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Regulation of Food Consumption as an Effort to Control Obesity Rates

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Is it morally permissible for the government to impose regulation of food consumption in order to reduce obesity?

Over the past forty years the obesity rate in America has increased, causing obesity to become much more commonplace. In America, one in every three adults, and one in every four children is obese. In its simplest terms being obese pertains to having too much body fat, which can be quantified by Body Mass Index (BMI). Anyone with a BMI of 30 or higher is considered obese. By 2030 researchers at the Center for Disease Control have predicted that over half of Americans will be obese (Center for Disease Control and Prevention). Larger portion sizes, confusing ‘diet’ for ‘nutrition’, and lack of exercise amongst other factors have contributed to the obesity epidemic. Many initiatives have been made to encourage individuals to control their weight and make healthier food choices. While these actions have helped the obesity rate plateau, there are no signs of the obesity rate decreasing anytime soon. Individual behavior change has not been enough. The rapid change in obesity rates over the past several decades suggests that obesity, like tobacco and automobile safety, may require interventions beyond only those targeted at changing individual behavior. I argue that the government should regulate American citizen’s food consumption because doing so would reduce the amount of obesity related deaths and would maximize human wellbeing (health) for the greatest number of people. The argument I am presenting is supported by the rule-utilitarianism ethical theory, which will be explained in greater detail later on. In order to combat obesity in America, there must be strict regulation placed on food consumption that provides justice for all.

In order to determine if the regulation of food consumption in America is ethical it is important to note some of the major actions that have already been made by the government in an effort to combat obesity. A majority of the policies implemented thus far have involved addressing clinical, behavioral, and/or educational issues (Novak 2012, 2348). One initiative launched by President George W. Bush in 2002, the HealthierUS Initiative, encouraged Americans to engage in an active lifestyle and change their diets to encompass healthier foods (Novak 2012, 2348). Most recently, First Lady Michele Obama launched the Lets Move! Campaign, which included efforts to “improve food environments in schools, to increase opportunities for physical activity, and to augment both the affordability and accessibility of healthy foods” (Novak 2012, 2348). Also announced in 2010 was the Safe Routes to School project, a project aimed at building bike lanes and sidewalks in order to promote children walking to school (Novak 2012, 2348). While all of the policies and campaigns implemented thus far make sense, the fact of the matter is they just aren’t doing enough to fix the problem. All of these policies may assist in making the choice to live a healthier life easier for an individual but the problem is they have not succeeded in

lowering obesity. Therefore the government needs to step in. Education alone is rarely sufficient to change individual behavior (Novak 2012, 2348). The government should implement policies that control portion sizes by limiting the amount of food that can be marketed as a single serving. This is not to say that individuals would be limited to purchasing only one portion, if they were willing to pay for two portions then they should be allowed to do so.

Food portions in America's restaurants have doubled or tripled over the last 20 years, a key factor that is contributing to the devastating increase in obesity (National Heart, Lung and Blood Institute). Obesity is linked to more than 60 chronic diseases. According to the American Cancer Society, 572,000 Americans die of cancer each year about one-third of these cancer deaths are linked to excess body weight, poor nutrition and/or physical inactivity (American Cancer Society). Besides the fact that the obesity epidemic is taking lives, the economic impact of obesity is of great concern as well. In 2010, the nonpartisan Congressional Budget Office reported that nearly 20 percent of the increase in U.S. health care spending (from 1987-2007) was caused by obesity (Congressional Budget Office).

