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Internormative Gastronomies: Law, Nation and Identity

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Internormative Gastronomies: Law, Nation and Identity

Abstract

Questions of law, identity and nation operate at a high level of abstraction. They are often bound up with the origin myths of a people, as well as an ideological array that legitimizes state law, and justifies obedience to it. To study these questions in any detail requires a descent from those heights to matters that can be observed, or sensed in other ways. We need a subject that we can sink our teeth into. Food, its preparation and regulation, offers a rich field in which to explore these issues. As well as being highly symbolic, of identity and associations, food is also the key link between our bio-social selves and our material environment. It is marked and regulated by numerous criteria derived from ethics, health, culture and religion. While the term has a broader meaning today, “gastronomie” was coined in late eighteenth century France to indicate the nomos of eating: the law or codes by which one should eat.² The original meaning is still apt, since food continues to be regulated by numerous formal and informal laws, relating to health and purity as well as taste and culture. Gastronomy allows for expression of beliefs, from the spiritual to the corporeal, and operates as a marker of identity. In this chapter we explore the interaction of norms applying to food in relation to the concepts of nations, identity and law, which intersect in the notion of citizenship. We begin by outlining the field of inquiry, and clarifying our concepts and their interactions, before stating the specific terms of this investigation.

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Internormative Gastronomies: Law, Nation and Identity*

Richard MOHR and Nadirsyah HOSEN

*For Roderick Macdonald,
who opened so many doors for us in understanding legal pluralism and internormativity,
in memoriam.*

1. Food and the polity: Law, nation and identity

“Au lieu de demander comment le droit voit ses sujets, il faut plutôt demander comment les sujets voient le droit.”¹

(Instead of asking how law sees its subjects, we need to ask rather, how the subjects see law.)

Rod Macdonald, 1996

Questions of law, identity and nation operate at a high level of abstraction. They are often bound up with the origin myths of a people, as well as an ideological array that legitimizes state law, and justifies obedience to it. To study these questions in any detail requires a descent from those heights to matters that can be observed, or sensed in other ways. We need a subject that we can sink our teeth into. Food, its preparation and regulation, offers a rich field in which to explore these issues. As well as being highly symbolic, of identity and associations, food is also the key link between our bio-social selves and our material environment. It is marked and regulated by numerous criteria derived from ethics, health, culture and religion.

While the term has a broader meaning today, “*gastronomie*” was coined in late eighteenth century France to indicate the *nomos* of eating: the law or codes by which one should eat.² The original meaning is still apt, since food continues to be regulated by numerous formal and informal laws, relating to health and purity as well as taste and culture. Gastronomy allows for expression of beliefs, from the spiritual to the corporeal, and operates as a marker of identity. In this chapter we explore the interaction of norms applying to food in relation to the concepts of nations, identity and law, which intersect in the notion of citizenship. We begin by outlining the field of inquiry, and clarifying our concepts and their interactions, before stating the specific terms of this investigation.

- Nations can be understood as an ethnic, linguistic or cultural category, either underlying or cutting across states. The nineteenth century European ideal, influenced by romanticism, historicism and various struggles for self-determination, promoted the nation, as a people or *Volk*, as the natural basis of the state.

* This is the authors’ desk copy of chapter 10 of *Sensing the Nation’s Law: Historical Inquiries into the Aesthetics of Democratic Legitimacy* edited by Stefan Huygebaert, Angela Condello, Sarah Marusek and Mark Antaki. Springer International Publishing, 2018.

¹ Macdonald, Roderick A. 1996 Les Vieilles Gardes. Hypothèses sur l’émergence des normes, l’internormativité et le désordre à travers une typologie des institutions normatives. In *Le droit soluble. Contributions québécoises à l’étude de l’internormativité*, ed. Jean-Guy Belley. Paris: Librairie générale de droit et de jurisprudence, 152.

² Onfray, Michel. 1995. *La raison gourmande*. Paris: Éditions Grasset & Fasquelle, 52ff.

- Identity may be based on a range of characteristics, including culture, language, gender, religion, race, ethical or other associations by which we are, or prefer to be recognised, and recognise ourselves.
- Law can be associated with a state jurisdiction, but it also grows out of other social milieux or “loci of normative human interaction”.³ The approach taken here is a pluralist one, which sees law as a matrix of intersecting norms: hence, it is internormative.

Now the simplified version of the links between these three concepts is seen in identification with a nation-state, which is itself the source of an exclusive legal regime, or jurisdiction. This is the assumption on which much jurisprudence is based. Individuals owe allegiance to a nation state, which has a monopoly on violence (regulated by law) within a territory. That relationship of persons to the state is defined as citizenship, which lies at the centre of the relations between law, nation and identity. Regarded by the republican tradition as a status, by reason of inheritance or place (blood or soil, discussed further in the following section), the liberal model conceived citizenship as a contract.⁴ The parties to this contract are the state and the individual, and the bond is the law, which is itself based in the nation state.

Citizenship can be liberated from these overdetermined bonds, both as an empirical fact and as an ethical project. From a single dimension of (static) status or (binding) contract, citizenship can move towards an interactive ideal, by which citizens are enabled to determine both the meaning and the content of that relationship. This “reflexive citizenship” can be developed out of Fraser’s theory of justice.⁵ In her view, justice has three dimensions: distribution, recognition and representation, which mirror the economic, cultural and political spheres of society respectively.⁶

The significance of each of these dimensions of justice can be clarified in relation to food. Distributive justice requires fair apportionment of resources. The most basic of these are food and shelter, so that fair distribution requires all to receive adequate and equitable nutrition. This demand is well known as the foundation of basic egalitarian economic principles. The second dimension of justice requires that each person is recognised for who they are, both in an individual and a social context. Therefore recognition, by which we mutually regard each other with love, rights or esteem,⁷ underlies the conception of identity, not as a marker of difference, but as a way of being in, and being connected to the world. From sharing food as a means of conviviality and connection, to respecting each other's food needs and choices, we practice recognition in each culinary encounter. Rawls proposes that our first encounter with injustice (“that’s not fair!”) is the source of all justice. Here we suggest that the first encounter with misrecognition (“but you *know* I don’t eat *that*!”) could begin to build respect, by opening the the terms of our recognition to negotiation. Many are familiar with the betrayal of

³ Macdonald, Roderick A. 1998. Metaphors of Multiplicity: Civil Society, Regimes and Legal Pluralism. *Arizona Journal of International and Comparative Law* 15: 69.

