## Table of contents

### About the authors

### Chapter 1 – Introduction

*Otto Hospes, Han van Dijk and Bernd van der Meulen*

1. Food security 19  
2. Adequate food 20  
3. Food policy 21  
4. Law and governance approaches to food security and food policy 26  
4.1 Law-in-motion approaches 26  
4.2 Governance approaches 29  
5. This book 33  
5.1 Developing human rights law for food security 34  
5.2 Law, science and politics in securing food safety 35  
5.3 Transnational law, resource complexes and food security 36  
References 38

### Part 1 – Developing human rights law for food security

### Chapter 2 – The plural wells of the right to food

*Bart Wernaart*

1. Introduction 43  
2. Development of the concept of ‘right to food’ over time 43  
3. The right to food in a broader perspective 48  
3.1 The right to food mentioned as an independent right 48  
3.2 The right to food implicitly or explicitly mentioned in a context 49  
4. Documents and institutions 53  
4.1 International documents addressing the right to food 53  
4.2 International documents addressing the right to food for specific groups 65  
4.3 Regional human rights documents 69  
5. International institutions related to the human right to adequate food 72  
5.1 The General Assembly 72  
5.2 The Security Council 73  
5.3 The Economic and Social Council 73  
5.4 The Committee on Economic, Social and Cultural Rights 74  
5.5 The Human Rights Council 74  
5.6 The Advisory Council 75  
5.7 The Special Rapporteur on the Right to Adequate Food 75  
5.8 The High Commissioner for Human Rights 76  
5.9 The Food and Agricultural Organization 77  
5.10 The World Health Organization 77  
5.11 The United Nations Children’s Fund 77  
5.12 The International Fund for Agricultural Development 78
Table of contents

5.13 The World Food Programme 78
5.14 The United Nations System Standing Committee on Nutrition 78
6. Afterword 78
References 79

Chapter 3 – The freedom to feed oneself: food in the struggle for paradigms in human rights law 81

Bernd van der Meulen

1. Introduction 81
2. Human rights 81
2.1 What are human rights? 81
2.2 Inalienable rights 81
2.3 Human rights in the concept of law 82
2.4 Treaties and legislation 82
3. Dawn of modern human rights 83
3.1 Four freedoms 83
3.2 The Universal Declaration of Human Rights 84
4. Human rights in Europe 86
4.1 Council of Europe 86
4.2 The European Court of Human Rights 87
4.3 Progressive realisation 90
4.4 The European Social Charter 90
5. The UN Bill of Rights and the right to adequate food 91
5.1 Two covenants 91
5.2 The right to adequate food 92
5.3 The concept of adequate food 92
5.4 The right to water 94
5.5 Access to land 94
6. The paradigm of generations 94
6.1 Social and economic rights 95
6.2 Limits to the enjoyment of economic, social and cultural rights 95
6.3 Generations 96
7. The holistic paradigm 96
7.1 The Special Rapporteurs on the Right to Food 96
7.2 General Comment no. 12 98
7.3 Justiciability 98
8. The human right to feed oneself 99
9. Catching up on doctrine 99
10. Towards a paradigm of ‘real’ human rights? 100
11. Concluding remarks 102
References 103
# Table of contents

## Chapter 4 – State obligations for human rights: the case of the right to food

*Asbjørn Eide*

1. The right to adequate food is a human right 105  
2. On the right to food in human rights law, and on human rights as ‘law’ 107  
2.1 Human rights as such are not initially subjective rights under positive law 107  
2.2 When and how do human rights become ‘law’ and subjective rights? 108  
2.3 The scope of state obligations 111  
3. The tripartite typology of state obligations: origin and purpose 112  
3.1 Overcoming the ideological schism 112  
3.2 Foundation of the typology in the texts of international instruments 113  
3.3 Categories of state obligations 114  
3.4 The category of respect for economic, social and cultural rights: its wide significance 115  
3.5 The category of ‘protection’: its wide range 115  
3.6 The division of ‘fulfil’ into ‘facilitate’ and ‘provide’ 116  
4. Benefits, criticisms and responses 117  
5. A note on the main users of the tripartite typology 118  
5.1 Its usefulness for the monitoring bodies 118  
5.2 Its use by NGOS and civil society: the case of FIAN 118  
5.3 The usefulness for governments: the typology in the new guidelines on the implementation of the right to food 119  
6. Conclusion 120  
References 121

## Chapter 5 – The Netherlands and the right to food: a short history of poor legal cuisine

*Frank Vlemminx*

1. Introduction 123  
2. The Dutch legal system 125  
3. The nature of economic, social and cultural rights in the eyes of the government 126  
4. The rights contained in the constitution and in the covenant in legal practice 127  
5. Direct applicability of the covenant 128  
6. The case law in broad outline 129  
7. The attitude of the Dutch government 131  
8. Conclusion 134  
References 135
Chapter 6 – Declared, not acquired: claiming hunger as a violation of the right to food, with a case study from Indonesia

Irene Hadiprayitno

1. Introduction 137
2. The right to food and its contents as part of international human rights law 138
3. The right to food in Indonesia 141
  3.1 The right to food as a human right 141
  3.2 The right to food and food security 144
  3.3 The right to food in food emergency situations 146
  3.4 A cornucopia of law 148
4. Hunger in Papua: a violation of the right to food? 150
  4.1 The case of Yahukimo 150
  4.2 Concluding observations from the case study 153
5. Conclusion 156

