

Lawyers and jurists always look to the past for legal precedents, but *With My Own Eyes* demonstrates how the success of one community of practice leads to the formation of other communities, in other countries, to pursue other atrocity perpetrators. In other words, seeking justice is not just about the substantive legal precedents but also about the process precedents. Those working on the Pinochet case looked back to lessons learned from Nuremberg. The Pinochet case inspired those to seek the prosecution of Habré. The expertise from past international criminal court and tribunal lawyers and investigators led evidence collection and the pursuit of cases against Syrian officials for torture. And while *With My Own Eyes* shows us that experience is important and should be utilized, it also proves that those with no experience in international justice can effectively learn and apply their skills to this formerly unknown process: perhaps a reminder to the justice mechanisms that people with differing levels of experience have much to offer.

Rankin is a skilled storyteller; each case study chapter almost has the bent of a thriller; even if you know what the outcome is, it is still exciting to follow each individual's journey through the justice process, particularly when there are significant twists and turns in their pursuit of justice. *With My Own Eyes* is a collection of memos to those working in international criminal justice that one person can truly make a difference, and these stories will serve as inspiration for those days when we feel like giving up.

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Matias E. Margulis. ***Shadow Negotiators: How UN Organizations Shape the Rules of World Trade for Food Security***. Stanford, CA: Stanford University Press, 2023. Pp. 292. CAD 80, Hardcover ISBN: 9781503633520.

Globalization has made the world highly interdependent, and this applies unequivocally to food and agriculture. The first World Food Conference was held in 1974, and it defined food security as the 'availability at all times of adequate world supplies of basic food-stuffs'.¹ The focus was on the global availability of food and food security. At the 1996 World Food Summit, the definition of food security included not only availability of but also 'physical and economic access' to food.² The rules of the World Trade Organization (WTO) have become central in regulating the physical and economic access to food at the global level, and the WTO plays a key role in global food security policies. Whereas food and agriculture had previously been considered different

¹ United Nations, International Undertaking on World Food Security, Doc. E/CONF.65/20, 5–16 November 1974, at 14.

² Rome Declaration on World Food Security, 13–17 November 1996, available at www.fao.org/3/w3613e/w3613e00.htm.

from other industries, with the creation of the WTO and especially the Agreement on Agriculture in 1995, agriculture became a principal subject of global trade.³

Matias Margulis in his book *Shadow Negotiators: How UN Organizations Shape the Rules of World Trade for Food Security* challenges the perception of the WTO's unequivocal domination on shaping global food security policies. Margulis demonstrates convincingly that several United Nations (UN) organizations – namely, the Food and Agriculture Organization (FAO), the World Food Programme (WFP), the Office of the High Commissioner for Human Rights (OHCHR) and the special rapporteur on the right to food (SRRTF) – regularly intervene in WTO decision-making when such an organization 'expects that an anticipated decision at [the WTO] will have negative consequences for the goals it has been charged by the international community to uphold' (at 10).

Margulis is an international relations scholar with a particular interest and expertise in food governance. He also has extensive experience in international policy-making, having worked as a Canadian representative to the WTO, the Organisation for Economic Co-operation and Development and the FAO. Margulis has moreover served as an advisor to the UN SRRTF. This combination of his academic research and policy experience gives him unique skills, connections and insights that have proved enormously valuable for this book.

A central objective of the book is to demonstrate the influence of international organizations (IOs) in shaping WTO policies on food security through what Margulis terms 'interventions'. Margulis recognizes the power of the WTO as a global institution that has an influence across various sectors in industry and society. A common assumption is that the WTO is a membership-driven institution, in which member states, primarily, and the different interests of these states define its policies. There has also been increasing recognition of the influence of the private sector and civil society in shaping the WTO's agenda, especially as the scope of the organization's subject areas has expanded to cover controversial issues such as agriculture as well as intellectual property and access to medicines (at 6–7). In this landscape, the influence of other IOs has been largely overlooked.

