sociology | craig reinarman

Policing Pleasure

Food, Drugs, and the Politics of Ingestion

On december 5, 2006, the New York City Board of Health passed two quite different regulations, each prompting a different reaction. One was "the first major municipal ban on the use of all but tiny amounts of artificial trans fats in restaurant cooking." The Board cited evidence that ingesting such trans fats raises the levels of an especially damaging type of cholesterol that is strongly linked to heart disease.[1]

No one in the news accounts disputed the evidence, but the ban provoked criticism all the same because the state had trespassed into the lair of laissez-faire. A representative from the National Restaurant Association called the Board of Health's ban "a misguided attempt at social engineering by a group of physicians who don't understand the restaurant industry."[2] A lawyer for the New York Restaurant Association invoked individual civil liberties: "I don't want to be told what to eat."[3] Against such criticisms, Mayor Michael Bloomberg made a straightforward public-health defense. Wisely removing himself from the space between New Yorkers and their food desires, the mayor reassured the city that their government was "not going to take away anybody's ability to go out and have the kind of food they want, in the quantities they want. We're just trying to make food safer."[4]

On the same day, the Board of Health approved a second measure. Rather than ban a harmful substance, this one required only that fast-food restaurants prominently display the caloric content of their menu items. Here, too, the end was better public health—doing something to address "what is widely regarded as a nationwide epidemic of obesity."[5] But this regulation prompted less controversy, perhaps because the means were consistent with laissez-faire principles of consumer sovereignty and caveat emptor. This measure mandated only the provision of information so that eaters might make more informed dietary decisions.

Creating regulations that extend health without curtailing liberty is never easy. In fact, the concept of banning foods because they are unhealthy—rather than poisonous or carcinogenic—does not have a long history. Under what circumstances should we control access to certain foods on grounds of health? Those of us who study drugs in the United States may have help to offer the food world: a map of where *not* to go.

Oddly enough, food policy and drug policy began together. A century ago, Congress passed the Pure Food and Drug Act of 1906, sparked by Upton Sinclair's exposé of scandalously unhealthy practices in the meat industry as well as a flood of newspaper stories about snake-oil salesmen pushing cure-all potions with secret ingredients that were often alcohol or opiates. The new law required honest ingredient labeling of both food and drugs and periodic government inspections. Fourteen years later, in 1920, national alcohol prohibition went into effect, and prohibition agents were put in charge of United States drug policy. They chose to shift attention away from unscrupulous drug manufacturers and made criminalizing individual users—members of lower status and disreputable groups, in particular—the cornerstone of United States drug policy.[6]

Since then, the arc of drug policy across the twentieth century has defined ever more drugs and users as criminal, giving rise to an enormous drug control industry. In

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addition to the Drug Enforcement Administration and the "Drug Czar"'s office, there are drug control branches in the State Department, the CIA, the FBI, the Army, the Navy, the Air Force, the Coast Guard, the Immigration Service, the Customs Bureau, Homeland Security, and nearly every state and local police force. At the peak of the crack cocaine scare in the late 1980s, Congress passed the Drug-Free America Act and other laws mandating long sentences. These laws helped to nearly triple the prison population[7] (disproportionately made up of poor people of color) and give the US the highest rate of incarceration in the Western world. On the day the Board of Health acted to regulate trans fats (and as on every other day of the year), New York City police arrested about eighty people for possessing small amounts of marijuana. That figure, if averaged out, adds up to about 30,000 each year.[8]

By comparison, food regulation has thus far managed to improve public health without such Draconian measures. But it is worth asking, Are we entering an era when government will define certain foods as unhealthy and, therefore, illegal? And if so, how do we feel about this future healthy-food-only world?

