
How to eat:¹ vegetarianism, religion and law

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Abstract

The approach of Critical Legal Studies that law is a cultural artefact that can be criticised is taken as point of departure in this paper. This insight is applied to food as a very important cultural artefact that permeates virtually every aspect of our personal and social lives. The paper then examines three types of restrictive diets, namely *Kosher* food production, *halal* food rules and vegetarianism. From this study it concludes that all three perform a vital social function of providing adherents with a unifying and identifying set of rules to foster social coherence. But it also provides adherents with a strong moral foundation that serves to justify a sense of moral superiority. Most importantly, all three these diets rest on a modernist view of morality in which absolute, unquestioning and universal truths are possible. It therefore serves to provide certainty in the postmodern condition of uncertainty and relativism. For that reason this study concludes that vegetarianism is the new religion – it provides people who no longer believe in traditional religions with a new certainty.

Keywords: Legal philosophy, food as politics, religion, vegetarianism

Disciplines: Law, philosophy, ethics, environmental studies

1. Introduction

*The history of what we eat is
indisputably the history of how we live
and who we are.²*

Law is often portrayed as a neutral and objective enterprise. It is seen as something that transcends ordinary human activity. But, legal philosophers and other legal academics, have become used to the claim of Critical Legal Studies that “law is politics”.³ While many

1 The title is derived from Lawson N *How to eat: the pleasures and principles of good food* (Random House London 1999).

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2 Lawson N *Kitchen: recipes from the heart of the home* (Hyperion London 2010) xii.

3 See Minda G *Postmodern legal movements: law and jurisprudence at century's end* (NYU Press New York 1995).

certainly do not accept this as true, it is at least no longer a strange statement to make. What CLS means by this is of course not that law embodies party-political ambitions or ideas (although it often does) but that law is one of the sites where the conflict about “what shall we do and how shall we live” is played out. Law is therefore one of the cultural artefacts that display our political struggles and power plays. Law is a cultural artefact and therefore subject to critique.

In much the same vein as the traditional claims about law, dieticians are fond of characterising food as fuel. They do this partly to justify the restrictive diets they prescribe to help their clients lose weight. But archaeologists and sociologists know that food is much more.⁴ Food can tell you what past civilisations were like; when humans became settled farmers who ate grains; how rich these societies were and so forth. Food is at the centre of human rituals, celebrations, bereavement and even violence. In fact it is difficult to imagine any of these without the accompanying food.

The point of departure of this paper is therefore that food is another site where the conflict about what we do and how we live takes place. Food, whether in the form of eating, production or ritual is an enormously important cultural artefact. We do not eat merely to function as more efficient machines. We eat to satisfy our senses, to communicate, to celebrate, to entice and seduce, to please the god(s), to impress, etc. We have imbued food with a meaning that goes far beyond its status as “fuel”.

Therefore, as Berry states:

*There is, then, a politics of food that, like any politics, involves our freedom.*⁵

In CLS terms food, like law, is a form that power sometimes takes.⁶ Food and the withholding of food can be used to reward, to punish or to regulate behaviour – much like legal rules.⁷ *What* we eat, *how* we eat and *why* we eat is determined by social, cultural and religious considerations, to name but a few.

From this it is clear that it is impossible to discuss food and food-related questions from a single disciplinary perspective. It requires the input of various disciplines to achieve a complete picture of a certain problem. In this paper, perspectives from religion, philosophy, law, environmental studies, sociology and ethics are brought to bear on a study of the restrictive diet known as vegetarianism and the social and political justifications thereof. It uses the example of two religious systems of restrictive diets to provide a basis for a critical evaluation of vegetarianism.

In a certain sense all diets are restrictive diets. Of course, sometimes diets are restrictive due to scarcity, such as in the case of the Inuit and the San. But there are food taboos in every

4 See Watson LJ and Caldwell ML “Introduction” in *The cultural politics of food and eating: a reader* (Blackwell Malden MA 2005) 1-10 1 where food is characterised as “a window on the political”.

5 Berry W “The pleasures of eating” in Curtin DW and Heldke LM (eds) *Cooking, eating, thinking: transformative philosophies of food* (Indiana University Press 1992) 374-379.

6 See for example Heldke LM “Food politics, political food” in Curtin DW and Heldke LM (eds) *Cooking, eating, thinking: transformative philosophies of food* (Indiana University Press Bloomington IN 1992) 301-327.

7 This is particularly evident in the way parents use food to reward, punish or regulate the behaviour of their children, for example withholding dessert when the child has been “bad”.

culture, ranging from severe to minimal depending on a large range of factors that have nothing to do with scarcity. This paper will investigate three examples of restrictive diets. Restrictive diets are shown to share a number of characteristics that will become clear in the rest of the paper. The hypothesis of the paper is that these kinds of diets serve to establish group solidarity and provide adherents with a form of ethical groundedness or justification.

To discuss this, the paper is divided into three sections. The first section will discuss three restrictive diets, namely *kosher* food production, *halal* rules relating to food and vegetarianism/veganism⁸. This section will include a look at the specific rules, regulations, beliefs, practices and oddities as well as the metaphysical bases of these.⁹ The first two will necessitate going into specific rules in some detail to establish a benchmark for comparison with vegetarianism. The second section is a brief analysis of the animal rights debate that seems to be inextricably entwined with vegetarianism. Based on these multidisciplinary insights, the last section will provide a critical conclusion about vegetarianism as a form of religion.