As a result of both the individual and societal costs of obesity, I argue that the utilitarianism ethical framework provides a sound ethical analysis of obesity. Utilitarianism is based on the idea that “right actions [or rules] are those that result in the most beneficial balance of good over bad consequences for everyone involved” (Vaughn 2010, 35). The main goal of utilitarian theory is to produce the “greatest [amount of] happiness for the greatest number” of people among a certain population (Vaughn 2010, 36). Utilitarianism provides two different ways to achieve the greatest good for the greatest number of people: act-utilitarianism and rule-utilitarianism. For my argument I have chosen to utilize rule-utilitarianism theory. Rule-utilitarianism presents the idea that “a right action is one that conforms to rule that if followed consistently, would create for everyone involved the most beneficial balance of good over bad” (Vaughn 2010, 35). Through rule-utilitarianism, the most beneficial results can be produced by following rules rather than by always performing individual actions. Rule-utilitarianism supports my argument concerning the government regulation of food in America. If the government were to require food and beverage companies to reduce portion sizes, for example no more McDouble on McDonalds’ menu, then there will be a greater amount of net happiness (good) distributed to a greater number of people.

One of government’s key responsibilities is protecting the public's health. The government sets standards to protect the public from toxins in drinking water, the air, gasoline and more. The public would be appalled if the government failed in their responsibility to take care of these issues. There is a fine line however between government regulation and an individuals right to personal choice. When

issues involving individuals' choices such as smoking, drinking alcohol, and eating there is much controversy about to what extent the government should be involved in those choices. Some individuals claim, including Michael D. Tanner, senior fellow at the Cato Institute who leads research on several domestic policies, including health-care, that policies such as those that reduce portion sizes impinge on individual rights and are therefore unethical. Tanner states, "the state might have a proper claim to limit my behavior if that behavior directly harms someone else. But my drinking a Big Gulp or eating fried food harms no one but myself" (Wall Street Journal). While Tanner may feel this way, he is ultimately wrong in his thinking because he does not consider that his personal choices lead to greater costs for the whole population, such as increased health care costs for the medical conditions that are the result of his poor eating habits.

Suppose Tanner is a healthy young adult whom upon moving out of his parents' house now has to make food for himself. With his newfound personal freedom, Tanner chooses to eat McDonalds for dinner most nights. Over the course of the year, Tanner gains a tremendous amount of weight causing him to become obese and ultimately being diagnosed with type II diabetes. Tanner is not alone with those affected by type II diabetes. He joins approximately two-thirds of other U.S. adults with type II diabetes who are overweight or have obesity (Center for Disease Control and Prevention). Being over weight greatly increased Tanner's chances of getting Type II diabetes, and could also lead him to a heart attack or stroke. Even though Tanner may argue that his individual choices to eat what he wants does not affect others, his diagnosis in fact greatly affects the whole nation. American taxpayers are the ones to pick up obesity related health care costs, which were calculated at \$147 billion in 2008 by the Center for Disease Control and Prevention (Center for Disease Control and Prevention). Researchers estimate that if obesity trends continue, obesity related medical costs, alone, could rise by \$43 to \$66 billion each year in the United States by 2030 (Witters 2016). The government has a moral obligation to step in and make a change because taxpayers are often the ones who are picking up the costs of obesity. The extra money spent could be more justly spent elsewhere.

There exists a great deal of irony involving the obesity epidemic. There are hundreds of millions of people who lack adequate sources of food as a result of economic inequities, but many hundreds of millions more who are overweight to the point of increased risk for deadly chronic diseases (Worstell 2016). Marion Nestle, a Paulette Goddard professor in the Department of Nutrition, Food Studies and Public Health at New York University, states in her work *The Ironic Politics of Obesity*, that obesity causes governments "to divert scarce resources away from food security [in order] to take care of people with preventable heart disease and diabetes" (Nestle 2016, 781). Nestle brings up an important argument for justice. Distributive justice concerns "the fair distribution of society's advantages and

disadvantages” (Vaughn 2010, 12). There is no justice in allowing so much money to be distributed to individuals who become sick as a result of poor life style choices, when that money should be put towards providing food for the starving who are starving because of factors out of their control. In other words, we are spending money on people who make choices that hurt their health and not spending money to help those who never made the choice to be hungry. If the government were to enact a law that required food industries to reduce portion sizes down to a reasonable size, the obesity rate would decline and therefore the number of people with preventable chronic diseases would decrease as well. The money saved from not having to treat people with disease related to obesity would then be able to be spent in a more just way such as providing food to the hungry. Hence, implementing a law of this nature would create the greatest amount of happiness for everyone involved, making the law ethical.