On the surface, it may seem a stretch to compare food and drugs. They have different effects on the body and are usually thought to be quite different sets of substances. Food is required for human survival; drugs used for quotidian purposes of pleasure are not. Still, people who are interested in how food is regulated will want to pay attention to how drugs are regulated. There are surprising similarities between the pleasures of food and the pleasures of drugs, as well as overlapping policy issues. Moreover, both food and drugs now face a number of potentially troubling issues: medicalization is casting an ever-wider net over the behavior of citizens; the technological capacity for state surveillance of human ingestion is growing; and the civil liberties that once stood sentinel over such matters have been weakened in the present political context.[9] Although it remains to be seen how far dietary issues will be nudged away from their customary home in the realm of culture toward the realm of government control, the trend toward regulation bears watching.[10]

Blurred Boundaries

The modern lexicon of drug abuse, addiction, and disease has crept into public discourse about food. This goes well beyond the basic fact that eating too much or eating the wrong kinds of food can increase one's risk of various diseases. The media routinely speak of a "nationwide epidemic of obesity,"[11] and the notion that millions of people "abuse" or are "addicted" to food is a commonplace. The American Psychiatric Association lists eating disorders in its *Diagnostic and Statistical Manual* (DSM-IV). The 12-Step addiction recovery program developed by Alcoholics Anonymous has been adapted by Overeaters Anonymous, chapters of which meet in church basements along with chapters of AA, Narcotics Anonymous, Cocaine Anonymous, etc. in almost every city in the United States.[12]

One might read these developments as part of the conceptual imperialism of medicalization, which is taking more and more behaviors into its maw and defining them as diseases. Millions of school children whose report cards would once have noted "difficulty concentrating" are now diagnosed as having Attention Deficit Hyperactivity Disorder and treated, paradoxically, with Ritalin and other stimulant drugs.[13] Slow readers now have "learning disabilities." Men in their sixties whose libidos aren't what they used to be now suffer from a disorder called ED (the sanitizing acronym for erectile dysfunction). The "cure" for this—Viagra and its chemical cousins—has been so extraordinarily profitable that pharmaceutical companies are busy attempting to persuade older women that their declining desires, too, are a disease. Even shyness has been redefined as "social anxiety disorder" and brought under the medical tent.[14]

But medicalization of eating-related problems does not necessarily mean they will be understood and dealt with more humanely. We seem quite able to live with contradictory coding—defining a behavioral pattern as a disease to be treated and at the same time as a form of deviance to be policed. Everyone from physicians to politicians now chants the drug-treatment industry's mantra, "addiction is a disease." But unlike those "patients" who have trouble with alcohol, tobacco, or food, people who dare to have trouble with disapproved substances (like cocaine, opiates, ecstasy, or even marijuana) are routinely jailed for their "illnesses."[15]

Ironically, the way this new lexicon is reconnecting food and drug issues reverses the process by which the two were broken apart in the first place. For most of human history, alcoholic beverages, psychoactive plants, and medicines were understood as forms of food. In what was once Sumeria, modern archeologists have found eight-thousand-year-old, elaborately decorated pottery vessels that contain residue of beer, indicating that the use of cereals in the human diet took the form of an alcoholic beverage far back into antiquity and perhaps to Neolithic times.[16] During much of the European Middle Ages and into early

modernity, a porridge made mostly of beer was a breakfast staple. Prior to the potato, "beer was second only to bread as the main source of nourishment for most central and north Europeans." In the seventeenth century, the English "consumed about three liters of beer per person daily, children included."[17] In wine cultures such as France and Italy, wine is still today mainly understood as food.[18]

Medicines were not considered separate from food, either. Food historian Massimo Montanari observes that cooking with fire "surely was, from its very beginning, intended to make food more hygienic, as well as more flavorful. Thus we can say with some certainty that dietetics was born with cooking." This relationship evolved over time into "a science of dietetics *within the theory and practice of medicine*." Herbs, wild roots, nuts, and medicinal plants were all in one unified category called food. Montanari finds

> signs of medical precepts in recipe collections, since medicine and cookery are two aspects of the same corpus of knowledge…The dynamic of pleasure-health, which contemporary iconography often tends to perceive in conflicting terms, was thought of as an indissoluble union in premodern cultures…Beginning with the seventeenth and eighteenth centuries, dietetic science began to speak a different language, one based on chemical analysis and experimental physics…The new dietetics introduced concepts, formulas, and language no longer tied to sensorial experience.[19]