2. Three restrictive diets

2.1 Kashrut (or kosher) dietary laws

One of the oldest and best known of the religious restrictive diets is the one associated with the Jewish faith. The dietary laws, found mainly in the *Torah*, determines which foods are *kashruth*, that is, fit for human consumption.¹⁰ Jewish dietary laws allow the consumption of fruit and vegetables with little or no restriction. When it comes to animal products, the law addresses three issues.

In the first place some animals are regarded as “allowed”. These include all ruminants that chew their cud and have split hooves, traditional domestic birds and fish with fins and scales.¹¹ These are all considered *tahor* or clean.¹² It therefore excludes, for example, pigs,

8 This paper will use the term vegetarianism throughout to refer to both vegetarianism and veganism. It is acknowledged that there are ideological differences not only between these two approaches, but also within them. These will be discussed in 3.3 below.

9 This study will not include an analysis of the nature of religion and religious beliefs, as that would necessitate an article of its own. For present purposes the emphasis is on specific religious rules in recognised religions and how they correspond to vegetarian injunctions.

10 The more familiar term “kosher” is a Yiddish word for the more correct Hebrew term. The Jewish system of law, called *halacha*, is based on Biblical injunctions as well as the *Talmud* and the interpretations and extensions provided by rabbis. See Masoudi GF “Kosher food regulation and the religion clause of the First Amendment” 1993 *University of Chicago Law Review* 667-696 668; Regenstein JM and Regenstein CE “Current issues in kosher food” 1991 *Trends in Food Science and Technology* 50-54; Regenstein JM, Chaudry MM and Regenstein CE “The kosher and halal food laws” 2003 *Comprehensive reviews in food science and food safety* 111-127 111; Blech ZY *Kosher food production* (Wiley-Blackwell Ames 2004) xxi.

11 Regenstein ea 2003 *Comprehensive reviews in food science and food safety* 113; Regenstein and Regenstein 1991 *Trends in Food Science and Technology* 50; Belch *Kosher food* 167-168, 188-190.

12 Masoudi 1993 *U Chic LR* 668; Freedman SE *The book of Kashruth: a treasury of kosher facts and frauds* (Bloch New York 1970) 100 – 120.

wild birds and crustaceans. This is by no means a simple distinction, as controversy exists around the fitness of animals like ostriches, pheasant, quail and turkey.¹³

In the second place Jewish law prescribes the manner in which animals must be slaughtered, detailing the person who performs the slaughter (the *shochet*), the knife used and the method.¹⁴ An animal is not stunned prior to slaughter.¹⁵ After its throat has been cut in the prescribed manner, the animal must “bleed out” before being inspected for any defects. It is also required that the animal's sciatic nerve must be removed and the meat must be soaked and salted¹⁶ before cooking. This is all done to remove any trace of blood.¹⁷ There is, therefore, an absolute prohibition on the consumption of blood.

In the third place, based on a biblical injunction that “thou shalt not seethe a kid in its mother's milk”,¹⁸ Jewish law prohibits the mixing of milk (and milk-derived products) with meat. This prohibition leads to products being divided into meat, dairy and neutral. The last-mentioned category includes eggs, fish, honey and resin.¹⁹ Orthodox Jews do not mix meat and dairy and will use different implements and storage to ensure that they are kept apart.²⁰ It is therefore okay to eat meat and eggs together, but not meat and cheese.

Despite the extensive rules and regulations about food, controversy still exists about a number of foods. These will not be dealt with extensively here, but they include issues surrounding grape products,²¹ cheese, milk from non-*kosher* animals being mixed in with those of cows, flour and early fruit.²² In addition, a distinction is made between *kosher* food and food that is *kosher* for passover, but this distinction is not now relevant.

The important point is that these laws are not intended to regulate for the purpose of hygiene. Scholars are at pains to emphasise that the laws are “mainly spiritual” and is “related

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- 13 Regenstein ea 2003 *Comprehensive reviews in food science and food safety* 113, Masoudi 1993 *U Chic LR* 670.
- 14 Freedman *Kasbruth* 28 – 46 characterises this as “humane slaughter”. See also Solomon N “Judaism” in Armstrong SJ and Botzler RG (eds) *The animal ethics reader* (Routledge London 2003) 222 – 223.
- 15 Regenstein ea 2003 *Comprehensive reviews in food science and food safety* 114; Masoudi 1993 *U Chic LR*; Regenstein and Regenstein 1991 *Trends in Food Science and Technology* 50; Belch *Kosher food* 190-201.
- 16 There are even requirements about the size of the salt crystal, leading to the development of the salt popular with chefs, known as “kosher salt”. See Regenstein ea 2003 *Comprehensive reviews in food science and food safety* 115.
- 17 Regenstein ea 2003 *Comprehensive reviews in food science and food safety* 115.
- 18 This prohibition appears three times in the Bible (Exodus 23:19; Exodus 34:36 and Deuteronomy 14:21) and is therefore taken very seriously. See Regenstein ea 2003 *Comprehensive reviews in food science and food safety* 115; Masoudi 1993 *U Chic LR* 669; Regenstein and Regenstein 1991 *Trends in Food Science and Technology* 50.
- 19 Regenstein ea 2003 *Comprehensive reviews in food science and food safety* 116.
- 20 Masoudi 1993 *U Chic LR* 669-670; Belch *Kosher food* 37-40.
- 21 Jewish law does not prohibit the use of alcohol, but it regulates how and when the grapes are harvested, pressed and pasteurised. See Regenstein ea 2003 *Comprehensive reviews in food science and food safety* 116.
- 22 For an extensive discussion of this, see Regenstein and Regenstein 1991 *Trends in Food Science and Technology* 52 – 53; Regenstein ea 2003 *Comprehensive reviews in food science and food safety* 116 – 119; Belch *Kosher food* 253 – 537.