⁴ Maine, Henry. 1917. *Ancient Law*. London: J. M. Dent, 100; Feldman, Leonard. 2008. Status Injustice: The role of the state. In *Adding Insult to Injury: Nancy Fraser Debates her Critics*, ed. Kevin Olson, 225-227. London: Verso.

⁵ Olson, Kevin. 2008. Participatory Parity and Democratic Justice. In *Adding Insult to Injury: Nancy Fraser Debates her Critics*, ed. Kevin Olson, 266. London: Verso.

⁶ Fraser, Nancy. 2008. Reframing Justice in a Globalizing World. In *Adding Insult to Injury: Nancy Fraser Debates her Critics*, ed. Kevin Olson, 277-278. London: Verso.

⁷ Honneth, Axel. 1995. *The Struggle for Recognition: The Moral Grammar of Social Conflicts*. Cambridge: Polity Press, 129.

hospitality involved in serving our guests something (to them) inedible: meat to vegetarians, gluten to coeliacs, pork to observant Jews or Muslims. This is particularly so if we *should have known*, or have *recognised* that their medical condition, ethical or religious stance prohibited their eating it.

The third dimension of justice, representation, includes all aspects of "having a voice", including participation in public deliberation, particularly in those areas of life that involve the interests or concerns of one's own group. As has already been noted, participatory parity, that all should have an equal voice, is a particularly important component of justice. No society is just unless all, including the marginal and the weak, are involved in the polity. In addition to the expectations, developed above, that all should have their economic, cultural and ethical needs met in regard to the availability and distribution of food, the political dimension requires having a say in how one's food is sourced and identified. The norms relating to food must be relevant to all citizens, and to this end, the processes by which they are developed must be transparent and open to the participation of all.

Some questions of distribution, recognition and representation in food availability and choice have been explored in our earlier work on cultural dimensions of hospitality and conviviality, and on the scientific, ethical and religious foundations of struggles over standards, certification and labelling of food.⁸ The empirical foundation of this work draws on those studies of the cultural and normative signifiers of various food outlets on a multicultural main street in an inner neighbourhood of Sydney. In the present chapter we reflect on the results of that work at a higher level of generality, in order to explore new connections between law, nation and identity, that may be compatible with enhanced levels of justice in all its dimensions, and with a pluralist conception of law, including the *nomos* of food and eating: an internormative gastronomy.

Figure 1: Elevation view of cafés on Marrickville Road. (Pen and ink drawing CC Richard Mohr 2015) Regulatory signs (Halal, No smoking) highlighted in red.

⁸ This paper is the third arising from a study of 117 food outlets on Marrickville Road in Sydney. Readers may refer to the earlier papers for methodological and demographic information on the study and the area involved. Mohr, Richard and Nadirsyah Hosen. 2013. Crossing Over: Hosts, guests and tastes on a Sydney street, *Law Text Culture* 17: 100-128. Mohr, Richard. 2013. Rethinking the Secular: Religion, ethics and science in food regulation. In *Working papers of the Centre for International Governance and Justice*. March: 1-15. Canberra: RegNet, ANU.

An enriched citizenship deepens the level of participation by all. We have indicated in general terms how decisions about the distribution, consumption and regulation of food relate to the key dimensions of a just citizenship. The choice of food as a field of study allows insights into those decisions which span from the material to the symbolic, and from the personal to the political. In each of the following sections a case study of food – our choices and ingestion of it – contributes to this inquiry into the relationships between law, nation and identity. Food is just as physical, and yet just as cultural; just as biological, and yet just as social, as the law and our bodies themselves. We cannot understand the law and its impact unless we consider the physical manifestations and constraints it brings with it. This is why law's violence is such a fundamental issue for social and cultural studies of law. Yet law acts, above all, through ideas, representations and beliefs: the "soft law" of the word is far more pervasive than the "hard law" of the baton and the bailiff, the handcuffs and the perimeter fence.

The plan of this work is to move from the tight relationships by which persons are constrained within overdetermined categories of state law and national citizenship, to explore the possibilities unleashed by a loosening of the bonds between law, nation and identity. In the following sections of this paper, we deal with each of these "loosenings" in turn, as we prize apart the knots that bind identity and nation, nation and law, law and identity. With these loosenings, the unified jurisdiction of the nation state gives way to plural and informal law; a single national identity expands into multiple ethical and ethnic associations; identity is no longer determined by state-centred legal interpellation constitutive of the person but, as we shall see, allows persons to "inhabit" a range of norms. By expanding the scope for participation and interaction in each of these areas, citizenship finds new networks for expansion, enrichment and reflexivity.

2. Loosening I: Identity and nation

"Today we recognize that people use identities not just to isolate themselves from others, but also to claim relationships. ... To be a vegetarian, a vegan or a tea-totaller is to claim a particular space more important for many than gender ..."⁹

Rod Macdonald, 2009

The idea of the nation arose in conjunction with ideas of ethnic identity. Classical citizenship was based on *ius sanguinis*, which defined status in terms of one's heritage, and *ius soli*, which referred to one's place of residence.¹⁰ Yet it was only with the rise of the nation state that the notion of ethnic identity, encompassing a range of cultural, racial and above all linguistic markers, came to be seen as the very foundation of citizenship. This celebration of ethnicity and its natural relationship to nation (which had already become tied to the idea of the state) was associated with the rise of historicism and romanticism.¹¹ Some two hundred years later, in the multiethnic nations of Canada and Australia, there were simultaneous calls for citizenship itself to be recast as a "multicultural" phenomenon.¹² This has two

⁹ Macdonald, Roderick A. 2009. Human Rights and Identity – Human Identities and Rights, *Canadian Issues*. Spring, 63.