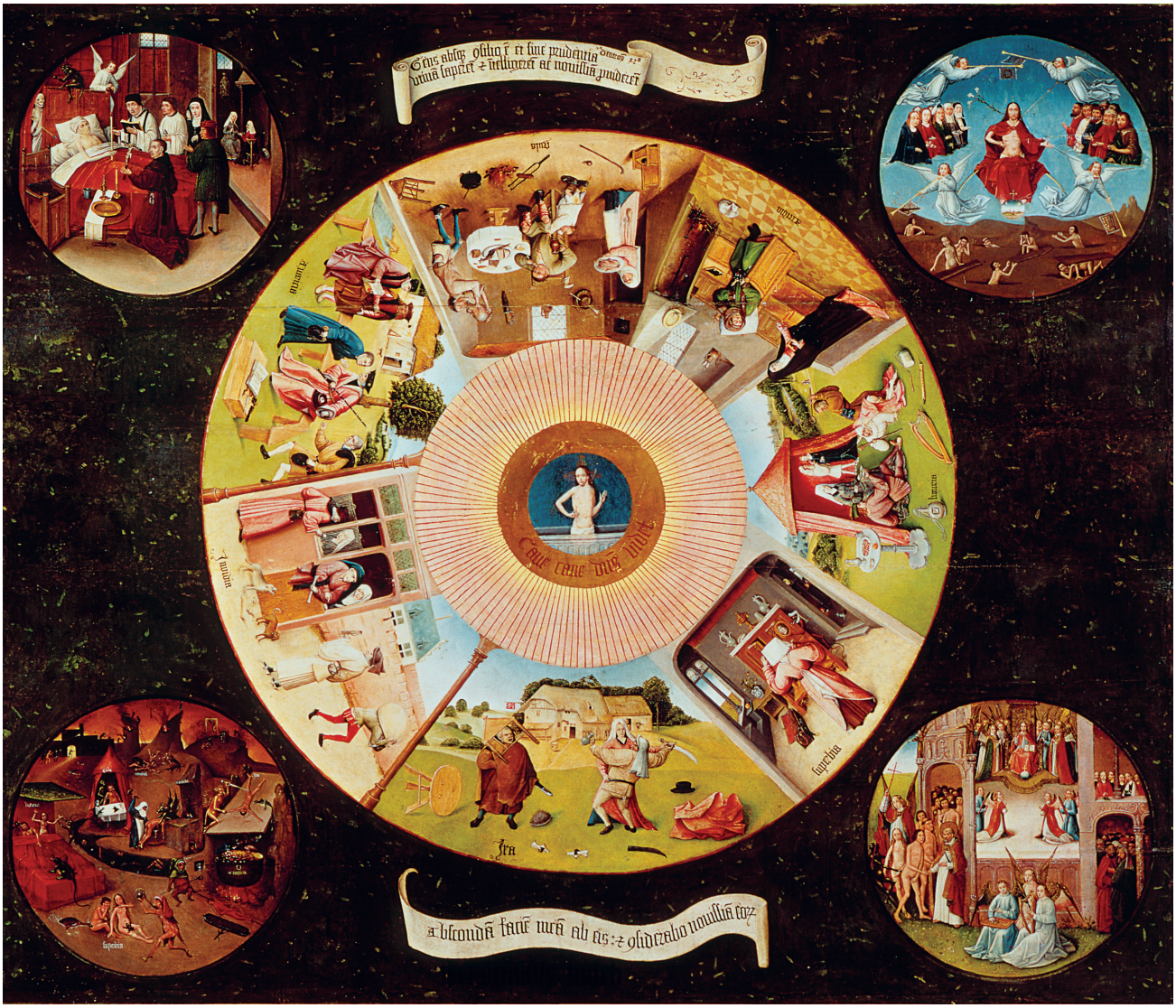
This new language helped usher in the modern taxonomy in which alcoholic beverages and other drugs came to be defined as distinct from food. Such distinctions were in part a product of Enlightenment thought in the eighteenth century. The march of science brought both more refined knowledge of drugs and the ability to make them in intensified forms. Various distilled spirits had been around for some time, but their mass production and trade made them more widely available, which led many drinkers away from beer and wine and helped fuel the "gin craze" in eighteenth-century England. Similarly, after the alkaloid cocaine was synthesized in 1877, the older practices of coca leaf chewing and drinking coca tea and wine gave way to cocaine inhalation and injection. Opium smoking was supplanted by morphine and, eventually, heroin injection. More generally, plant-based remedies gave rise to early pharmaceutical chemistry.