to holiness”.²³ Holiness or self-sanctification is regarded as identical to moral autonomy or moral freedom and the laws are given to the community without the need for explanation.²⁴ American courts have formulated it in the following way:

*(The rules are) deeply symbolic ... of the basic relationship between God and man... (Complying with the rules) is one of the important ways by which the faithful are reminded of the presence of the significant in the commonplace ... (Compliance) affects the moral and spiritual character of the individual, which ultimately determines his well being and salvation.*²⁵

One of the aspects that is not explicitly mentioned in the literature is the way in which *kosher* food is seen as defining and delimiting a specific community.²⁶ One commentator does mention that the rules (*mitzvos*) were designed to “unify people” in a spiritual sense.²⁷ But this purpose is clearly inherent in the assumptions about the availability of rabbis to certify food, *shochets* to slaughter animals, certifying symbols and *kosher* butchers and restaurants. Without the supporting community, maintaining a *kosher* lifestyle would be impossible. Much like tattoos define members of a gang, *kosher* adherence guarantees group identification and coherence.

Quite apart from its religious and communal aspects, *kosher* food production and regulation have obvious legal implications. State regulation is required to protect consumers against fraudulent claims and misrepresentation²⁸ and there are constitutional issues in the provision of *kosher* food to prisoners and soldiers.²⁹ Lastly a case might be made that the required method of slaughtering contravenes animal welfare legislation, which could also lead to constitutional disputes.³⁰

2.2 Sharia rules about food

Given the historical and geographical closeness of the origins of the world's great monotheistic religions, it comes as no surprise that there are similarities between Jewish and

23 Masoudi 1993 *U Chic LR* 667 – 668. See also Fuchs S “Enhancing the divine” in Armstrong SJ and Botzler RG (eds) *The animal ethics reader* (Routledge London 2003) 224 – 234. See also Douglas M *Purity and danger: an analysis of concepts of pollution and taboo* (Penguin Books Harmondsworth 1970) 64: “The precepts and ceremonies alike are focused on the idea of the holiness of God which men must create in their own lives.”

24 Regenstein ea 2003 *Comprehensive reviews in food science and food safety* 111; Freedman *Kashruth* 3.

25 *United States v Kabane* 396 F Supp 693 (EDNY 1975).

26 Douglas *Purity and danger* 65 indicates that “wholeness” also implies completeness in the social context. There is also the strong link between ritual and social interaction – see page 78: “As a social animal, man is a ritual animal”.

27 Freedman *Kashruth* 4 – 5.

28 Masoudi 1993 *U Chic LR* 671 – 674.

29 See eg. Abramovsky A “First amendment rights of Jewish prisoners: kosher food, skullcaps, and beards” 1994 *American Journal of Criminal Law* 241 – 272.

30 In particular this could lead to a conflict between the Animal Protection Act 71 of 1962 and section 15 of the Constitution of the Republic of South Africa, 1996 even though the first act does not prohibit inhumane slaughter.

Islamic food laws. But in a sense the Islamic rules are more forgiving.³¹ Islamic law on food is contained in the *Quran* and in the *Sunna* (practices of the prophet Mohammed) as recorded in the *Hadith*.³² This is complemented by the *Ijma* and the *Qiyas* as sources of law. Sharia law relating to food is based on the following principles.

In principle all meat is allowed except if it is prohibited. Prohibited are pigs, boars, carnivorous animals and birds of prey.³³ In most cases all fish are *halal*, but not animals that live both on land and in the water (like frogs, turtles, crocodiles and seals),³⁴ as well as eels and sharks.³⁵ Insects are mostly acceptable, but some are prohibited.³⁶ Like in Jewish law, there is an absolute ban on the consumption of blood³⁷, but there is no restriction on mixing meat and dairy.

The animal must be slaughtered in a way that echoes Jewish law, except that the name of *Allah* must be invoked at the time of slaughter. The animal must also bleed out. Unlike for *kosher* food, salting and soaking of the meat is not required.³⁸ The slaughtering requirements do not apply to fish. Fish, even if it died of natural causes, is *halal*.

Unlike in *kosher* law, the consumption of alcohol or intoxicants is absolutely prohibited,³⁹ except if the amount of alcohol is below 0.1%.⁴⁰ It is interesting to note that, contrary to popular belief, up to 5% of alcohol remains in food after two and a half hours of cooking.⁴¹ It is therefore highly unlikely that setting fire to a pan (as TV chefs like to do) will “burn off” the alcohol.

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- 31 Forward M and Alam M “Islam” in Armstrong SJ and Botzler RG (eds) *The animal ethics reader* (Routledge London 2003) 235 – 237 explains that Islam developed on the edges of the desert and Muslims are therefore not “mawkish” about food and killing.
- 32 Bonne K and Verbeke W “Religious values informing halal meat production and the control and delivery of halal credence quality” 2008 *Agriculture and human values* 35 – 47 38; Regenstein ea 2003 *Comprehensive reviews in food science and food safety* 111.
- 33 Minns RL “Food fights: redefining the current boundaries of the government's positive obligation to provide halal” 2001 *Journal of Law and Politics* 713 – 738 717 – 718. See also Regenstein ea 2003 *Comprehensive reviews in food science and food safety* 121.
- 34 Regenstein ea 2003 *Comprehensive reviews in food science and food safety* 121.
- 35 Bonne and Verbeke 2008 *Agriculture and human values* 38.
- 36 Regenstein ea 2003 *Comprehensive reviews in food science and food safety* 121: bees, ants, spiders, lice, fleas and mosquitoes are all prohibited.
- 37 Regenstein ea 2003 *Comprehensive reviews in food science and food safety* 121.
- 38 Regenstein ea 2003 *Comprehensive reviews in food science and food safety* 121 – 122; Minns 2001 JL & P 717.
- 39 Regenstein ea 2003 *Comprehensive reviews in food science and food safety* 122.
- 40 However, Bonne and Verbeke 2008 *Agriculture and human values* 39 states that, whereas the consumption of pork is regarded as a rejection of faith and group rulings, alcohol consumption is more or less tolerated “since its consumption provides a certain pleasure in contrast to the consumption of pork meat”.
- 41 Regenstein ea 2003 *Comprehensive reviews in food science and food safety* 123; Minns 2001 JL & P 718.