Margulis' book, among many other things as I will discuss in this review, is a valuable contribution to fervent debates about the so-called 'neoliberal food regime'. The WTO has played a crucial role in constructing this neo-liberal food regime, which remains dominant today, framing food as a tradeable commodity and bringing food security under the umbrella of 'free trade'. There has been a tremendous amount of pushback against the role of the WTO in this neo-liberalization of global food systems, particularly through various food sovereignty movements.⁴ While the concept of 'food sovereignty' can mean many different things, a common feature of food sovereignty movements is challenging the framing of food as a commodity and viewing it instead

³ Agreement on Agriculture 1994, 1867 UNTS 410.

⁴ See, e.g., Holt-Giménez and Shattuck, 'Food Crises, Food Regimes and Food Movements: Rumbblings of Reform or Tides of Transformation?', 38(1) *Journal of Peasant Studies* (2011) 109; Wittman, 'Food Sovereignty: A New Rights Framework for Food and Nature?', 2 *Environment and Society: Advances in Research* (2011) 87.

as a basic human right. Food sovereignty movements were initiated as grassroots social movements. Margulis demonstrates convincingly in his book that IOs play an important, but often hidden, role in promoting food as a right to take the sharp edges off the WTO's neo-liberal food regime.

Following the introduction, the book begins with a chapter developing the concept of intervention by international organizations. Margulis defines IOs as 'self-directed actors', which essentially means that they can function independently from the states that create and constitute these organizations (at 23). As such, IOs have influence beyond what member states can control or foresee. Secretariats of IOs can have interests and preferences that are not necessarily aligned with their member states. As Margulis explains, intervention must be self-directed, meaning that it is unsolicited and 'not driven by its own member states' (at 31). He identifies in this chapter four specific intervention strategies that are discussed in more detail in later chapters – namely, mobilizing states, public shaming, invoking alternative legal frameworks and taking sides (at 39).

Margulis situates his study of IO interventions within the broader literature on regime complexes. Karen Alter and Kal Raustiala have described a regime complex as 'an array of partially overlapping and nonhierarchical institutions that includes more than one international agreement or authority'.⁵ Chapter 2 of Margulis' book maps out the regime complex for food security and discusses specifically how the WTO and the intervening IOs fit into this complex. Margulis has previously written an influential piece on the regime complex for food security.⁶ Chapters 3, 4, 5 and 6 detail the interventions of, consecutively, the FAO, the WFP, the OHCHR and the SRRTF to influence the food security agenda of the WTO. In Chapter 3, Margulis discusses two specific instances in which the FAO mobilized states to act in the WTO arena with the aim of protecting food security. The first instance was during the Uruguay Round (1986–1994) when the FAO Secretariat mobilized a group of members of the General Agreement on Tariffs and Trade to add to the negotiating agenda specific trade rules to protect food security.⁷ The second instance was during the Doha Round (commenced in 2001) when the FAO Secretariat mobilized a group of WTO members 'to push for the creation of a new WTO-based food-financing facility' (at 61).

In Chapter 4, Margulis explains how the WFP Secretariat used public shaming as an intervention strategy to influence the outcome of the Doha Round negotiations. The WFP was particularly concerned with some WTO member states' proposed prohibition of in-kind food aid and the adverse effects that such a prohibition would have on the ability of the WFP to feed the most vulnerable and imminently food-secure people. In an extraordinary move, then WFP director James Morris published an advertisement in the *Financial Times* on the opening day of the 2005 WTO Ministerial Meeting

⁵ Alter and Raustiala, 'The Rise of International Regime Complexity', 14 *Annual Review of Law and Social Science* (2018) 329, at 329.

⁶ Margulis, 'The Regime Complex for Food Security: Implications for the Global Hunger Challenge', 19 *Global Governance* (2012) 53.

