

Podcast transcript

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Emotions in international food law

Anne Saab is Associate Professor in international law at the Graduate Institute of Geneva. Her interests and expertise include Food and Agriculture, climate change, intellectual property law and, more recently, emotions in international law, which is going to be the topic of today's presentation. Her first monograph was entitled *Narratives of Hunger in International Law*, published by Cambridge University Press in 2019. Before entering academia she worked as a legal adviser and policy officer at the Ministry of Agriculture and Economic Affairs at the Foreign Office in The Hague. So Anne, tell us all about emotions in international food law. Thank you so much, the floor is yours.

Great. Thank you so much, Stanley, for this introduction and for having me here today. So what I thought I'd do today is really give you a little bit of an introduction into where I come from in terms of my research because I'm very sensitive to the fact that I'm not speaking to an audience of lawyers, which is fantastic for me. But just to give you a bit of a sense of sort of where I'm situated in my research, how it relates to food. So why is it that somebody who is in international law is dealing with questions of food, and then I'll focus on the research that I have embarked on quite recently, which deals with emotions in international law and part of that is also going to be looking at emotions in food law.

So I'm a lawyer or a legal scholar by training and I've specialised in public international law, and after I completed my Masters degree I started a graduate position at the Dutch Ministry of Agriculture and the way that these positions work or the way that these graduate jobs work is that you don't apply for a particular department you apply to get this graduate position, and then the various ministries and departments within ministries, they decide which of the applicants they're interested in and they do the interviews. So I got offered a job at the Ministry of Agriculture. I was very surprised, because I thought I'll probably end up going to the Ministry of Foreign Affairs and I'll probably do something with international law. I thought, why are they interested in my profile at the Ministry of Agriculture? It was called officially the Ministry of Food. That was the official name of the ministry there. So I started doing this job and I focused on various projects including consumer policy. How do we get consumers to consume more sustainably, but also national climate change adaptation policy, and I did more legally focused work, so I worked on bilateral investment treaties, law of treaties and also intellectual property legislation. And it was really these various positions that I did within this ministry that really incentivized me or motivated me to do my particular PhD research, which I started after two years of this graduate position.

So my PhD research was on food security in the context of climate change, and I really focused on the role of international law and framing particular narratives of hunger, which is what my first book was based on as well. So that's just a little bit of an insight on how I came into studying Food and Agriculture as an international lawyer. And I should clarify that the way I studied sort of food was really mostly via human rights law, the right to food trade law in WTO law. So how does the law, how does it incorporate rules on Food and Agriculture, including subsidies, for instance, but also intellectual property rights, intellectual property rights on seeds and food crops, and how does that contribute to shaping global food systems? So after I completed my PhD, I joined my graduate institute, where I'm

currently based and I've been teaching on broadly on climate change, on food and agriculture, international environmental law, all within broadly the Department of International Law. But we do a lot of interdisciplinary teaching as well and I've been a little bit of a what I might call a sort of a very a strange creature within the discipline of international law. So to give you an example, when I started, when I took up this job, I started this job as Assistant Professor in 2015 and I was told by many colleagues at the time there is no such thing as international food law. You need to do something else. That's not really a thing. You're not going to be able to build your career in international law if you're dealing with food, you have to be dealing with something. For instance, you have to focus on, you have to be a trade lawyer, but you happen to be dealing with food or you're a human rights lawyer, that you happen to be dealing with food. You're an intellectual property lawyer, you happen to be dealing with food, but there's not really such a thing as food law. It doesn't exist, at least in the European context. I know that. In the US context, for instance, it's quite different, but in the European context of studying international law, food is part of different areas of international law, but there's not really such a thing as looking at international food law as some sort of holistic thing. So often when we think about food law, we'll think about it in the context of EU law, for instance. So what are EU regulations on food safety and very quite technical things that we're dealing with, or WTO law. So looking at the World Trade organisations law and how it deals with food and agriculture, but really from the perspective of global trade law and not from the perspective of food as a distinct theme.

So it's not my position that there should be something labelled international food law, but I do think it's important to set out how we deal with sort of how traditionally international law deals with food is not seeing food as a sort of primary theme that we're engaging with, but really looking at looking at food as part of other areas of international law, food as a human right, food as something that is traded and that needs to be regulated in global trade, food as something that you might apply intellectual property rights to and how you deal with those with those property rights. But so despite some of those kinds of warnings that I received from colleagues, I thought, well, there must be ways to deal with food from the perspective of an international lawyer that go beyond those very specific areas. And actually I think where I'm based now at the Graduate Institute is really a great place precisely to do this kind of interdisciplinary work because I'm convinced that we can't deal from the perspective of as international lawyers, we can't deal with any big questions around food security, food insecurity by looking separately at distinct areas of international law, and I think conversely, international law has in many ways very important contributions to make to global food systems, so posing questions, what kinds of food is produced, how is it produced? Where is it produced? How is it consumed and traded. So really to do with the law of the World Trade Organisation. What kinds of technologies are being promoted? How are those being promoted, for instance, via intellectual property rights? And that's related very much to food and agriculture as well. What kind of food safety regulations do we have, but also a quite important discourse that is coming from the human rights world.