Still, some would argue that instilling a law that takes away their right to choose how much they eat would be considered unethical because it conflicts with their individual right of choice. "It's the individual's responsibility," argues Steve Siebold, author of *Die Fat or Get Tough*. "For the majority of us, we need to stop putting the pizza in our mouth, and it's not the government that's going to get us to do that. It's about making a personal decision to make it happen, not letting the nanny state take care of us" (Siebold 2009). While enacting a law that requires those in the food industry to reduce portion sizes down to a reasonable level will violate a person's freedom to make individual choices, the positive effects of doing so far outweigh the small number of people whom would feel like their personal freedom was violated, hence making the law ethical using the rule-utilitarian framework.

In American history, the government has implemented laws and policies regarding smoking and automobile safety that have also violated personal freedom. While it is someone's choice to smoke cigarettes or not wear a seatbelt, laws and restrictions were enacted in order to prevent deaths that resulted from both of these actions. Government regulation of smoking is synonymous with government regulation of how much we eat. A vast majority of smokers quit smoking when the government made smoking so inconvenient and expensive that it became easier to stop than to continue. By doing this, the government no doubt violated individuals' right to personal choice, however as a result fewer people have died from preventable diseases related to smoking. Data put forth by the American Cancer Society Cancer Action Network claims that smoke-free laws "decrease the number of adult smokers by tens of thousands in many states" and "if states without a comprehensive smoke-free law adopted one, [...] the health and economic burden of smoking" would be further reduced (American Cancer Society). A parallel can be drawn here between government regulation of smoking and government regulation of food portion control. Since the anti-smoke

laws greatly reduced economic costs and saved many lives, we can assume that requiring the reduction of portion size will ultimately do the same. Consequently, this makes the law morally permissible even though it violates a person's freedom of choice.

According to utilitarianism theory, the goal is to maximize good. In this sense good does not merely mean increasing physical health, but can be regarded to as increasing mental health as well. A recent evaluation of the relationship between individual obesity and happiness levels conducted by Marina-Selini Katsaiti, found that "obesity has a negative effect on the subjective well-being of individuals" (Katsaiti 2016, 4101). Through her work in empirical economics she has been able to analyze the significant detriments of individual wellbeing. Among those is BMI. She states, "BMI can influence happiness through deterioration in health, lower self-esteem, and/or lower social acceptance" (Katsaiti 2016, 4101). Nelson's data analysis supports rule-utilitarian theory. If through utilitarianism we are trying to promote the most good for the most number of people, and many people are obese, then by implementing portion control laws/policies, which would help reduce obesity, we would be increasing the happiness of billions of people. As these individuals lose weight, according to Nelson, their self-esteem and social acceptance, both things connected to happiness, should increase.

Ultimately, if the government were to enact a law that required food companies and restaurants to reduce their portion sizes, this law would be considered morally permissible under rule-utilitarianism theory. Doing so would result in more good outcomes than bad. Distributive justice would be met with better allocation of funds, and overall increase in happiness per person would sky rocket once obesity began to decline. Even though there are those who believe imposing food regulations would violate one's right to personal choice and that so long as individuals are educated on how to eat, then they will eat less and more healthfully, evidence has proved that individuals are not responsible enough to take matters into their own hands. If obesity were purely an individual matter, the personal-responsibility argument might suffice. But it is not. Obesity incurs substantial costs to individuals and to society that must be paid by the population at large. Therefore, at its extreme, the personal-responsibility argument suggests that there is no role in society for public-health measures that infringe on personal choice. But when that choice results in multiple poor outcomes, the government then has a moral obligation to step in. Implementing a portion control law is ethical and would allow us to combat obesity and increase overall happiness.

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