Meat of animals killed by *Ahl-al-Kitab* (“people of the book” – i.e. Jews and Christians) is regarded as *halal*.⁴² This is problematic, as Christian practices and ideas certainly do not conform to Muslim requirements.⁴³

Apart from the prohibition on alcohol, *halal* does not have any requirement regarding the production of food as is the case for *kosher* food. Like in Jewish law, there is still controversy over certain products, including the storage of *halal* meat, a *halal* meningitis vaccine and *halal* makeup.⁴⁴

In much the same way as *kosher* food relies on a community to support the lifestyle, *halal* food requires a social support structure. Because of the slaughtering requirements, coupled with the ban on alcohol and blood, *halal* food implies a whole set of people who provide services and support.⁴⁵ And, in much the same way, *halal* also implies state regulation of the provision of products⁴⁶ and the possibilities of constitutional challenges.⁴⁷

2.3 Vegetarianism

*Now it turns out that even fish feel pain.
This is the growing complication of the modern
condition, the expanding circle of moral sympathy*⁴⁸

Vegetarianism can be broadly defined as a restrictive diet where meat and animal products are avoided to a larger or lesser degree. In academic writing, vegetarians are divided into lacto-vegetarians (who include dairy in the diet); ovo-vegetarians (who eat eggs); lacto-ovo-vegetarians (who include both dairy products and eggs) and vegans (who do not include any animal products in their diets).⁴⁹ But in reality it encompasses a large variety of diets ranging from the strict (where all animal products are avoided, i.e. veganism) to the liberal (which includes anything from eggs and dairy to fish and sometimes red meat on occasion).⁵⁰

42 Regenstein et al 2003 *Comprehensive reviews in food science and food safety* 122.

43 Bonne and Verbeke 2008 *Agriculture and human values* 35 states that most religions prohibit certain foods “with the notable exception of Christianity, which has no food taboos”. This is based on Mark 7:19 where Jesus declared all food clean.

44 See Power C “Halal: buying Muslim” <http://search.time.com/results.html?N=0&Nty=1&p=0&cmd=tags&srchCat=Full+Archive&Ntt=halal%3Abuying+muslim&x=13&y=15> (Date of use 22 November 2011).

45 Power <http://search.time.com/results.html?N=0&Nty=1&p=0&cmd=tags&srchCat=Full+Archive&Ntt=halal%3Abuying+muslim&x=13&y=15> (Date of use 22 November 2011) reports on developments that focus on Muslim travellers to provide the kind of hotels and restaurants that mimic the community at home.

46 See Bonne and Verbeke 2008 *Agriculture and human values* 39 – 42.

47 Minns 2001 *JL & P* 713 – 738.

48 McEwan I *Saturday* (Doubleday New York 2005) 127.

49 Antony AC “Vegetarianism and vitamin B-12 (cobalamin) deficiency” 2003 *American Journal of Clinical Nutrition* 3-6 3.

50 Beardsworth AD and Keil ET “Contemporary vegetarianism in the UK: challenge and incorporation?” 1993 *Appetite* 229-234 229.

Just as there are many kinds of vegetarianisms, there are many reasons why a vegetarian diet is followed. In the case of *kosher* and *halal* diets, mere membership of a religious group is enough to justify the restrictions. Vegetarianism does not enjoy this luxury of a more-or-less self-evident justification – it must construct it.⁵¹ Reasons for following a vegetarian diet fall into two broad categories: moral arguments and non-moral arguments. Within these two categories there are a multitude of different arguments. These will be dealt with in more detail below.⁵²

In the case of the Jewish and *halal* rules, people adhere to the restrictive diets because of the spiritual element it contains. The question that needs to be asked is whether this spiritual element is also present in a vegetarian restrictive diet regime? Authors suggest that there are two success factors for long-term adherence to the diet. People maintain these restrictive diets either because of an “epiphanic moment” (they had an epiphany)⁵³ or because they have an effective social support structure.⁵⁴ In this context it is important to remember that the word “epiphany” means a meeting with god. Apparently vegetarians, like religious people, need a supernatural moment to see the light.⁵⁵ And, like the religious restrictive diets discussed above, their diets rely on and are constitutive of their social systems.

To date there is nothing in South African law to regulate the use of labels like “vegetarian” and “vegan”. This obviously leaves open the possibility for fraud and misrepresentation. Even with the obligation to provide nutritional and ingredient information on products, the terminology often makes it difficult to determine what exactly goes into products that claim to be vegetarian or vegan.⁵⁶ If this is ever to be rectified, vegetarians would need a certifying body (such as the *kosher* and *halal* certifications bodies) to insure against fraud and misrepresentation.