¹⁰ Agamben, Giorgio. 1998. *Homo Sacer: Sovereign Power and Bare Life*. Trans. Daniel Heller-Roazen. Stanford: Stanford University Press, 129.

¹¹ Barnard, F. M. 2003. *Herder on Nationality, Humanity and History*. Montréal: McGill-Queen's University Press, 14; Macdonald, 1998, 74-5.

¹² Castles, Stephen. 1995. *Multicultural Citizenship*. Canberra: Parliamentary Research Service; Kymlicka, Will. 1995. *Multicultural Citizenship: A Liberal Theory of Minority Rights*. Oxford: Clarendon Press.

consequences. First, cultural diversity could coexist with national and legal unity. Second, as the nation is no longer based in ethnicity, now other elements of social life and association could attain primacy as elements of the ethical bond within and between communities. Each of these consequences has resonated in food politics and legal regulation of food: the cultural diversity of the polis can be contested gastronomically; and the legal regime can be expanded to encompass *ethos* as well as *ethnos*, as food choices are made on the basis of a variety of ethical as well as cultural considerations. Here we turn to contests between xenophobic and cosmopolitan approaches to food, before considering the plurality of the ethical and regulatory landscape, as applied to food, in the next section.

Naturally, neither of these developments has proceeded smoothly, nor have they been uniform across nations. Those European and Asian nations traditionally based on the *ethnos*, with one to two hundred years of language and educational policy to cement the place of the dominant, unified ethnicity, have been slower to adopt such policies than postcolonial nations. Even in Canada and Australia policy development ran ahead of social practice, and remains contested. Multiculturalism gains gastronomic expression in the diversity of cuisines available in an Australian or North American city. Culinary diversity is also found in the metropolises of the old empires, where options reflect the former colonies: North African and South East Asian in Paris; Indian, Pakistani and Cantonese in London. Here we draw on findings from Australian research, while noting the political and intellectual parallels with Canada, in particular.

In researching the relationship between food, law and culture on a multicultural main street in Sydney, we were struck by two key descriptions of the food: "fusion" and "authentic". After a glance at their use in regard to food, we will consider the broader implications of these words, and their application to identity. "Fusion" suggests that culinary and other cultural traditions blend together into a new identity: a "melting pot" to use the metaphor once applied to US immigration. "Authenticity" refers to some original or genuine state which has been preserved, or perhaps recreated. It also applies to identity, to suggest that the subject is true to some underlying self.

In this and the following sections, we argue that food choices, central to our self-definition and construction of identity, are made within a rich and varied cultural, legal and ethical framework. Mechanisms of informal as well as formal law establish this framework, including forms of ethical, religious and health certification. Drawing on the work of Roderick Macdonald on legal pluralism,¹³ and Allison Weir on identities and freedom,¹⁴ we argue that identities can be forged in connections with others and through negotiating and inhabiting a variety of norms, and not simply in submission or resistance to existing power structures and monolithic legal regimes. By loosening these bonds between nation, identity and law, we will show how citizenship can rise above the predetermined expectations of formal state law, to encompass a more expansive and inclusive model.

In Australia's experience of mass migration during the twentieth century, the early decades after the second World War saw discrimination on the basis of culinary traditions, such as the common taunting of immigrant children over their school lunch box.¹⁵ Thereafter, culinary

¹³ Macdonald, 1996.

¹⁴ Weir, Allison. 2013. *Identities and Freedom: Feminist Theory Between Power and Connection*. Oxford: Oxford University Press.

¹⁵ Yasa, Dilvin. 2017. "'Wogdom', sandwiches and sushi: a story of three lunch boxes". SBS 13 February. <http://www.sbs.com.au/food/article/2017/02/13/wogdom-sandwiches-and-sushi-story-three-lunch-boxes> Accessed 30 March 2017.

diversity quickly gained acceptance as one of the advantages of multiculturalism. This began at street level, with the popularity of Greek, then Chinese, then Italian, then Lebanese (and so on) restaurants, through the twentieth century. Culinary inclusiveness became official in "Harmony Days", established at the beginning of the twenty-first century, celebrating the cultures, and notably the culinary traditions of the various members of school or work communities. From the early exoticism of the "continental" or "Asian" restaurant, through various fashionable cuisines and celebrated "cosmopolitan" practices (eg "café culture"), a variety of culinary traditions have been domesticated through the widespread availability of dietary staples from pizza or pasta to ricepaper rolls and stir-fry, in supermarkets, pubs, clubs and home kitchens across the country.

For all the feel-good inclusiveness of food, it is not isolated from the currents of xenophobia and nationalism. These tensions are seen in approaches to dining and in campaigns for inclusive or exclusive gastronomic choices. Literature from France and England, and media reports from Italy,¹⁶ highlight the tensions between adventurous and conservative diners, neophiles and neophobes,¹⁷ reactionaries and progressives.¹⁸ This is less marked in Australian dining preferences, where a taste for a variety of foods is almost mandatory, given the ubiquity of various "ethnic" cuisines in suburban restaurants, sports club's kitchens and, as mentioned above, supermarket shelves. Progressive and cosmopolitan tastes achieve an almost ideological expression in recent Australian postcolonialism, as in this publication from the (progressive) Marrickville Council, referring to colonial cuisine:

“Despite our climate, most Australians continued to eat a diet that was heavily influenced by British food – and the worst of British food at that. The classic meat and three veg – roasts, potatoes, pumpkin or carrot, and peas – formed the basis of meal after meal, decade after decade after decade.”¹⁹

On this reading, Australia was ripe for decolonisation by the time of its federation in 1901, despite the fact that opposition to Asian immigration was a key motive for casting off British rule. A century later, Marrickville congratulates itself on food as its "most marked characteristic". Residents "can wander from their front door and within a few blocks eat Thai, or Italian, or Greek, or Portuguese, Vietnamese or Brazilian barbecue, Lebanese or Turkish".²⁰ Food outlets in Marrickville Road, including restaurants, cafes, and fresh food shops, appeal to a wide variety of ethnic groups, social classes and tastes. Our tally found 117 food outlets, of which 62 identified themselves (by signage) with a non Anglo-Australian language or national group, of which there were 17 different cultural identifiers. Ethnicity is one of the key classifiers of food types and preferences. Social class is correlated with preferences for styles of dining, mediated particularly by status or cultural capital, as well as economic standing.²¹ Tastes, including taste in food, are moulded by our upbringing and education.