All taxonomies are enmeshed with politics, which are also a piece of the puzzle of how drugs became separated from food. Troy Duster has argued that alcohol and other drugs can be to social science what dye is to microscopy: just as colored dye illuminates the fundamental features of a cell under a microscope, so can drugs illuminate some fundamental features of a society.[20] When tobacco, for example, made its way from the American colonies to England in the seventeenth century, it did not fit within the category of food. Tobacco was a new plant in Europe, and smoking was a radically new mode of ingestion; at first Europeans spoke of it as "drinking" smoke. Although this novel form of drug use was denounced as deviant by King James, it spread quickly. His campaign to eliminate smoking foundered, however, on the shoals of self-interest—taxes from the tobacco trade had become a major source of revenue for the Crown.[21]

Social class also figures into categorization. During the *ancien regime* in France, for example, the bourgeoisie found that coffee gave them energy to work, but they considered the hot chocolate preferred by the aristocracy evidence of ruling class decadence. Both coffee and tea gained status as the "dry" alternatives to alcoholic beverages. For the rising merchant class, the coffeehouse was (as it has again become) a sober space where business was conducted, in contrast to working-class taverns where debauchery and disorder allegedly reigned.[22]

In the early-nineteenth-century United States, evangelical Christianity drove an anti-alcohol or "temperance" crusade. This crusade transformed alcohol from the ubiquitous "good creature of God" it had been for America's first two hundred years into a demonic "destroyer" held responsible for virtually all the ills of immigration, urbanization, and industrialization.[23] Likewise, between the late nineteenth and early twentieth centuries, cocaine went from a medical panacea that was praised by Freud and other famous physicians—as well as the refreshing elixir that gave Coca-Cola its name—to a panapathogen criminalized in part because police and politicians claimed it caused "Negro crime."[24]

In short, the idea that alcohol and other drugs were not properly part of the unified category of food is a relatively recent invention. On the surface, such a separation seems sensible enough, but it is worth recognizing that a good deal more than the march of science brought it into being. The separation is in many respects political in origin and has had serious political consequences. In war, enemies are made into the "other," reduced to a type, and demonized, which helps justify attacking them.[25] Once a substance or type of ingestion was cut out of the category of food, it became easier to "other" its ingestors and punish them. This definitional "othering" was a precondition for all subsequent drug wars.



Appetites and Pleasures

In *The Doors of Perception*, Aldous Huxley wrote: "Most men and women lead lives at the worst so painful, at the best so monotonous, poor and limited that the urge to escape, the longing to transcend themselves if only for a few moments, is and always has been one of the principal appetites of the soul."[26] The claim that people use drugs to escape the pains of impoverishment seems sensible until one realizes that the claimant is a member of a prominent upper-class British family who is writing about his own extensive experience with hallucinogens. The history of drug use clearly indicates that the better-off have always sought transcendent states every bit as much as the downtrodden, although their greater resources usually allow them more easily to camouflage the consequences. Yet Huxley was right to recognize the antiquity and ubiquity of ingesting substances to alter consciousness, and his notion that the human soul has an "appetite" for this may not be merely metaphorical. Both food and drugs provide pleasure, after all, and pleasure is something for which humans have an appetite.

Above: *Hieronymus Bosch*, The Seven Deadly Sins.
MUSEO DEL PRADO, MADRID, SPAIN; SCALA/ART RESOURCE, NY

Some modern Western cultures have never fully adopted the new taxonomy that marked off the appetite for food from the appetite for momentary intoxication or euphoria. For example, the Dutch word *genotmiddelen* means stimulants that provide delight or pleasure, and the equivalent German word, *Genussmittel*, means literally "articles of pleasure." Both words denote a category of substances for human consumption that are eaten, drunk, or inhaled to create pleasure for the senses quite apart from necessary nutrients or medicines. The category includes food delicacies, spices, condiments, cannabis, opiates, alcoholic beverages, and other licit and illicit intoxicants of all sorts.[27] Perhaps it is not surprising that there is no English equivalent for these words.