So what kind of food system do we have globally? What impacts does that have? Not only looking at food security as a matter for states, so states have to make sure that their citizens have enough food, that there's enough food available for states, but really looking beyond those kind of earlier ideas of what food security was. So it's not just about having enough food at the state level, but what kind of food are we consuming, sort of cultural values about food as well. So there's really much more attention for that so I've been trying to engage with that, sort of trying to deal with the question of food from the perspective of international law and really going beyond those specific fields of international law. And it's worked so far because I'm still here and I even got promotion. So I haven't been totally removed from the scene because my work is so strange in the world of international law. So there I am. I'm still working broadly on questions of food, but now I have become interested in working on

emotions in international law. The role of emotions in international law. So I was already a bit of an odd creature by studying international food law or food in relation to international law. And now I'm even an odder creature by exploring the role of emotions. So my curiosity for emotions began, actually, when I was working on my PhD research, and it was very much focused on climate change. So even though my PhD research wasn't on the topic of emotions at all, I became very interested in or very curious about how climate change is presented in debates and discussions in very fear-inducing ways, or a lot of fearful language around climate change. And I became very interested in what impact that has, or what impacts international law has on how we frame the question of climate change, how we frame climate change as a problem. And it's not only science that we're using for that. So international law is and law in general is, very much focused on rationality, on reason, on facts and evidence in science. So when we look at discussions around climate change, but also in food, which I'm going to get to in a little bit, there's very much a focus on this is what the science tells us, and so therefore this is what we need to do. But of course it's not only science that's going to give the answers as to what we need to do to deal with climate change, to what international laws are going to be effective in dealing with the problem of climate change. So I became very interested in that, and it did take me about six or seven years, sort of after my PhD, before that curiosity actually led to an article that I that I recently published. Which looks at discourses of fear on climate change in international human rights law, and I look at human rights law texts and what kind of language they use, and particularly the language of threats and really framing climate change itself as the threat. And I explore what that means for the type of policy and the type of law that we're adopting on climate change, and I'm currently working on a piece looking at hope and anger in youth climate litigation. So I look at climate cases that are brought to court, but specifically cases that are brought by children and young people and I explore not the legal features of the case, what legal arguments are they making, but how are those emotional dynamics represented in the law in those legal cases, and with what effect. So hope is used very much specifically in youth cases.

So youth - looking at future generations, anger is used actually as an emotion to position youth. To identify injustices, saying these younger generations are going to have experiences that are going to suck. The worst impacts of climate change are when they don't have the agency, when they don't have the control to do something about it. So I'm going to explore those emotions in a follow up piece.

So at this point, you might be thinking, OK, so what's new? Of course emotions matter. And they do, but in law this is not at all obvious. So in every single presentation I've given or conversation I've had with lawyers over the past years, the response has always been well, of course, emotions matter. So I mean, why you even doing this research? Nobody's questioning that. There's nothing new about what you're saying. Yes, emotions matter, but the fact remains that law is very much committed to a separation between reason and emotion, very much favouring reason and with the idea of keeping emotions at bay. And there's a very strong sense within the legal discipline, one assumption is that we're able to keep emotions outside of the legal work that's being done. So what I want to do in my work is challenge that idea. The overarching aim of the project on emotions and international law is really to challenge this rationalist assumption and to show that emotions do influence all areas of law making, and that as lawyers, we need to be engaging with emotions. I thought that was very obvious but it's not so obvious at all in the legal discipline. I'm drawing out a lot of work that's coming from domestic law, especially in the US. Law and emotions literature that really shows in many ways that even though other disciplines, including specifically neuroscience and social psychology, have long since concluded that reason and emotion cannot be separated, so reason and emotion both contribute to cognition, to how we understand the world, and so you can't separate one from the other. You can't say we're

going to inform our laws by reason, by facts and evidence, and we're going to acknowledge that of course, we're all human beings and there are emotions in our social lives that influence the law as well, but as lawyers were able to put those emotions aside. So that I think is something that that needs to be challenged within the legal discipline.

So then the question is, OK, how does that relate to food? So I've mostly until now been looking at emotions in the context of international climate change law. But I'm also very keen in the upcoming years – I've just started a four year research project on that topic of emotions and international law and I'll be looking at beyond climate change - I also want to be looking at the role of emotions in international food law. So I just want to share with you some examples of things that that I'm interested in looking at.