¹⁶ http://www.nytimes.com/2009/03/13/world/europe/13lucca.html?_r=0 published 12 March 2009, http://www.corriere.it/english/09_gennaio_27/kebab_lucca_e6c0ee1c-ec86-11dd-be73-00144f02aabc.shtml published 27 January 2009, both accessed 22 June 2015.

¹⁷ Warde, Alan and Lydia Martens. 2000. *Eating Out: Social Differentiation, Consumption and Pleasure*. Port Chester, NY: Cambridge University Press, 147-151.

¹⁸ Onfray, 1995, 64-65.

¹⁹ Heath, Elizabeth. 2011. *Eat Streets: A Culinary Adventure through 150 years of Marrickville Council*. Marrickville, NSW: Marrickville Council, 6.

²⁰ Heath, 2011, 6.

²¹ Bourdieu, Pierre. 2010. *Distinction: A Social Critique of the Judgement of Taste*. Trans. Richard Nice. Abingdon, Oxon: Routledge Classics, 173-175; Bennett, Tony, Michael Emmison and John Frow. 1999. *Accounting for Tastes: Australian Everyday Cultures*. Cambridge: Cambridge University Press, 95-96.

As well as descriptive and ethnic signifiers, several restaurants indicate that their food is "authentic" (eg Turkish or Vietnamese), while fewer use the term "fusion". The terms "authentic" and "fusion" are used in various social contexts. "Authenticity" is so overused in marketing, particularly in relation to food, that it is in danger of losing all meaning. The Oxford symposium on food and cookery in 2005 saw dozens of papers presented on the theme of "authenticity in the kitchen", with approaches to the topic ranging from the historical to the geographical.²² Being true to the ingredients was canvassed in both traditional and "molecular" cuisines. Being true to oneself, the individual approach of the chef or family traditions, was another theme, which often cuts across the purity of tradition. Despite these shifting and highly imprecise definitions, authenticity in the sense of personal integrity has a recognisable provenance in philosophy, dating from Socrates' "know thyself",²³ and in literary criticism, in Trilling's influential book on sincerity and authenticity.²⁴

"Fusion" is more fashionable than "authenticity". It refers to the blending of various traditions into a new amalgam, so in some ways may be seen as the antithesis of authenticity's pure tradition. In the context of ethnic cuisines, fusion approaches tend to appropriate a variety of cultures to produce something innovative, and perhaps more appropriate or adapted to the new culture of Australia: "il gusto fusion dell'Australia", to quote a 2013 newspaper headline from Italy's *La Repubblica*. In the context of a multicultural community, however, the term has disquieting overtones of the "melting pot" into which all the ethnic groups coming to the United States a century ago were supposed to merge into a new American identity. If authenticity suggests the noble traditions of the old country, fusion hums with the pizzazz of the new: appropriating, assimilating and submerging all other cultural heritages.

How do these two culinary terms map onto identity and personality? "Authenticity" is central to existentialist theories of the self.²⁵ The modern ideal of authenticity arose with the notion of identity, as a personal way of being. For Taylor, identity "is the background against which our tastes and desires and opinions and aspirations make sense."²⁶ While the claims to authenticity that light up several ethnic restaurants in Marrickville Road may not be worth the fossil fuels burned in illuminating them, there is a core of meaning relevant to an inquiry into identity.

In our discussions of identity and authenticity, we intend to allow room for personal choice and development. However, we follow Taylor in recognising that identity in the modern world is neither ascribed by authority, nor freely chosen like a buffet dinner. Identity is defined in relation to others and through the various dialogues and codes available to us. If a deterministic Althusserian identity (as discussed below) is in opposition to this ideal, so too is a liberal ideal that allows the unfettered development of personality by an unattached individual. The liberal alternative is characterised by the ideal of negative liberty: each individual is to be free from interference. The result, we suggest, is as vacuous as the image of identity expressed in a beer advertisement that appeared on Marrickville Road during our research, with the message, "Today I'm myself, tomorrow whoever I want."

²² Hosking, Richard, ed. 2006. *Authenticity in the Kitchen: Proceedings of the Oxford Symposium on Food and Cookery 2005*. Totnes, Devon: Prospect.

²³ Potter, Andrew. 2010. *The Authenticity Hoax: How we get lost finding ourselves*. Melbourne: Scribe.

²⁴ Taylor, Charles. 1995. *Philosophical Arguments*. Cambridge, MA: Harvard University Press, 227.

²⁵ Golomb, Jacob. 1995. *In Search of Authenticity: Existentialism from Kierkegaard to Camus*. London: Routledge.

²⁶ Taylor, 1995. 231.

If identity is to have any content, it is built within a personal narrative of significant others and cultural discourses. Identity is neither an open bar tab, nor a regime imposed by authority. Food choice reflects identity based on cultural, ethical, religious or health criteria. These are intimately bound to self-image and orientation to the world. Food choices tell us who people identify with, their attitudes to care of the self and care for the Other, and their openness to new experiences and other cultures.²⁷ We discern this as observers, just as the authors of these choices know they are communicating these aspects of their personalities to others.