I am suggesting that the line between ingesting a substance because it *tastes* good and ingesting a substance because it *feels* good is less bright than we in the English-speaking world sometimes imagine. Once it has satisfied hunger and provided essential nourishment, food shares with drugs the aim of producing sybaritic delight. Foods and drugs are bound up with one another as part of the same social occasions. No wine lover would ever suggest that the experience of drinking, say, a fine Haut-Médoc is all about the "buzz." The many dimensions of the wine's taste and how those dimensions complement and synergize various food flavors are vitally important. But the buzz is an inextricable part of the experience of wine. When wine is part of the overall experience of food, family, friends, and festivities, then intoxication is in the mix, even if it is often subtle. Indeed, the presumption that drinking is entwined with dining remained widespread even during the temperance crusade. The original 1896 *Fannie Farmer Cookbook*, for instance, listed wines that should be served with each course. The term "appetizer" now connotes small portions of food served prior to a meal, but when this word first came into common usage in the mid nineteenth century, it meant liquors served before dinner to kindle the appetite.[28]

Sipping an espresso after a fine meal is a taste treat, but it is also valued as a drug due to the central nervous system stimulation one gets from its caffeine, a boost of energy that extends the evening's enjoyment. In some circles, the ceremonial snort of cocaine after dinner serves much the same rejuvenating function. For many years, comedian George Carlin joked in his stand-up routine that "if the guys who own supermarkets really understood what marijuana did, they'd give it away free at the door." There are many other jokes about marijuana and "the munchies," and most of the 25 million Americans who consumed marijuana last year[29] can attest to the fact on which these jokes rest: it stimulates their appetite for and enhances their appreciation of food.

Even without such psychoactive enhancements, the ingestion of food itself is often a consciousness-altering experience. Pleasure aside, the journey from hunger to satiation takes the eater from a state of discomfort and even anxiety to one of satisfaction and relaxation. Who among us has not swooned over an especially enjoyable meal or a favorite dish prepared to perfection? For example, eating fresh lobster—the sensuality of pulling the warm, tender meat from the shell with one's fingers, followed by the burst of buttery flavor in one's mouth—puts many eaters in a trance-like state, replete with rolling eyes and moans of epicurean ecstasy. When cookbook authors deploy words such as "intoxicating" and "rush" to describe the tastes their recipes bring into being, they are not engaging in mere salesmanship.

The difference between the "highs" one gets from a great meal and from alcohol and other drugs may be less a difference of kind than a difference of degree, as recent neuroscience research suggests. Neuroscientists have used magnetic resonance imaging (MRI) to show how the brain's so-called pleasure center reacts to psychoactive substances.[30] These experiments have not yet located the Holy Grail of the drug field, a basic biological substrate for addiction, but they have yielded an embarrassment of other riches. It turns out that similar changes in brain activity are sparked not only by drugs—stimulants and depressants, licit and illicit—but also by adrenaline-inducing and other pleasurable activities involving no drugs at all. The latter include a wide range of things from gambling to maternal support to the sight of beautiful faces.[31] The trend across these studies is toward what neuroscientists call the "common pathway" hypothesis,[32] essentially the idea that behaviors that give pleasure stimulate dopamine neurons in the brain and, therefore, tend to be repeated—whether the behavior is ingesting a psychoactive substance, attending the symphony, or eating a scrumptious meal with friends.

Orwell's Ghost: Should Foodies Be Worried?

New chapters are being added to the long and tangled history of government attempts to regulate ingestion. Since the rise of the Right in 1980, the US government has become increasingly laissez-faire in the economic realm, weakening, for example, safe food and water laws and cutting inspections and enforcement, while at the same time expanding surveillance in the realm of private behavior, including ingestion.[33] Some current regulatory controls on ingestion are based on solid evidence and provide health benefits with minimal intrusion on individual freedom. But for others, the evidence is often mixed and sometimes manipulated, while the benefits are dubious and the intrusion substantial. Public-health education about the risks of tobacco smoking, combined with laws that restrict its availability and use, have led to measurable public-health gains with minimal loss of liberty. The same cannot be said about arresting 750,000 Americans annually for possessing marijuana.[34]