3. Justifications for vegetarianism

As stated above, vegetarianism does not have a self-evident justification based on religious faith. It needs to construct one. Frey distinguishes between moral and non-moral arguments for vegetarianism.⁵⁷ Non-moral arguments are, of course, not completely devoid of moral considerations, as we shall see. But these kinds of arguments at most provide justification for

51 It is, of course, possible to regard all religions and religious rules also as cultural artefacts and therefore subject to the same critique as law and food. For now, however, the internal view of members of these religions is taken as point of departure.

52 See section 3 below.

53 Cherry E “Veganism as a cultural movement: a relational approach” 2006 *Social Movement Studies* 155 – 170 156 quotes a number of studies on this, although she does not agree with them.

54 Cherry 2006 *Social Movement Studies* 155 157, 161.

55 This moral aspect of vegetarianism is emphasised by Beardsworth and Keil 1993 *Appetite* 229-230.

56 For example, Fry's Vegetarian Chicken Style Burgers contains Vegetable Proteins (soya), Wheat flour, Flavorings, Vegetable oil, Fiber, Cellulose Extract, Sea salt, Garlic. (see <http://www.frysvegetarian.co.za/products/frys-vegetarian-chicke-style-burger/>) Exactly what flavorings are used is not explained, nor is it clear what fiber is used and why two types of fiber (fiber and cellulose) should be required. All in all, this is not a particularly helpful list of ingredients.

57 Frey RG *Rights, killing, and suffering* (Blackwell Oxford 1983) 6.

choosing a specific kind of lifestyle. Moral arguments, on the other hand, seek to do more. It seeks to provide vegetarianism with a moral content that is on a par with the religious grounds. This will hopefully become clear in the following discussion.

3.1 Non-moral arguments

3.1.1 The health argument

The health argument is based on the idea that a vegetarian diet is a healthier diet than a diet that includes meat. There are a number of problems with this idea. In the first place there is no scientific evidence for this. There simply are no double-blind, controlled, longitudinal studies that have a large enough sample group to substantiate such a claim.⁵⁸ In the second place the claim is too generalised to be acceptable. While the problems associated with consumption of too much red meat have become folk wisdom, many nutritionists do not accept such a simplistic view.⁵⁹ In addition, it has become clear that certain animal fats (such as omega 3, 6 and 9) have a very beneficial effect on health.⁶⁰

In the third place such a claim is too a-contextual to be taken seriously. For example, a pregnant woman can follow a vegan diet, provided she has the resources to be able to purchase expensive supplements. Without such supplements the chances of a successful pregnancy and a healthy baby is seriously diminished. And the vast majority of women in poor countries do not have such resources.⁶¹ Vegetarianism then becomes an option only available to the rich. Finally there are serious health risks associated with strict vegetarianism, such as vitamin B-12, iron and calcium deficiencies.⁶²

The point is not, of course, that a vegetarian diet is an unhealthy diet. The point is that diets are never in and of themselves “good” or “bad” for your health. It depends on who the eater is, what his/her context is, what the balance of the diet is like and, importantly, how the food is prepared. Totalising grand narratives about health and “good” diets simply serve no purpose.

58 For a clear explanation of what would constitute a proper, scientific study, see Goldacre B *Bad science* (Fourth Estate London 2008) 41 – 62 in the context of homeopathy.

59 See www.discovery.co.za/email_za/mailers/pdfs/general/noakes.pdf [Date of use 09 March 2012] on Prof T Noakes' reversal of his view on the importance of meat in the diet. See also <http://www.paleodietandliving.com> [Date of use 09 March 2012].

60 To date no vegetable fat has been found that contain omega fats in a form that the human body can digest. See <http://theconsciouslife.com/anti-inflammatory-diet-how-to-balance-omega-3-omega-6-fats.htm> [Date of use 09 March 2012]: “But in real life, studies found that the ALA (plant-based omega fats) **conversion rate in the body is dismally low**. In fact, only about 1% of ALA is converted to EPA and negligible amount is turned into DHA.” See also Goldacre *Bad science* 134 – 135.

61 George KP “A feminist critique of ethical vegetarianism” in Armstrong SJ and Botzler RG (eds) *The animal ethics reader* (Routledge London 2003) 216 – 221 arguing that the absolutist morality behind vegetarianism is structured around the ideal of male health.

62 Antony 2003 *American Journal of Clinical Nutrition* 3 – 6.

3.1.2 The environmental argument

The environmental argument proceeds from the assumption that meat farming is bad for the environment.⁶³ But one has to be careful about terminology here. If by “environment” one refers to the contamination of soil and water, it certainly warrants investigation. But if by that term reference is being made to global warming/climate change, the whole debate becomes completely different.

There is very little doubt that large-scale industrial/factory farming of animals presents a serious threat in terms of soil and water pollution.⁶⁴ But the point that needs to be made is that this is also true of large-scale industrial crop farming. Large-scale crop farming (rice, wheat, maize and soy beans in particular) contributes significantly to pollution through the use of pesticides and fertilisers⁶⁵, promotes soil erosion,⁶⁶ contributes to the destruction of rainforests (most notably for farming of soy beans)⁶⁷ and produces methane gas. The main point is that it is not the farming of either animals or crops that causes the problems – it is the method of farming.⁶⁸ In this regard some vegetarians (Zamir calls them “tentative” vegans) base their food choices on the fact that they find current farming practices (i.e. factory farming) to be unnecessarily cruel to the animals and bad for the environment.⁶⁹ They are willing to consider using animal products if and when farming practices change.⁷⁰

But there is also the widespread idea that the flatulence of cattle produces methane in such large quantities that it has a significant impact on global warming. This needs to be debunked on several grounds. First of all cattle, due to their digestive systems, do not fart. They burp. And that does contain methane. A small point perhaps, but indicative of the generalisations that mark this debate. Secondly there are serious reasons to think that the

63 It must be borne in mind that many countries do not have a choice when it comes to deciding whether to farm crops or animals. Some countries simply do not have the arable land required for crop – such as for example the Karoo, Japan, Peru, Egypt and Tanzania. See Rogers JJW and Feiss PG *People and the Earth: basic issues in the sustainability of resources and environment* (Cambridge University Press New York 1998) 47.