We have found a broadly inclusive approach, which might be termed "progressive" or "neophile", to gastronomic traditions in urban Marrickville Road, and even in rural and regional Australia. However, frankly xenophobic currents have emerged in Australian food politics since the war on terror and the demonisation of Islam. In 2011, two parliamentary representatives of the ruling Liberal Party warned against allowing halal food to subvert Australian values.²⁸ Since then there have been concerted campaigns, particularly through social media, against halal food. These have expanded into the mainstream media, and to placing stickers on goods in supermarkets, urging boycotts of manufacturers who display halal certification, including major brands such as Cadburys, Kellogg's and Nestlé.²⁹ Among the bizarre claims used by such campaigns are suggestions that sales of halal certified produce funds terrorists or that "by having Australians unwittingly eating Halal food we are all one step down the path towards the conversion".³⁰ In February 2015 more than 20 people in Australia were infected with hepatitis A after eating frozen berries imported from China. Within two weeks of the recall of the products and the extensive media coverage, an email campaign circulated, urging support for a particular Australian manufacturer, on the grounds of health, food security and job protection. The email closed with the exhortation, in upper case red letters, "Please pass this on to as many people as you can[.] Don't bitch later when all food is halal, imported and expensive ..."³¹

These campaigns, ranging from the naïve to the manipulative, draw on a suite of concerns, anxieties and political agendas: patriotism, jingoism, fear of pollution, xenophobia. Protecting borders of the nation and the body against foreign elements. Purity demands that the nation and its citizens be protected against surreptitious subversion by unseen forces, from the bacterial to the ideological, in the alarmingly material form of the food we ingest. However, by associating this pollution with Islam, the apparently impersonal rejection of particular foods becomes a means of vilifying and excluding the nation's Muslim citizens and residents. Without expressly requiring Australians to be Christian, un-Muslim, or to hold any other belief or ethnic identification, the very basis of multicultural or inclusive citizenship is undermined for a significant minority.

The simple dichotomy of reactionaries or neophobes, who prefer the food of their home culture, versus progressives or neophiles, who are adventurous and cosmopolitan in their

²⁷ Further to Onfray's (1995) classification of culinary tastes from reactionary to progressive, and Warde and Martens' (2000) "neophobia and neophilia" or conservative and adventurous, discussed above, we have mapped these onto political and social views (Mohr & Hosen, 2013).

²⁸ Butterly, Nick. 2011. Halal meat converting Aussies: MP, *The West Australian*. 25 November; Lewis, Steve. 2011. Tackle Extreme Islam Before it's too Late, Liberal MPs Warn, *Herald Sun*. 9 February.

²⁹ Sheehan, Paul. 2013. Halal Easter eggs and cat food: where big money meets religion. *Sydney Morning Herald*. 28 March.

³⁰ Hansard. Commonwealth of Australia. *Parliamentary Debates*. House of Representatives, 24 November 2011: 13854 (Luke Simpkins MP).

³¹ Personal email correspondence received 28 February 2015.

tastes, is too neatly symmetrical to map onto this Australian reality. The dynamics at the level of quotidian food consumption, where a range of exotic foods have been domesticated, plays out in a different register from the shrill xenophobia of the warriors of the right. Yet the paranoia of attempts to exclude and demonise categories of foods (e.g. halal) take advantage of a certain existential anxiety about the purity and compatibility of the material we incorporate. An urge to authenticity—of the self or of the nation—seems to make possible appeals to food security and the gastronomic jingoism that inspires Luke Simpkins to warn, "you cannot purchase the meat for your Aussie barbecue without the influence of this minority religion".³²

The self-conscious, even manufactured, xenophobia of anti-halal campaigns operate in a more formal register than that of everyday shopping and eating. They infiltrate that quotidian world by placing conspiracy-inspired stickers on goods in supermarkets, and campaigning against halal restaurants through social media.³³ Such campaigns appeal to nationalism by drawing attention to a specific form of food certification. This brings us to the second area of loosening, of knots that tie law to the nation.

3. Loosening II: Nation and law

"Except within the precincts of the legal academy, social diversity and its accompanying multiple loci of normative human interaction are taken as self-evident."³⁴

Rod Macdonald, 1998

Food is regulated by numerous formal and informal instruments, from state health requirements to industry and consumer codes and religious certification. The public health measures of the nineteenth century centralised state, which cleaned up cities and regulated the sale of food, assumed that each biological human had similar requirements for safe food. The formal law of the nation state was the appropriate level of regulation for these universal standards. Law itself took a cultural turn in the late twentieth century, comprehending cultural and racial differences, recognising identity demands, and adapting, in settler societies, to the multicultural realities of the nations of first peoples and diverse immigrants.

In this section we consider the various forms of regulation demanded by consumers and by state, religious and other authorities. The food choices that are available on Marrickville Road, and the norms that govern them, help us to map this diverse regulatory framework. Recognising that law in various guises occupies many diverse niches in the social fabric, we see the guarantees of foods displayed form a network of norms by which consumers can orientate their food choices, according to religious, ethical and health requirements. Consumers choose products labelled "free range" or "fair trade" according to their ethical stance. "Halal" products indicate their appropriateness to Muslim consumers. Various approaches to health include food safety (ensuring food does not cause acute gastro-intestinal illness), nutritional criteria (so the food satisfies our bodily needs without contributing to long-term problems such as heart disease or obesity), or other more personal health concerns such as allergies and fads.

³² Hansard, 2011.

³³ Parkins, B. Restaurant victim of anti-Islamic abuse. *Illawarra Mercury* 13 March 2015.

<http://www.illawarramercury.com.au/story/2944051/restaurant-victim-of-anti-islamic-abuse/> Accessed 25 April 2015.

³⁴ Macdonald, 1998. 69.

Most of these areas are regulated by voluntary or industry codes (e.g. various certifying authorities for free range or halal products). Suppliers operate in the shadow of the formal law when they limit risk of tort actions with disclaimers about the possible presence of peanuts, or invitations to tell staff of any food allergies. Formal law covers areas of food safety, in the form of regulations imposed or monitored by local or state government: Marrickville Council's Environmental Health Officer or the New South Wales Food Safety Authority. While these authorities can and do prosecute for breach of safety codes, the FSA also uses soft power through a "name and shame" list, published on line and publicised through items in the media.

The common factor in most of these codes is their orientation to advising the consumer, while imposing standards on the food supplier or producer. A wide range of norms is applied to foods, and consumers are guided by those which are the right fit for them. Food choices are made taking into account the norms important to particular consumers. These are chosen according to people's priorities for their own health and biological needs, their orientation to the needs of other beings, whether coffee producers or animals, or a spiritual orientation to a world religion. These priorities come to define who we are: our identity is negotiated in the terms of the norms we apply to the food we ingest.