Food policy and drug policy are both justified in terms of public health, but there the similarities end. The American zeal for suppressing certain types of drugs and

altered states is unique in the Western world. No other nation had a century-long crusade against alcoholic drink that culminated in national, constitutional prohibition. Even after prohibition's repeal, the same strain of fear-based politics led to a series of drug scares and ever harsher drug laws.[35] Successive drug czars have proudly proclaimed "zero tolerance" as the fundament of American drug policies. This helps explain why there are more drug offenders in prison in the United States than there are offenders *of all kinds* in all the original member states of the European Union combined, despite the EU's much larger total population.[36] Since 1980 there has been an eight-fold increase in drug offenders in prison in the United States, from about 50,000 to about 400,000 in 2003.[37] Under California's Three Strikes and You're Out law, more people have been sent to prison for life for a third strike of marijuana possession than for murder, rape, and robbery combined.[38] When the state is willing to go to such extremes of policing in one realm, citizens are entitled to ask whether it might become willing to do so in other realms.

The net of state surveillance over what citizens ingest is widening. For example, the White House drug czar, John Walters, is currently on a campaign to convince school districts to subject every high-school student in America to supervised urine testing for signs of illicit drug use. There are a number of reasons to worry about this. There is no evidence that school districts that perform drug testing have less drug use or fewer drug problems than schools that do not test.[39] But more importantly, suspicionless testing misleads students about their country's Constitution. It inverts the presumption of innocence that historically has distinguished the American justice system from most others, and it undermines the American tradition of civil liberties. The Fourth Amendment is supposed to protect citizens from unreasonable searches, and the Fifth Amendment is supposed to protect against being compelled to testify against oneself. But neither the presumption of innocence nor the Bill of Rights has slowed the government's drive to require fourteen-year-olds to urinate into a cup—under the watchful eye of school officials, yet—to prove their moral purity. Moreover, such urine tests generally do not cover alcohol and tobacco, the drugs most commonly used and abused by teens. As such, young people can easily see that drug testing is more about conformity than health. Students whose drug tests reveal traces of illicit drugs can be kicked out of extracurricular activities (which many experts think are the best deterrent to drug use) and coerced into treatment, whether they need it or not.

The technical capacities for such surveillance are also expanding. Modern techniques now make a single hair follicle into a fossil-like record of recent years of drug ingestion. Scientists at the Mario Negri Institute for Pharmacological Research in Milan recently developed technology to estimate the prevalence of illicit drug use in entire cities by chemically testing for drug residues and metabolites found in wastewater treatment plants and rivers.[40] This particular methodology seems logically suspect on its face, but it could easily be used to target allegedly high-prevalence cities for more policing. Moreover, the technologies involved—gas chromatography-mass spectrometry (GC/MS) and liquid chromatography-mass spectrometry (LC/MS)—can also measure drug residues and metabolites from human blood, sweat, and saliva.

Will this sort of surveillance be extended beyond drugs to diet? For the moment, that seems unlikely. But if food sins continue to creep in the direction of drug sins, the same rationales and technologies could come into use. Food and drugs are both articles of pleasure, in the consumption of which some people overindulge occasionally while a smaller fraction do so more frequently. A still smaller number develop a truly unhealthy relationship with their substance of choice. With the proliferation of consumables defined as dangerous, testing blood for, say, high-cholesterol foods is no longer unimaginable.

Many motorcycle riders oppose helmet laws as an infringement of their liberties. But their freedom to ride without head protection must be weighed against the increase in paralyzing brain injuries that would result, the enormous costs of which fall on all who pay insurance premiums. In most states, helmet laws are a trade-off voters apparently support: a relatively minor infringement on individual liberty for a greater common good. Similarly, a range of interventions into the world of food appear to offer solid health benefits with little or no loss of liberty. Celebrity chefs such as Alice Waters and Jamie Oliver have improved the dismal nutritional quality of school lunches. President Clinton helped negotiate limits on sugary soft-drink vending machines in school cafeterias. New York's recent ban on trans fats and its requirement that fast-food outlets publicize the caloric content of their menu items do intrude on business prerogatives to some degree, but these measures stand a good chance of delivering public-health gains without excessive infringement of dietary freedom.

