I use food regime theory as an analytical lens that puts debates on climate-ready seeds in a broader context.

My research had started with a general idea about climate change and the right to food, proceeded with a narrow exploration of climate-ready seeds, and then turned into a study of contemporary debates in food regime theory. Because I was pursuing a PhD in international law, my intention was ultimately to examine the role that international law plays in shaping global food systems. International law has developed into an enormous field, with a vast number of sub-fields that are becoming increasingly specialized. So what exactly was I looking at when I studied ‘international law’? The case of climate-ready seeds led the way when I chose to focus on three areas of international law, namely climate change law, intellectual property law, and human rights law.

At this point, my aim was still to argue that international law could be used to find more effective solutions to climate change-induced hunger by opposing climate-ready seeds and siding with food sovereignty movements. How might climate change law, intellectual property law, and human rights law be developed, interpreted, implemented, and revised to ensure that there is adequate food available and accessible to all despite the adverse impacts of climate change? As I progressed in my research, I found it increasingly difficult to respond to these questions without posing more fundamental questions. I cannot pinpoint any exact ‘aha!’ moment when my focus shifted, but gradually as my study reached its final stages, my conviction that it is possible to oppose purportedly climate-resilient seeds and the neoliberal food regime through existing international law diminished. I felt that I was not getting anywhere in attempting to show how international law is relevant to feeding the world

in times of climate change. Instead, I needed to seriously consider how international law contributes to constructing the problems of hunger and climate change in the first place.

In examining climate change law, intellectual property law, and human rights law in debates for and against climate-ready seeds, I began to notice that there was not much discussion at all about what causes hunger and climate change. As a result, the discord between the opposing sides did not address any fundamental underlying assumptions about the problem at hand. I particularly noticed that those who oppose climate-ready seeds place much of their critical emphasis on the corporate patent monopoly on these seeds. It was precisely this criticism of climate-ready seeds that was the starting point of my research, and I spent much of my first year on these debates. While the corporate patent monopoly on climate-ready seeds certainly deserves to be criticized, much less attention is paid to other fundamental assumptions that inform our understanding of what hunger is and that thus shape our responses to feeding the world in times of climate change.

My central focus then moved away from adding another voice to those critiquing climate-ready seed corporations, such as Monsanto, and the neoliberal food regime. Instead of unquestioningly accepting the neoliberal approach and the food sovereignty approach as contradictory ways of feeding the world and figuring out how to apply international law to best promote the latter, my interest turned to exploring how and why these narratives of hunger came to be and what role international law plays in constructing them. What assumptions about hunger and climate change inform the narrative that genetically engineered and allegedly climate-resilient seeds can contribute to feeding the world? And what assumptions about hunger and climate change subtend the narrative that these climate-ready seeds cannot contribute to feeding the world? Importantly, what role does international play in creating, reinforcing or questioning these assumptions?

Based on this new focus, the main conclusions of my doctoral research centred on what I call the pyramid of assumptions. I identified five assumptions about hunger and climate change that most obviously inform the dominant neoliberal narrative, or the account that promotes climate-ready seeds. Starting from the base of the pyramid and moving upward, the assumptions are that (1) climate change causes hunger; (2) food production must increase to feed the world in times of climate change; (3) agricultural biotechnologies are necessary to increase food production; (4) private sector investments are necessary to develop

agricultural biotechnologies; and, finally, (5) intellectual property rights on seeds are necessary to incentivize these investments. The first assumption is the most fundamental, and each subsequent assumption is dependent on the foregoing assumption(s). Each of the assumptions is highly contested in itself, but the pyramid structure serves to keep all the assumptions in place.

There is nothing at all remarkable in saying that these assumptions inform a dominant neoliberal understanding of hunger that prevails in international responses to feeding the world in times of climate change. However, I concentrate my analysis on what is noteworthy: that the narrative opposing climate-ready seeds falls short of challenging these assumptions explicitly. I noticed that those voices most forcefully opposed to climate-ready seeds fixate much of their critical attention on the corporate patent monopoly of a small number of large seed corporations. This is a valid criticism with which I sympathize. However, foregrounding this criticism narrows the focus of the opposition and misses out on questioning the fundamental assumptions on which the dominant narrative is based. The debates about the corporate patent monopoly on climate-ready seeds take place in the tip of the pyramid, above the fifth assumption. I argue that by focusing so much attention on this point, the assumptions lower down the pyramid are not expressly challenged and are implicitly left in place.