64 Niman NH *Righteous porkchop: finding a life and good food beyond factory farms* (Collins New York 2009) provides a detailed account of exactly how much soil and water is being polluted by factory farming.

65 Berry “The pleasures of eating” 376.

66 Rogers and Feiss *People of the earth* 63: “Replacement of natural vegetation by agricultural crops probably causes more soil erosion than overgrazing. Grass prevents erosion by binding the soil. ... (M)ost other food plants, however, have stalks that are rooted in the soil but leave large areas of bare dirt in between.”

67 Fearnside PM “Soybean cultivation as a threat to the environment in Brazil” 2001 *Environmental Conservation* 23 – 38 and sources quoted therein.

68 See Weis T *The global food economy: the battle for the future of farming* (Zed books London 2007) 30-32. See also the argument addressed in 3.1.3 below as they share some concerns.

69 In this regard Zamir distinguishes between “tentative” vegans (vegans who will think about eating meat of the treatment of animals improve) and vegans (who would be vegan now and in an ideal state) – see Zamir 2004 *J Soc Phil* 367 374.

70 The problem in many cases is that free range farming leads to products that is out of reach of most people and such a situation is not moral, as a moral lifestyle cannot depend on the amount of money you have – see Zamir 2004 *J Soc Phil* 367 379 note 9.

threat of global warming is at least over-stated.⁷¹ Finally, it is probable that methane from cattle (or humans for that matter) contributes very little to global methane production. The primary suspects seem to be oil refining, natural swamps, rice paddies and then commercial farms.⁷² Once again, it all depends on your perspective and on confirmation bias.

3.1.3 The scarcity/hunger argument.

The final argument is the scarcity/hunger argument: The argument goes something like this: globally about 655 million tons of cereal is fed to animals to produce 61 million tons of animal protein⁷³. This is hugely wasteful and if only we fed these cereals directly to people, we could eliminate hunger. A vegetarian diet will therefore effectively eradicate hunger.⁷⁴ Now there are three points to be made immediately. Firstly, there is a real and widespread problem of hunger, and not only in the developing world. Secondly, this argument would not even arise if animal were reared using grassland and shrubs instead of feeding them wheat and soy so that, once again, the problem lies with industrial farming practices. Thirdly we could certainly feed many people with that amount of cereal, but the real question is: would we?

It is important to realise upfront that the problem with hunger is not that there is not enough food. On the contrary, agricultural productivity has been growing steadily throughout the twentieth century. The UN World Food Programme estimates that the volume of food produced is more than one and a half times what is needed to provide every person on earth with a nutritious diet.⁷⁵ So why do we have so much hunger? The reasons are complex but ironically it has everything to do with surplus food. The story is instructive: in the late 1960's America was faced with a huge surplus of wheat and consequently introduced the idea of "Food Power" politics. What that meant is that they devalued the dollar, then sold the surplus wheat cheaply to various countries. Most of these countries did not normally consume wheat so they fed them to animals. When the price of wheat went up again, most of these farmers could not keep on feeding their by now expanded herds and sold the meat cheaply. Because wheat now fetched better prices, farmers once again over-produced wheat and the cycle would start all over again.⁷⁶ It is this process of chronic surplus that first fuelled the demand for cheap animal products.

71 See Lawson N *An appeal to reason: a cool look at global warming* (Overlook TP London 2009) and Montford AW *The hockey stick illusion: climategate and the corruption of science* (Stacey Intl London 2010).

72 See <http://www.epa.gov/outreach/sources.html> [Date of use: 11 March 2012] for a list of methane producers identified by the United States environmental Protection Agency for that country. It will be different in every country.

73 Weis *Global food economy* 41.

74 Frey *Rights, killing and suffering* 17 – 21.

75 Weis *Global food economy* 11; Food and Agricultural Organisation of the United Nations *The state of food insecurity in the world 2003: monitoring progress toward the World Food Summit and Millennium Development Goals* (Rome 2003). See also <http://faostat.fao.org> for more recent statistics. See also Lappé FM and Collins J *Food first: beyond the myth of scarcity* (Ballantine Books Boston 1977) 7: "Every country in the world has the capacity to feed itself."

76 Lappé and Collins *Food first* 22 – 26; Weis *Global food economy* 47 – 88.

Authors agree that the problem of hunger is not created by a lack of food (whether animal based or not) but by the global economic system that makes it impossible for people to access the food that is available.⁷⁷

*As long as food is something bought and sold in a society with great income differences, the degree of hunger tells us nothing...*⁷⁸

In Africa in particular, this basic problem has been aggravated by colonialism and the more recent interference by both Western and non-Western powers. In Somalia, for example, America “donated” large amounts of food, when there was really no necessity for it. But government officials sold this to their own people at hugely reduced prices, thereby making it impossible for crop farmers to compete. The net result is that global politics and greed destroyed crop farming in that country, leaving it dependent on foreign food aid.⁷⁹

3.1.4 Conclusion

The point of this discussion has not been to indicate that all is well with farming and that we can happily continue to have our chicken and eat it too. Far from it. The point is that things are not as simple as they seem. In all these cases politics, whether global or local, play an enormous role in our decisions regarding the food that we eat. It therefore substantiates the claim of this paper that food is politics.