One can, however, imagine future regulations that would be more invasive. Health insurers, for example, increasingly refuse to offer coverage to anyone who appears to have preexisting health problems. We could be

approaching the day when dietary matters—such as being overweight or failing to eat so as to reduce one's cholesterol—constitute sufficient reasons for insurance companies to refuse or cancel coverage. Under the wellness/prevention principles used by HMOs, patients get check-ups annually, and their blood and urine tests are often monitored quarterly. What if, in the not-so-distant future, your physician informs you that you are a bit overweight, your cholesterol and blood pressure levels are higher than they should be, and that unless you lay off the cheese cake, your health-insurance premium will go up, or you'll be dropped from your health coverage? To combat childhood obesity, more and more school districts are sending Body Mass Index scores home to parents inside the report cards of six-year-olds.[41] Sending the message that "Your health is up to you" may have salutary effects in getting people to adopt healthier lifestyles. But it may also signal a drift in the direction of the "self-control or else!" stance the state takes toward citizens who ingest disapproved drugs.

For the moment, we are not arrested and imprisoned when we fail to adhere to healthy diets. When a person who eats too much fatty food cuts down from two pizzas to one, his doctor says, "Good, keep working at it." When a patient with heart disease lowers her cholesterol by a third, her cardiologist cheers her on. When compulsive overeaters experience difficulties, they can get support and treatment without coercion. And of course no one suggests that because a small minority of eaters abuse or are "addicted" to food we ought to prohibit it or imprison farmers.

Arguably the single greatest reduction in drug-related harm ever accomplished by the forces of public health was getting half of adult cigarette smokers to quit. This was done by strong health-education programs, making treatments widely available, and taxing and regulating tobacco to restrict its availability. No smoker was ever kicked out of treatment for not wearing her nicotine patch. No one was ever arrested or spent a night in jail to deter their smoking. But when a drug offender on probation or parole cuts his intake of illicit drugs in half, he is said to be in "relapse" and/or "denial" and is sent back to jail. Similarly, when former heroin addicts on methadone maintenance "slip" and produce a "dirty urine," they are often expelled from treatment and can end up back in prison.

In 1999, Ira Glasser, the long-time executive director of the American Civil Liberties Union, drew a useful analogy between food and drugs when he testified about the need for drug policy reform before the United States House of Representatives:

> The state has no legitimate power to send me to prison for eating too much red meat or fat-laden ice cream…even if an excess of red meat and ice cream demonstrably leads to premature heart attacks and strokes…Obesity and compulsive eating disorders…are not a justification to put people in jail, to search them for possession of forbidden foods or to seize their property when they are caught with such foods. Even more certainly, the self-abuse of compulsive overeating by some cannot possibly justify punishing others for eating the same foods, but in moderation and without apparent ill effects…Similarly, excessive and compulsive consumption of alcohol or tobacco does not justify imprisonment, police searches or seizures of property…Why we do it with other substances, for example marijuana…is the key question this nation needs to begin openly and fairly debating.[42]

Glasser's testimony applies the principle articulated by John Stuart Mill in his famous essay, *On Liberty*—a principle that might serve well as a limit on all attempts to regulate food, drugs, and other forms of ingestion:

> The only purpose for which power can be rightfully exercised over any member of a civilized community, against his will, is to prevent harm to others. His own good, either physical or moral, is not a sufficient warrant. He cannot be compelled to do or forbear because it will be better for him to do so, because it will make him happier, because, in the opinions of others, to do so would be wise, or even right. These are good reasons for remonstrating with him, or reasoning with him, or persuading him, or entreating him, but not for compelling him…Over himself, over his own body and mind, the individual is sovereign.[43]

By and large, food policies such as the ban on trans fat, the requirement to publicize calorie counts, and ingredient labeling do not violate Mill's principle of individual sovereignty. The term "sovereignty" once referred only to the unlimited power of kings. A bit later it came to refer to the power of nation states. But the US is justly famous for pioneering the individual sovereignty that Mill came to advocate nearly a century later. Thomas Jefferson wrote in *The Declaration of Independence* that people have "unalienable Rights," and that "to secure those rights, Governments are instituted…."[44] The founding fathers stated unequivocally, for the first time in history, that the fundamental *purpose* of government was to protect and promote individual rights.[45] Jefferson's prescience extended to the topics discussed here when he wrote that "If people let government decide what foods they eat and what medicines they take, their bodies will soon be in as sorry a state as are the souls of those who live under tyranny. A society that will trade a little liberty for a little order will lose both, and deserve neither."[46]

The fact that all humans need food to survive has thus far protected eaters from the long arm of the law, so it would be too much to say to those who ingest food that is defined as unhealthy, "Watch out, the state is coming for you next." Yet it does not seem too much to say that fans of *foie gras* and other intoxicating but artery-clogging foods may want to consider what they have in common with people who ingest disapproved drugs. Food lovers would rightly resist if government pushed food policy too far in the direction of drug policy. Indeed, we might all be better off if, instead, food lovers and drug users together pushed government to treat drug users more like we treat food users.