⁷ General Agreement on Tariffs and Trade 1994, 55 UNTS 194.

with the title: ‘Will WTO’s Negotiators Take the Food Out of Their Mouths?’, along with pictures of four starving children (at 114).

In Chapter 5, Margulis details two specific instances in which the OHCHR invokes human rights in efforts to influence WTO policy on food security. The first instance was in 2002 during the Doha Round when the OHCHR proposed that the WTO adopt a right-to-food approach in negotiating agriculture. A report published by the UN High Commission on Human Rights entitled ‘Globalization and Its Impact on the Full Enjoyment of Human Rights’ in 2002 shortly after the end of the WTO Ministerial Meeting was particularly influential.⁸ The second instance was in 2003, also during the Doha Round, when the OHCHR wrote letters to several trade ministers as ‘unofficial submissions’ to the WTO (at 121). Unlike the FAO and the WFP, the OHCHR does not hold observer status at the WTO. These interventions were intended to underscore the idea that WTO policies on agriculture and food security potentially violate human rights.

Chapter 6 engages with interventions by the UN SRRTF. The SRRTF is not an IO like the other IOs discussed. It is an independent and unpaid position that comes with limited administrative support. The SRRTF is in this sense less constrained than the FAO, the WFP and the OHCHR. At the same time, the much more limited capacity and lack of observer status at the WTO force the SRRTF to use their moral leverage to protect the right to food from the WTO’s rules and policies. Margulis highlights in this chapter instances in which a former SRRTF, Olivier De Schutter (2008–2014), explicitly takes sides for human rights and against the WTO’s rules and policies and sides with specific WTO member states in support of the right to food.

As an international relations / public policy scholar with a strong focus on food governance, Margulis’ principal audience is from this background as well. The credits to the book on the back cover laud the book’s important contribution to scholarship on regime complexity, international organizations and global governance. Moreover, the commentators – Karen Alter, Michael Zurn and Jennifer Clapp – emphasize the extensive and rigorous research and the distinct contribution that Margulis makes to understanding how food security policy is shaped at the WTO and by specific IOs. I read this book from my perspective as an international law scholar with an interest in food security. As a result, I focus my following comments on what this book contributes to an international law perspective on food security and to understanding the field of international law in the context of regime complexes.

There is no clearly defined field of international food law or international law on food security.⁹ Rather, distinct areas of international law deal with matters of food and food security from their particular perspectives. International trade lawyers engage with food as a matter of trade law, specifically through the rules and regulations of the WTO. Human rights lawyers engage with food as a matter of human rights, with

⁸ United Nations Commission on Human Rights, *Globalization and Its Impact on the Full Enjoyment of Human Rights*, Doc. E/2002/23-E/CN.4/2002/200 (2002), at 132–134.

⁹ See Saab, ‘What’s the Use of Food Regime Analysis for International Law?’, in M.T. Roberts (ed.), *Research Handbook on International Food Law* (2023) 17.

a particular focus on the right to food stipulated in Article 11 of the International Covenant on Economic, Social and Cultural Rights.¹⁰ International environmental lawyers engage with food via the lens of international environmental law, for instance in relation to climate change, sustainable agriculture and biodiversity. The WTO, long recognized as one of the few actors of international law ‘with teeth’, has played a dominant role in shaping the global food system. In debates on food regime theory, food sovereignty movements have for decades now been pushing against the neo-liberalization of the food system. In this sense, more space has opened to consider other ways of framing the food system.

The regime complex on food security that forms the basis of Margulis’ book demonstrates clearly that actors and institutions of international law are centrally implicated in this regime complex. I have argued in recent work that international law ought to engage more seriously with food regime analysis and regime complexity on food security as it is impossible to truly address questions of global food security from the exclusive lens of trade law, human rights law or environmental law.¹¹ Margulis’ book is a valuable contribution to engaging with regime complexity and food security from the perspective of international law because it highlights in a very tangible and compelling manner the overlapping influences of various fields and actors in international law. Whereas my own work has scratched the surface, Margulis’ extensive research goes in-depth and shows the workings of complex regimes that, until now, have remained hidden in the shadows. Importantly, Margulis’ work shows the power of IOs that are often viewed as ‘softer’ than the WTO.