Figure 2: Victoria Yeeros Supplies, Victoria Road, Marrickville. (Photograph CC Richard Mohr 2012)

The overlapping regimes regulating food offer a valuable case study in legal pluralism, and its relationship to identity and nation. Just as all citizens belong to the nation, and are bound by its laws, so there is a common denominator, an overarching regime of state law. These codes (in Australia, at Federal and at State level) cover matters of food safety, particularly in relation to infectious diseases and trade practices, including aspects of labelling. They generally operate at a basic level to ensure the people residing and consuming food within a jurisdiction are neither poisoned nor misled.

Even food safety has its own non-state codes, such as the system of Hazard and Critical Control Point (HACCP) quality control and certification. This is a world-wide system for minimising risks from contamination of food, recognised by the World Health Organisation. With its international reach, it offers a means for suppliers and consumers across national borders to understand and have confidence in the chain of food processing and handling. It is also used among domestic suppliers as a form of quality assurance, as seen in fig. 2.

International codes are an important aspect of informal law and legal pluralism. While the informal codes of sub-state communities are widely recognised, they may also be tied in with an international regime. So, for instance, the halal certification by a local Islamic organisation based in an Australian city or state draws on the codes and systems of a world religion for its underlying principles. It must also be recognised within such an international system if it is to have local credibility. Beyond the local level, international trade requires a system of recognition of halal regimes. This intersects with formal state law even in Australia, due to the importance of the international meat trade. The Islamic and governmental organisations are, at the same time, providing some assurance to Australian Muslims that particular certifiers can be trusted to properly impose halal standards. Relationships among different halal certifiers must also be managed at the international level. However, such international halal standards are diverse as they are provided by various halal certifiers. Some of these are officially recognised by the State, as in the case of JAKIM in Malaysia and MUIS in Singapore. There are also non-governmental halal certifiers such as in the case of Indonesia and Australia. This has led to two different international forums: there is a World Halal Council (<http://www.worldhalalcouncil.com>) and there is also a new forum called World Halal Food Council (<http://whfc-halal.com/>), and some jockeying for influence among the systems and the *ulama* of different nations.³⁵ Halal standards assist companies to meet the expectation and requirement of halal certification, particularly for exporting product to other countries. Apart from a religious motive to "standardise" religious requirements, there is also an economic motive driven by a large market. For instance, many Australian halal certifiers tend to follow the Indonesian interpretation of halal requirements due to its big market of 250 million people. The Australian government lists eighteen certifiers on a website administered by the Commonwealth Department of Agriculture, Fisheries and Forestry (DAFF), according to whether they are recognised by particular export markets in Muslim countries.³⁶

The links between the codes of a world religion and local communities or various national governments achieve a degree of formality in the case of halal food. Similarly clear and state-recognised standards apply to "organic" or "bio-dynamic" produce. The European Union has guidelines and a logo (a leaf outlined by 12 stars) that must also display "the name or code number of the national certification authority" (e.g. "Agricoltura Italia").³⁷ Australia follows a similar model in relation to organic produce (for export) as for halal certification: seven organisations are accredited to provide inspection and certification services".³⁸ Codes and certification are less formal in the case of other food standards. Vegetarian and vegan labelling is not widely formalised through certifiers, while "free range" standards are

³⁵ Hosen, Nadirsyah. 2012. Hilal and Halal: How to Manage Islamic Pluralism in Indonesia? *Asian Journal of Comparative Law*. 7: 1-18.

³⁶ <http://www.daff.gov.au/aqis/export/meat/elmer-3/list-islamic-halal-certification>. Accessed 12 February 2013.

³⁷ http://ec.europa.eu/agriculture/organic/organic-farming/what-is-organic-farming/organic-certification/index_en.htm accessed 22 June 2015.

³⁸ http://www.dpi.nsw.gov.au/_data/assets/pdf_file/0011/353297/Organic-Standards-and-certification-in-Australia.pdf dated August 2010, accessed 22 June 2015.

notoriously variable and unreliable, certainly in Australia.³⁹ There is an obvious need for international inspection and recognised standards in the case of "fair trade" claims, where consumers are concerned to protect the interests and well-being of farmers and growers in distant countries. In several of these cases, "fair trade" or "free range" claims may be made by suppliers, retailers or industry bodies (e.g. Starbucks, the Australian Egg Corporation or the dominant Australian supermarkets Coles and Woolworths). The Australian Competition and Consumer Commission (ACCC) took action in the Federal Court of Australia against three poultry suppliers, for misleading and deceptive conduct.⁴⁰ The ACCC alleged that phrases such as "free to roam" are misleading and deceptive when chickens "do not, as a practical matter, have substantial space available to roam around freely". The Court found that two of the firms, Baiada and Bartter, and an industry body had made false representations and engaged in misleading and deceptive conduct. However, there is still no formal (national) legal definition of the stocking density at which chickens, eggs or pigs could be claimed to be "free range".

Figure 3: Take away food shop, Marrickville Road. (Photograph CC Richard Mohr 2012)

These variously intersecting and independent codes, catering to the demands of a variety of consumers, raise questions of the intersection between decision-making and community membership. There are formal expectations that citizens have a role in national law-making, and procedures exist to ensure their participation. Needless to say, some of these are more successful than others. At the farther end of the spectrum, there are ethical communities of vegans and consumers of animal products who are concerned to protect the welfare of animals. They can make certain demands and assert their market power, but nonetheless they may need formal regimes delivering trustworthy certification. It can be argued that this form of informal

³⁹ Clemons, Rachel. 2012. A Cagey Business. *Choice*, July: 20-22.

⁴⁰ Australian Competition and Consumer Commission v Turi Foods Pty Ltd (No 5) [2013] FCA 1109.

law-making can and should be handled within communities. However barriers to widespread acceptance of informal codes are limited by the boundaries and self-definitions of communities, their differing standards and the difficulties of accessing and communicating the necessary expertise, whether ethical, scientific or forensic.