Genetically engineered and supposedly climate-resilient, ‘climate-ready’, seeds formed the example through which I studied narratives of hunger and the role of international law in constructing them. My overarching argument, however, goes beyond this specific example. The conclusions about the role international law plays in keeping in place certain fundamental assumptions about hunger and climate change also suggest something about the role of international law in shaping global food relations. Without questioning fundamental assumptions, and more specifically without asking how international law fails to challenge fundamental assumptions, it will be difficult to conceive of feeding the world in a radically different way. It will be difficult, in other words, to move away from the prevailing neoliberal regime in which climate-ready seeds are promoted as a valuable and necessary solution.

I had no idea at the outset of the journey that this is where my research on climate change and the right to food would take me. By the time I figured out the main points I wanted to make, my deadline for submitting my PhD thesis was in sight. So I wrote up my final chapters, submitted, defended, made the necessary revisions, and obtained my degree.

Revising the doctoral thesis for the present book gave me the opportunity to think through the main point that I wanted to make. In going through these revisions, I tried to step away from the specific example of climate-ready seeds that the doctoral research had started with and instead emphasize the broader narratives of hunger. I also sought to zoom out from the narrow focus on hunger and climate change and consider more generally the narrative force of international law. I hope that the contents will encourage readers to question the role of international law in figuring out how we might feed the world in times of climate change and, more generally, to think critically about how we frame and use international law as a powerful language to construct narratives.

The main points I make in this book follow the conclusions of my doctoral thesis. Even though the two narratives of hunger may on the surface appear to present contradictory responses to the question of how to feed the world in times of climate change, both narratives are premised on the same set of fundamental assumptions. These assumptions shape prevailing understandings of hunger and climate change, and failing to question these assumptions limits the possible ways to feed the world that we can devise. International law – both the way in which it is framed and how it is used by various actors in these narratives – plays a part in constructing narratives of hunger and in neglecting to question underlying assumptions.

The primary driver for this research was deep concern about the impacts of climate change on food security. How do we prevent many more people from going hungry in the face of climate change? And what role is there for international law? My original intention was to argue that hunger is not primarily a problem of production and that new technologies in themselves will not feed the world. Underlying structural problems that limit people's access to food and lead to a tremendously unjust distribution of food must be tackled, especially with the added pressures of climate change. But do food sovereignty movements, particularly in their reliance on the language of international law, challenge these underlying structural problems? My response to this is 'no'.

The argument I ultimately ended up making does not support any particular narrative of hunger; it does not claim to offer the most appropriate way to feed the world in times of climate change; and it does not set out how international law can best be used to solve the problem of hunger. The ultimate argument involves international law as a language that tells powerful stories, whether those who invoke it

construct narratives intentionally or not. The ultimate argument is about the importance of questioning assumptions, whatever the outcome of that questioning may be.

I received plenty of comments and criticisms along the way. These have related mostly to my eventual choice to study narratives of hunger in international law without expressly situating myself in favour of one narrative. I sense a strong desire more generally, beyond this project, to discover and advocate the truth on any topic. With this book, my larger – and admittedly rather ambitious – intention is to resist this incessant desire to find the one and only truth, the correct narrative, the best way to feed the world in times of climate change, or to solve any of the world's many problems for that matter. Instead, let's take a step back and consider how narratives are constructed, recognize the role that international law plays in the construction of narratives, and open ourselves up to more narratives, to more truths, among which we may find more suitable solutions to the world's problems.

I hope that the story I am going to tell in this book will encourage readers to think critically about the way in which we have come to understand hunger and climate change as problems and the types of solutions that we consequently devise. I hope that it will encourage readers to think critically about the narrative power of international law and our own roles, as agents of international law, in constructing narratives. Above all, I hope that readers will be encouraged to think and question, whatever the content of their thoughts and the answers to their questions.