Beyond the specific example of food security, the WTO and the four IOs that Margulis discusses, this book sheds light on central and timely debates within international law on the role of the state in a world in which other actors are gaining increasing influence and power. International law remains state-centric, regulating the behaviour between states and solidly grounded on state consent. Margulis’ powerful presentation of the influence of ‘shadow negotiators’ demonstrates the power of IOs as non-state actors and offers an important opportunity for international lawyers to push the question of how state-centric international law can and should adapt to an increasingly complex world. Gaining a better understanding of the power dynamics and how different actors can influence the rule-making and policy-making of other institutions is a necessary insight in reflecting on the role of non-state actors in international law. This is an especially relevant contribution as much of the work around food sovereignty movements and the human right to food has been focused around civil society rather than IOs.

For international lawyers with an interest in matters of food security, and especially those who are coming at the issue from a human rights perspective, I found this book to offer a great deal of encouragement. There is a common perception of a dichotomy between the WTO-focused neo-liberal conception of food security and the human

¹⁰ International Covenant on Economic, Social and Cultural Rights, 1966, 993 UNTS 3.

¹¹ Saab, ‘An International Law Approach to Food Regime Theory’, 31(2) *Leiden Journal of International Law* (2018) 251.

rights-focused food sovereignty perception of food security.¹² *Shadow Negotiators* shows us that IOs tasked with promoting aspects of food security other than the trade aspect have much more influence than we might imagine. I think this can offer quite a bit of comfort to students and young professionals with an interest in food policy and beyond. The work of IOs does shape rules and policies, even if this influencing goes mostly unnoticed by a wider public.

Margulis' book offers important tools not only in terms of substantive arguments but also regarding his methodological approaches. Margulis collected data for his case studies over an extended period between 2008 and 2019. This included more than 300 official documents from the WTO, the FAO, the WFP, the OHCHR and the SRRTE. This extensive research was supplemented with 85 in-depth interviews with relevant actors, including senior civil servants and (former) executive heads, and additional interviews with current and former member state representatives to these IOs as well as interviews with representatives from non-governmental organizations (at 16–17). The thoroughness of Margulis' data collection has resulted in a powerful argument that sheds important light on the global governance of food security.

What is most impressive about *Shadow Negotiators* is not the extensive research done but, rather, how Margulis has turned an enormous amount of data into an incredibly compelling narrative. In reading the case studies in Chapters 3–6, I found myself turning the pages as if I were reading a novel. The sign of an excellent piece of writing, to me, is when the effort that has gone into constructing the argument is completely invisible to the reader, who instead just gets to enjoy the read. The descriptions of how particular actors within these IOs position themselves, the strategies they adopt, the creative means through which they seek to pursue and defend their organization's *raison d'être*, and sometimes sacrifice their own position in doing so, are immensely intriguing. Margulis presents himself not as a standard academic writer but as a storyteller. I often forgot that I was reading an academic book, which, needless to say, is a compliment!

The versatility of Margulis' *Shadow Negotiators* is its principal strength, and this book will undoubtedly contribute to informing various substantive and methodological inquiries across disciplines on the WTO, food security and far beyond. While I wholeheartedly recommend colleagues to read the book in its entirety, the different chapters in the book can equally well be read and used separately. I look forward to incorporating this book into my research and teaching on global food systems and food security from an international law perspective.

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¹² Consider literature on food regime theory that sets out these opposed ways of framing food security. See, e.g., Pritchard, 'Food Regimes', in R. Kitchin and N. Thrift, *The International Encyclopedia of Human Geography* (2009) 221.