Former Supreme Court Justice William O. Douglas once wrote that the Constitution and the Bill of Rights "…guarantee to us all the rights to personal and spiritual self-fulfillment. But the guarantee is not self-executing. As nightfall does not come at once, neither does oppression. In both instances, there is a twilight when everything remains seemingly unchanged. And it is in such twilight that we all must be most aware of change in the air—however slight— lest we become unwitting victims of the darkness."

NOTES

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1. Thomas Lueck and Kim Severson, "New York Bans Most Trans Fats in Restaurants: A Model for Other Cities," *New York Times*, 6 December 2006, A1. California and other states are considering similar measures. See Matthew Yi, "Assembly Bill Would Cut Use of Trans Fats," *San Francisco Chronicle*, 21 December 2006, B1.

2. Ibid.

3. Thomas Lueck and Kim Severson, "Trans Fat Is Bad, New Yorkers Say, But Restrictions Aren't the Answer," *New York Times*, 28 September 2006, C16.

4. Lueck and Severson, "New York Bans…."; see also Thomas Lueck, "New York City Plans Sharp Limits On Restaurants' Use of Trans Fats," New York Times, 27 September 2006, A1.

5. Lueck and Severson, "New York Bans…."

6. Troy Duster, *The Legislation of Morality: Law, Drugs, and Moral Judgment* (New York: Free Press, 1970); David Musto, *The American Disease: Origins of Narcotics Control* (New Haven, CT: Yale University Press, 1973).

7. Bureau of Justice Statistics, "Correctional Populations" (Washington, D.C.: US Department of Justice, 2007), www.ojp.usdoj.gov/bjs/glance/tables/corr2tab.htm.

8. New York State Division of Criminal Justice Services, Computerized Criminal History system (as of April 2005). Includes all fingerprintable arrests for NYS Penal Law Article 221 offenses as the most serious charge in an arrest event, ages sixteen and older. The figures show 29,027 arrests in New York City for marijuana possession in 2004; dividing by 365 = 79.5 as the daily mean, which is the lowest in seven years. For easy access to this data, see www.hereinstead.com/NYCity-Marijuana-Arrest-Graphs.htm.

9. For example, see Nat Hentoff, *The War on the Bill of Rights* (New York: Seven Stories Press, 2003).

10. For an insightful analysis of this issue, see Julie Guthman and E. Melanie DuPuis, "Embodying Neoliberalism: Economy, Culture, and the Politics of Fat," *Environment and Planning D: Society and Space* 24 (2006): 427–448; for a critique of the very claim of an "obesity epidemic," see J. Eric Oliver, *Fat Politics: The Real Story Behind America's Obesity Epidemic* (New York: Oxford University Press, 2006).

11. Lueck and Severson, "New York Bans …."

12. On the diffusion of the 12-Step model, see Craig Reinarman, "Twelve-Step Movements and Advanced Capitalist Culture: On the Politics of Self-Control in Postmodernity," in Marcy Darnovsky, Barbara Epstein, and Richard Flacks, Eds., *Cultural Politics and Social Movements* (Philadelphia: Temple University Press, 1995), 90–109.

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14. See Peter Conrad, *Identifying Hyperactive Children: The Medicalization of Deviant Behavior* (London: Ashgate, 2006); Peter Conrad and Joseph Schneider, *Deviance and Medicalization: From Badness to Sickness*, 2d ed. (Philadelphia, PA: Temple University Press, 1992); on the medicalization of drinking problems, see Stanton Peele, *Diseasing of America* (San Francisco: Jossey-Bass, 1989); for an overview of the medicalization of everyday life, see H. Gilbert Welch, Lisa Schwartz, and Steven Woloshin, "What's Making Us Sick Is an Epidemic of Diagnoses," *New York Times*, 2 January 2007, D5.

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