3.2 The moral arguments

Vegetarianism is not a new idea. In fact, arguments to support it can be traced back as far as the Greek philosophers. And these arguments have always linked a vegetarian diet to moral and spiritual superiority.⁸⁰ Contemporary moral arguments do not follow the rather crude physiological arguments of earlier ages. It focuses on what might broadly be characterised as “animal rights”.

3.2.1 Animal rights

The term “animal rights” is a sort of shorthand to convey a complex set of ideas. It is tempting for lawyers to read this as a claim for rights in the legal sense. Although this has been mooted,⁸¹ it is not the meaning typically ascribed to the term.⁸² “Animal rights” can be used in a wider and a narrower sense. In a wider sense it indicates the idea that animals have some kind of moral status – whatever that might mean and however that might be justified.

77 See Shaw DJ *World food security: a history since 1945* (Macmillan New York 2007)

78 Lappé and Collins *Food first* 18.

79 Rogers and Feiss *People and the earth* 50.

80 Whorton JC “Historical development of vegetarianism” 1994 *American Journal of Clinical Nutrition* 1103 – 1109.

81 See Feinberg J “Human duties and animal rights” in Morris R and Fox M (eds) *On the fifth day: animal rights and human ethics* (Acropolis Books Washington 1978) 45 – 69; Epstein RA “Animals as subjects, or objects, of rights” in Nussbaum M and Sunstein C (eds) *Animal rights: current debates and new directions* (Oxford University Press Oxford 2002) 143 – 161.

82 Palmer C “Introduction” in *Animal rights* (Aldershot London 2008) xiii – xxxi xv.

The narrower meaning is the one associated with rights theory and arguments tend to revolve around the question of whether rights theory is a good way of dealing with this.⁸³ The debate about animal rights is a wide-ranging one and it would be impossible to deal with all arguments in one article. The discussion that follows is therefore necessarily selective.

Singer is probably the best known of the animal rights advocates. Following Bentham,⁸⁴ he argues that the capacity of suffering is what confers moral status.⁸⁵ Basically the argument is that, if a being can suffer, it has interests; if it has interests, they must be taken into account morally on an equal footing with all other holders of interests. To do otherwise would be speciesist. He uses the position of infants and the mentally handicapped to show that full rationality is not the criterion for equality, as we grant equal moral status to such people. At least some animals are comparable to these humans and should therefore have the same moral status.⁸⁶

The problem with Singer's argument is that the comparison between infants and the mentally handicapped on the one hand and animals on the other hand does not hold up. His view of "equal moral consideration" is based on a fairly old-fashioned modernist view of morality and of equality. The fact of the matter is that we do not grant equal moral consideration to infants, the mentally handicapped or even other fully rational adult humans (like those in prison). Sometimes they are accorded more consideration, often less depending on familial bonds, cultural beliefs and social dynamics.⁸⁷

Regan argues for animal rights on the basis of rights theory, because that allows him to focus on individuals (human and non-human) as the "experiencing subject of a life".⁸⁸ In brief his argument is that if you have the qualities of welfare, beliefs, preferences, memory, feeling, etc you have inherent value and those with value have some rights. Following from that, if you have inherent value you have it equally with everyone else.

Cohen points out that Regan conflates the term "inherent value" with "value" in the Kantian sense. The first meaning refers to the idea that every unique life has some worth and this is unproblematic. However, the second meaning requires the possession of the capacity to make moral judgements and to take on duties.⁸⁹ Cohen therefore rejects Regan's animal rights thesis because animals do not have value in the second, Kantian sense. In a similar vein Frey argues that animals do not have interests, wants, desires and beliefs and therefore

83 Palmer "Introduction" xv.

84 Bentham J *An introduction to the principles of morals and legislation* (W Pickering London 1823) 311: "The question is not, Can they *reason?*, nor Can they *talk?* but, Can they *suffer?*"

85 Singer P "All animals are equal" in Regan T and Singer P (eds) *Animal rights and human obligations* (Prentice-Hall Englewood Cliffs 1976) 73 – 86.

86 Singer "All animals are equal" 80.

87 To that one might add that it is sometimes argued that animals really cannot suffer since they lack a right neocortex and a prefrontal neocortex, making Singer's argument more dubious. See Bernard B "The myth of animal suffering" in Armstrong SJ and Botzler RG (eds) *The animal ethics reader* (Routledge London 2003) 79 – 85.

88 Regan T "The case for animal rights" in Singer P (ed) *In defense of animals* (Blackwell New York 1985) 13 – 26.

89 Cohen C "Reply to Tom Regan" in Armstrong SJ and Botzler RG (eds) *The animal ethics reader* (Routledge London 2003) 17 – 24.

do not have rights.⁹⁰ The argument is that rights require interests; interests require beliefs and beliefs require language to express them. Since animals do not have language, they cannot have rights.