References 157

Part 2 – Law, science and politics in securing food safety

Chapter 7 – Food politics: science and democracy in the Dutch and EU food polity

Henri Goverde

1. Introduction 161
2. Hegemony, power and institution building in the food system 163
3. Phases and features of the Dutch food polity: modernity, consensus, fragmentation 164
  3.1 Dutch food politics: towards scientific food management 165
  3.2 Organising availability of food: state action in a neo-corporatist polity 167
  3.3 Dutch food institutions in the 20th century: modernism and consensus: an interpretation 168
  3.4 Autonomy agro-food polity contested 169
  3.5 Organic farming: example of counter-hegemony and power dynamics 169
  4.1 Formal institutions in the General Food Law 171
  4.2 Role of science in the General Food Law 172
5. Food polity and science: negotiated ‘truth’ in multi-level governance game 173
  5.1 Negotiated ‘truth’ 174
  5.2 Food safety and multi-level governance 174
  5.3 Rheinland model in trans-national context 176
6. Government and food: enhancing democratic food politics 177
  6.1 Three political philosophical perspectives and governance 178
Chapter 8 – From food security to food quality: spreading standards, eroding trust?

Gerard Breeman and Catrien Termeer

1. Introduction
   1.1 From food security to food quality
   1.2 Chain co-ordination

2. Policy communities

3. Potential effects of chain co-ordination on trust relations
   3.1 Losing enacted trust
   3.2 Cannibalising trust

4. Potential effects of chain co-ordination on co-operative structures
   4.1 Selection and exclusion
   4.2 Organisational blindness
   4.3 Blocking innovation

5. Conclusions
   5.1 Ambiguous outcomes
   5.2 Lock-in effects
   5.3 Further research

References

Chapter 9 – Food safety governance from a European perspective: risk assessment and non-scientific factors in EU multi-level regulation

Anna Szajkowska

1. Introduction

2. Division of powers between the EU and the Member States
   2.1 Treaty framework for EU food safety regulation
   2.2 Multi-level regulation through Article 114 TFEU
   2.3 Race to the top

3. Scientific food safety governance
   3.1 European Food Safety Authority
   3.2 Risk analysis methodology: science and other legitimate factors

4. Standard of judicial review of EU health protection measures
   4.1 Discretion
   4.2 Cost-benefit analysis: proportionality stricto sensu?

5. Science in national derogations
   5.1 National versus EU scientific opinions
   5.2 National versus EU interpretations of a scientific opinion

6. Other legitimate factors in EU and national legislation
   6.1 Other legitimate factors lowering the level of health protection
Table of contents

6.2 Other legitimate factors raising the level of health protection 223
6.3 Flexible harmonisation 225
7. Conclusion 226
References 227

Part 3 – Transnational law, resource complexes and food security

Chapter 10– Farmland and food security: protecting agricultural land in the United States 233
Margaret Rosso Grossman
1. Introduction 233
2. Agricultural production and global food demand 235
2.1 US agricultural production and exports 235
2.2 Global population growth and food demand 237
2.3 Meeting global food demand: agricultural land 239
2.4 The claim of renewable fuels on crop production 240
3. Agricultural land in the United States 243
3.1 Farmland loss 244
3.2 Effect of farmland loss 245
4. Programmes to protect agricultural land from conversion 247
4.1 Federal programmes 247
4.2 State programmes 249
5. Agricultural land quality 255
5.1 Conservation compliance on highly erodible cropland 257
5.2 Conservation incentives 258
6. Conclusion 264
References 265

Chapter 11 – Intellectual property rights and food security: the international legal battle over patenting staple crops 273
Melanie Wiber
1. Introduction 273
2. The great moral debate 274
3. Moral signposts 275
4. Commons versus private property 276
5. The role of property 278
6. Battlefields of knowledge 281
7. Sorting out the stakeholders 283
8. Questions of power 287
9. Conclusions 291
References 292
Table of contents

Chapter 12 – Food security as water security: the multi-level
governance of virtual water  295
Dik Roth and Jeroen Warner
1. Introduction 295
2. Engaging with ‘governance’ 297
3. Virtual water: an emerging debate 299
3.1 Averting the water crisis? From water wars to virtual water peace 299
3.2 Virtual water: a fresh approach to water scarcity and food production 303
3.3 Virtual water as another metaphor for the real world: need for caution 305
4. Virtual water governance: some uncomfortable questions 309
4.1 Virtual water and the new neglect of local contexts of land and water use 311
4.2 Complex rights to natural resources 313
5. Conclusion: coming down to earth 314
References 316

Chapter 13 – Food security in a Bolivian indigenous territory:
exchange relations of subsistence farming reproduced in
indigenous governance  321
Michiel Köhne
1. Introduction 321
2. Entitlements shaped by reciprocity and brokerage 322
3. Lomerío, a Chiquitano territory 326
3.1 San Lorenzo, a village 326
3.2 Cicol, the territorial organisation 327
4. Family farming 328
4.1 Exchange among families 329
5. Lomerío's governance of food production 332
5.1 Cacique mayor and Cicol board as central brokers 332
5.2 Municipality and state less important 333
5.3 Village governance of food security 334
5.4 Territorial governance 337
6. Interdependency, discourse and power 341
7. Conclusion 344
References 346

Chapter 14 – Feed security contested: soy expansion in the Amazon 349
Otto Hospes
1. Introduction 349
2. Soy and soy chain actors 352
3. Who is wrong, who is right? 354
3.1 War at the soy frontier in Brazil 356
3.2 Multi-stakeholder consultation in hotels and conference rooms 358
3.3 Bilateral talks and public campaigns in the Netherlands 362
### Table of contents

4. Multi-level lobbying and a moratorium on the trade of soy from the Amazon | 365  
5. Conclusions | 367  
References | 369  

**Keyword index** | 373