So one of the areas that I've been that I've already been engaging with, particularly because I started not with an interest in emotions in general, but specifically fear and anxiety. That was the emotion that I was looking at most specifically, and in my PhD research I looked at genetic modification, genetically modified seeds in the context of climate change as well, and there's a lot of emotion in developing new technology, in that new technologies and especially in developing new technologies in relation to food, there is something particularly emotional about food and you can see that in huge debates about genetically modified foods. There's this traditional idea in law that food safety regulations are based on science, on facts and evidence, and the question is what risks are posed by, for instance, new technologies that are applied in food? Is the food that we're producing still safe? Are the methods of production safe? So that's the focus from the legal perspective when we're applying food law, it's primarily looking at food safety regulations and those food safety regulations, the idea, and this goes back to this underlying sense that law is based on rationalist assumptions based on science, it's based on facts and evidence. So all we need to do is look at the science, what are the risks? Are those risks that we're willing to take? And then you have your, you have your answer. Are we going to use these particular technologies in food? Are we going to? Why those? But it is very, very clear that it is not only science that matters and we can have all the information, all the scientific facts and evidence and data and still not agree on whether, for instance, we should be using genetically modified foods or not. We should be investing in genetically modified food or not, and an important example of that is the different positions of the US and the EU, which have often been raised in the context of World Trade Organisation dispute settlement, for instance, where the US is much more in favour generally. These are very general presentations because it's a lot more nuanced than that. We can't really say the US as a whole or the EU as a whole, but kind of the overarching picture is that the US has been much more in favour of using genetic modification and the EU has been much more opposed, and there was a very interesting case, a big case, which came before the dispute settlement mechanisms of the World Trade Organisation, where in one of the judgements there was a note that says public anxieties also play a role. So the public anxieties it was referring to were the public anxieties against genetically modified foods in the European context, and saying that those public anxieties can play a role in the position that the EU takes. Particularly against allowing in this case, it was against allowing genetically modified foods from the US to enter the EU market. And what was also really interesting is that there's often this sort of idea that the US and the EU are using completely different science, that if you would bring a scientist to defend the US position, the data would somehow show something different, would show that those genetically modified foods are entirely safe, whereas if you bring a scientist to support the EU's position, then scientists would show that the that the genetically modified food would not be safe. But actually in reality, the science of both sides of this argument is very similar, so they're relying on the same scientific information, but they're drawing different conclusions on what to do with that information, and those conclusions are something that you cannot possibly decide based on science and on reason alone.

It's very much informed by emotions, by sentiments, by cultural perspectives. That's very important in food law and policy. So what kinds of things might we then also be looking at beyond genetic modification, beyond genetically modified foods? In the rights to food discussions I mentioned previously, there is an increasing recognition of sort of non-science perspectives. So when we look at how discussions on food security have developed over the years, food security, the concept of food security and the way that it was framed very much focused on we need to get enough. We need to make sure there is enough food, there's enough access to food. So it's really about the availability of food as a physical thing. We need to have enough food for all peoples. But now there's much more recognition of a whole range of values in relation to food, so it's not just that there needs to be enough food, there needs to be enough of the right sort of calories for everybody. But what kind of preferences do people have, in the sense of cultural preferences? For instance, what do people want to eat? What do people not want to eat? Those questions play an important role in global food policy, and they should play an important role as well in how we structure our legal systems dealing with food. So my hunch, or my idea, here is that if we, as international lawyers, are to contribute, for instance to improving global food systems, to working towards more sustainable, healthier diets, the human right to food is not only based on having enough food, having access to enough food, but also what types of food do we have access to. So there's a lot of emphasis, just to give an example, to link also more clearly to your to your research group here, is that when we spoke about food security or food insecurity in the not so distant past, it was mostly starving people who don't have enough food on their plates. That's what we were talking about. But now when we talk about food insecurity, obesity is a huge question. It's not just do we have enough food, but what kind of food are we offering? And there are a lot of people who are food insecure, even though they have more than enough calories, but they're not getting the right kind of food. And so that is a big problem. And that is a big issue to deal with under the big umbrella of food security. And that is something that that international law is also dealing with also has a role in dealing with. So if we are to contribute to improving our global food systems, we have to recognise and engage with the emotional dimension of food because it's not going to be enough, for instance, if we want to move towards a more plant based less fast food, more local whatever, whatever specific objectives that you have there, it's not going to be enough to be pushing facts and evidence and science about food. But we really have to speak to people.

I wanted to just end with a little anecdote. So when I was working at the Ministry of Agriculture, there was a, like, everywhere, but especially at the at the Ministry of Food and Agriculture, there was a move towards trying to tempt us towards eating insects. And so when we had our little work parties or end of the year events and things that we would have, very often we would be served insect based nibbles to go along with our drinks and even though they were really not bad and we all knew that it was good, you know, good for the planet, let's move away from our heavily meat based diets and move towards something else, we were still a little bit disgusted by it, you think this is not really what I want to eat. So it is very much something that is emotional and we do need to engage with those emotions. It's not going to be an easy sell, I think, within the legal sphere. But I think if we're serious about not only speaking about food security, speaking about improving our diets, speaking about improving global food systems, science is not going to be enough, or at least not one particular idea of what science is. We have to look much more broadly. So this is really an overview of my research on this - it's in very early stages. So what I've presented are just some ideas and I'm really looking forward to hearing your questions and comments.