Finally, Francione argues that one should see the use of animals as analogous to human slavery.⁹¹ He rejects both Singer and Regan's arguments, stating instead that “only sentience is relevant” and that animal rights advocacy should

*... be directed at promoting veganism and the incremental eradication of the property status of nonhumans.*⁹²

Exactly what constitutes “sentience” is, however, never fully explored. It is a centuries old problem in philosophy, usually discussed as part of the mind-body problem.⁹³ In the absence of such a complete discussion, it is unclear why only animals would be included and not, for example, some trees.⁹⁴

3.2.2 Vegetarianism and mainstream culture

Some vegetarians base their concerns on a rejection of Western, male hegemonic culture. For them it is less about the welfare of animals and more about the rejection of mainstream culture, such as within the Punk vegan groups. In punk culture, veganism is closely associated with feminism and is indeed seen as “a feminist practice”.⁹⁵ Meat eating is associated with masculinity, whilst veganism is associated with feminism.⁹⁶

The link between vegetarianism and feminism seems to be a particularly strong one. Donovan, for example, argues that relational feminism (she calls it cultural feminism) has developed alternative epistemologies and ontologies that

*replace the mode of sadomasochistic control/dominance (that is) characteristic of patriarchal scientific epistemology.*⁹⁷

90 Frey RG “Rights, interests, desires and beliefs” in Armstrong SJ and Botzler RG (eds) *The animal ethics reader* (Routledge London 2003) 50 – 53.

91 Francione GL “Taking sentience seriously” 2006 *Journal of Animal Law and Ethics* 1 – 20.

92 Francione 2006 *Journal of Animal Law and Ethics* 20.

93 Rowlands M “Terminator I & II: the mind-body problem” in *The philosopher at the end of the universe* (Ebury London 2003) 57 – 85.

94 The acacia tree, for example, is extremely well adapted to the harsh and dry conditions it lives in. It is also a tree favoured by giraffes who feed from the top leaves of the tree. However, the tree has developed a remarkable defence mechanism against this grazing: when the giraffe starts munching, the tree releases a poisonous alkaloid that turns the leaves bitter and unpalatable. The giraffe only gets a couple of mouthfuls before he/she has to move to another tree. Amazingly, the tree also releases a chemical compound into the air that warns other acacia trees who also release the same toxins. In this way the trees protect themselves against marauding giraffes. Is this tree “sentient”? Does it have “interests”? Then why not extend the rights to trees as well?

95 Clark 2004 *Ethnology* 24.

96 Zamir argues that the example of feminism shows “how step-by-step cooperation with partial improvements paved the way to radical reform” – see Zamir 2004 *J Soc Phil* 367 376.

97 Donovan J “Animal rights and feminist theory” in Armstrong SJ and Botzler RG (eds) *The animal ethics reader* (Routledge London 2003) 45 – 49 47.

On the basis of this, she advocates a strong vegan diet and lifestyle. Similarly, in a highly emotional article, Adams draws a parallel between sexual violence and meat eating to advocate a similar feminist veganism.⁹⁸

On the other hand, George argues convincingly that traditional moral theory – including cultural feminism – fails to address the relativist problems inherent in the human condition.⁹⁹ She shows that vegetarianism is premised upon nutritional needs of the “male physiological norm” and that it is biased against women, children and the elderly.¹⁰⁰ She concludes:

But I do think feminists must stop preaching the vegetarian life as a moral imperative. Vegetarianism is not morally required. It is an aesthetic choice that may be personally satisfying and healthful. To argue otherwise is divisive and self-defeating. ... The "vegan ideal" is not a moral ideal at all.¹⁰¹

4. Conclusion

This article set out to explore the nature of food as a cultural artefact. The main point of departure was that food is intricately bound up in our cultural, social, political and moral ideas. By using a multidisciplinary approach this aspect was highlighted in the study of three restrictive diets, their religious/philosophical justifications and their social implications. What has, in fact, become clear is that the statement “food is politics” turned out to be almost literally true.

The restrictive diets discussed in this paper all share a number of characteristics. They all depart from one over-arching religious and/or moral commandment that determines all the specific rules that follow. In the case of *kosher* and *halal* that super commandment is the word of god, but in the case of vegetarianism it is more the moral obligation not to harm animals. From this one general rule, all three have developed an incredible set of sub-rules and disagreements and controversies that at times seem insurmountable. But they perform the function of explaining, justifying and identifying the specific community or sub-culture that these rules apply to. So the differences, far from dividing the community, serve to mark them as “other” or “different” and so contribute to their identity.

In all cases the rules are about far more than food. They serve not only to identify members of the group, but also to claim and maintain a position of moral superiority over the practices of those that do not follow them. And even in the case of vegetarianism they maintain an aura of mystical and evangelical revelation that assumes that, if only other people had the same epiphanic moment, they would instantly see the rightness of this lifestyle choice. Hence the incredulity when everyone is not instantly converted on being presented with “the facts”.

98 Adams CJ “The rape of animals, the butchering of women” in Armstrong SJ and Botzler RG (eds) *The animal ethics reader* (Routledge London 2003) 209 – 215.

99 George A “A feminist critique of ethical vegetarianism” Armstrong SJ and Botzler RG (eds) *The animal ethics reader* (Routledge London 2003) 216 – 221.

100 George “A feminist critique of ethical vegetarianism” 217.

101 George “A feminist critique of ethical vegetarianism” 219, 220.

All in all these types of restrictive diets are based on a very modernist view of morality.¹⁰² They all rest on a set of absolute, unquestionable and universal truths – for example, if it is wrong to eat animals in one context, it must be wrong in all contexts. And this is the most important function of these types of diets. Of all the characteristics of postmodernism, it is the lack of certainty that people find most distressing. In the case of *kosher* and *halal* rules, that uncertainty is addressed by a holy injunction that provides certainty. In the case of vegetarianism, at least what is certain is that killing and eating animals is always wrong and that provides a certainty that grounds a whole lifestyle and social group.

The conclusion is therefore that vegetarianism is the new religion. It provides people who struggle to take the traditional religions seriously with a new set of rules, a new sense of certainty and a new social support system.

102 For a discussion of modernist morality in the context of law see Kroeze IJ “When worlds collide: an essay on morality” 2007 *SA Public Law* 2007 323-335.