Where the requirements of different communities intersect, or even clash, there exists a difficult area for intercommunal negotiation. Opposition to halal food comes not only from politically motivated xenophobes, but also from animal rights activists. Believing that stunning of animals prior to slaughter is humane, certain organisations and variously motivated campaigns have opposed traditional forms of halal slaughter. Responses to this can be seen coming from both Islamic scholars and particular animal rights activists. Important Islamic *ulama* in both Indonesia (MUI) and Australia (AFIC) accept stunning before slaughter, on both compassionate and religious grounds (modern stunning techniques were not known at the time of the Prophet).⁴¹ Animal rights activists opposing the inhumane export of live animals from Australia have proposed an expanded program of halal slaughter for export of meat from Australia as a means of getting halal products to overseas consumers. It is argued that slaughter under humane and supervised conditions would be preferable to the dangerous overcrowding and uncertain sea journeys involved in the live animal trade.⁴² Both these examples, of *ulama* accommodation to contemporary technology, and animal rights organisations accommodating halal requirements, indicate the dynamic nature of informal law, and the potential for its development in practice. This may be particularly flourishing in multicultural societies if diverse ethical communities are able to interact in constructive ways.

A legal approach which aims to protect all citizens equally, based on the minimal interference model of negative liberties, may be adequate to the task of protecting the populace from poisoning or deception. However, a richer conception of a polity of diverse citizens can be glimpsed here, in law's wider potential. Where citizens form overlapping and even competing ethical communities, based on religious or cultural orientations and memberships, there is potential for conflict but also for creativity and reconciliation. Informal law, in all its diversity, offers a range of codes and procedures by which communities can orientate themselves and interact with others. Those others may be suppliers or producers of food, formal organisations such as industry or consumer bodies, or parallel ethical communities. This conception of a plural legal nation deepens the notion of multiculturalism, from a simple patchwork of linguistic and cultural communities to encompass the potential of a living, learning and growing body politic.

4. Loosening III: Law and identity

“Chaque enfant habite un monde qui n'est ni interrompu ni interpellé par les autres.”⁴³
(Each child inhabits a world that is neither interrupted nor interpellated by others.)

Rod Macdonald, 1996

Althusser's notion of interpellation defined the law as an organ of state power which constitutes the subject in the name of the law. The primal instance of interpellation is the policeman's shout, "Hey, you there", to which we must respond. Indeed, for Althusser, we

⁴¹ Black, Ann, Hossein Esmacili and Nadirsyah Hosen. 2013. *Modern Perspectives on Islamic Law*. Cheltenham: Edward Elgar, 266-7.

⁴² <http://animalliberation.org.au/national-rallies-against-live-export/> accessed 16 February 2013.

⁴³ Macdonald, 1996. 137.

inevitably, always-already respond to this call: "ideology ... transforms the individuals into subjects (it transforms them all)"; when the police hail someone in the street, the right person will turn around ("they hardly ever miss their man").⁴⁴ This deterministic structuralism leaves no room for negotiation: the policeman's shout is the legal moment of interpellation that constitutes the subject.

We agree that law has a place in the construction of identity. However, we have two arguments with Althusser. Working from the nature of law and of identity outlined in the previous sections, we reject the reflexive determinacy that sees subjects constructed by a monolithic sovereign law. We have shown that law is diffuse. It is available in a range of forms, moulded to and by differing levels of association, from small enclaves to ethical and cultural communities, and from nations to relations of international trade and world religions. We see identity as an under-determined construct, that may overlap or interact with nationality and other forms of belonging. Both law and identity, therefore, are more complex and looser than a determinate bond between the state and the individual.

Foucault, Butler and other subsequent writers have gone beyond Althusser's structural determinism to encompass the possibility of resistance to law or discipline. Foucault has rejected the "mastery or the universality of law", not because law, for him, is plural, but because it is incomplete.⁴⁵ It is an almost vestigial remnant of sovereignty in a world ruled by discipline. Neither the law nor the diffuse forms of discipline are determinate in the style of Althusser. The subjects of law, or anyone involved in "power relations can, in their actions, their resistance, their rebellion, escape them, transform them, in a word, cease being submissive".⁴⁶ Butler too asserts the possibility of resistance, while concurring with Foucault's image of law as a form of sovereignty. Yet interpellation, the power of naming, persists as an interruption, a challenge and a relation of power.

"It is as if the proper power of the state has been expropriated, delegated to its citizens, and the state then reemerges as a neutral instrument to which we seek recourse to protect us from other citizens, who have become revived emblems of a (lost) sovereign power."⁴⁷

While Butler follows Foucault in looking for law and power outside of the formal and universal word of the sovereign, she maintains the link between power and identity. We may not be defined *by* power, yet we define ourselves *in response to* power. To resist is possible, yet it is still a pushing back, another form of (inter)pellation⁴⁸, exercised against state power: "the very terms of resistance and insurgency are spawned in part by the powers they oppose".⁴⁹

This leads to our second argument against the legal determination of identity through interpellation. Identity is too multifarious, too underdetermined (as already noted) to be constructed from the force of political power, whether that be sovereign and legal or dispersed and disciplinary. Here we challenge the assertion that it is only through relations of power that

⁴⁴ Althusser, Louis. 1994. Ideology and Ideological State Apparatuses (Notes towards an investigation). In *Mapping Ideology*, ed. Slavoj Žižek. 130-31. London: Verso.

⁴⁵ Foucault, Michel. 1991. Governmentality. In *The Foucault Effect: Studies in Governmentality*. eds G. Burchell, C. Gordon and P. Miller, 99. London: Harvester Wheatsheaf.

⁴⁶ Foucault, Michel. 2001. *Power*. London: Penguin, 294.

⁴⁷ Butler, Judith. 1997. *Excitable Speech: A Politics of the Performative*. New York: Routledge, 82.

⁴⁸ Interpellation derives from Latin *interpellare*, to interrupt by speaking, from *pellere*, to push or strike. Morris, William (ed) 1969, *American Heritage Dictionary*. Boston and New York: Houghton Mifflin, 685, 1533.

⁴⁹ Butler, 1997. 40.

we construct identities. Identities can be constructed out of a more diverse range of relationships and connections. In response to Althusser's interpellation, and even to Butler's revision that looks beyond the voice of the sovereign power, Weir writes:

“Here again we have lost the possibility of multiple contesting and conflicting relations. For what if the name is called not by a policeman but by a friend or lover? Is the law invoked by the policeman always the source of the name? What if the name was given to us by a parent who loves us, or a community who cares for us?”⁵⁰

For Weir, law can contribute to the constitution of an identity of connections. Like Foucault and Butler, she leaves behind universal and sovereign law. However, in place of Foucault's diffuse social power or discipline, she finds an alternative, plural version of law in Mahmood's notion of norms. These surpass fixed and monolithic state law and sovereignty, to furnish a normative plurality that we *inhabit*. Clearly, such a plurality of norms can encompass informal as well as formal law. In constructing an identity in terms of the norms we inhabit, we are in fact negotiating our relationships with the law, understood to encompass a plurality of formal and informal codes. We negotiate the law through our social attachments and relationships.

In concluding this section, we show how our study of food illustrates and elaborates this approach to the relationship between law and identity. We make food choices consistent with the sort of people we imagine ourselves to be, that we aspire to be, or that we have become, through our upbringing and cultural heritage. The food we ingest in infancy nourishes us and creates lasting traces of memory and taste. Only later do we begin to see this food as part of a moral or scientific calculus. With self-consciousness comes the capacity and the need to interrogate our food, to know it, to respond to it in ways beyond the animal urge to satisfy hunger. The tastes we develop in childhood, and throughout our lives, can be justified or questioned, rejected or developed. This discrimination builds on layers of culture, science and ethical deliberation, as well as simple pleasure. In this way, taste encapsulates the passage between knowledge and pleasure: a knowledge that we relish and a pleasure that we understand.⁵¹ In the unconscious development of our tastes in food, we mediate between what we know and what we enjoy. By selecting foods that both delight and that conform to acceptable codes, we match our identity with law. This is not a single law, to which we submit or against which we rebel, the law of a state or exclusive jurisdiction, but a matrix of laws, formal and informal.

Such a matrix of laws provides a scaffolding around which we construct our identity. By matching what we know and believe to what we consume, we are able to bring together our spiritual and physical self: mind and body. Here we arrive at the root form of the word "identity": the consolidation of disparate aspects of self into a whole. Eating alone or in company, with work colleagues or family, taste calls on experience and awareness of various codes, bringing about a reconciliation of being and believing. The norms applicable to food include the formal regulations of health, ethics and religion as well as orientations to culture. We negotiate these norms according to our self-understanding and our associations with others. Those norms derive from various sources outside the self: state, religion or associations of consumers or producers. In this sense they are given and not freely created. Yet due to their diversity they provide a variety of paths that can be negotiated, rather than an interpellation which requires either submission or resistance.

⁵⁰ Weir, 2013. 7.

⁵¹ Agamben, Giorgio. 2015. *Gusto*. Macerata: Quodlibet, 22.

5. Nomos negotiated

“L'idée du pluralisme évoquée ici est une pratique émancipatrice. Le droit vit dans l'âme de tous les membres d'une société.”⁵²

(The idea of pluralism evoked here is an emancipatory practice. The law lives in the soul of all members of a society.)

Rod Macdonald (1996)

To this point we have worked to decouple the deterministic links between identity, law and nation. Decoupling identity from nationality reveals that, even though cultures associated with ethnic or national groups are a significant component of identity, there are other important components. As regards food, we have referred to ethnic cuisines, home cooking and the food of our parents and national heritage as a coherent expression of culture. People orientate themselves to others, and to their cultures, by their attitudes to different cuisines: some pride themselves on their cosmopolitanism, others on their fidelity to a national tradition. Other ways we define ourselves by what we eat include ethical, religious and health concerns.⁵³ Identity is expressed through a range of associations with the culture of our birth, our links to other cultures, and our attachments to beliefs and like-minded others.

Decoupling law from the nation state reveals the many layers of legal plurality in relation to food, which may be certified as safe, or ethically or religiously acceptable, by a range of authorities and codes. While some of these are linked to formal state jurisdictions or other institutional entities, others are the preserve of ethical or cultural communities, at smaller or larger scales than nations, from local communities to world-wide movements.

Decoupling identity from state law allows the key concept of citizenship to be reimagined. Loosening the ties that bind citizenship to law, nation and identity, and that bind those social facts to each other, opens up new possibilities. This is not to detract from the rich significance of any of these relationships. Nationality can be a point of social orientation, without being either exclusive or binding. Laws can be enacted and administered at national levels, but also at the levels of both smaller and larger communities. People orientate themselves within this wider landscape of laws according to significant aspects of their identity. In turn, the laws of communities of reference provide a map of associations and principles to guide action.

The liberal image of citizenship as a binding contract, bestowing rights and obligations on individuals, is as inadequate to a participatory ideal as it is to the empirical reality of contemporary societies. Beginning from a fully rounded conception of justice that includes representation and recognition as well as distribution, this study has sought an approach to law and identity that provides room for participation and negotiation. Subjects at the intersection of various normative orders have degrees of choice that are not available if there is a single order, whether that be based on sovereign power, diffused discipline within a unified episteme, or a monolithic juridical order. Within such unified regimes there is, as Butler has it, always the possibility of resistance, not available within Althusser's over-determined schema. Rejecting Althusser's top-down, always-get-their-man approach to the

⁵² Macdonald, 1996. 152.

⁵³ While health is fundamentally biological and individual, beliefs about health are shared with others and can be included in a conception of a cultural identity.

legal constitution of identity, based on monolithic law and structural determinism, we see law as a web of formal and informal norms that people negotiate and inhabit. The two possibilities of pushing against, or being pulled by a unified force allows only a one-dimensional range of options. A pluralist framework opens a vastly increased scope for the orientation of our political identity. Beyond the resistance of a unidirectional force or resistance to it, we can orientate ourselves according to a moral compass of 360 degrees. This compass is calibrated by ethical, spiritual and biological considerations. The material dimension is expressed in food regulation and dietary regimes oriented to health or the environment. Ingesting food has a clear range of physical and biological effects: health and illness, well-being and discomfort, fitness and obesity. The moral and the material overlap in various ontologies of the self. Refusals to eat animals, the fruits of human exploitation, or unsustainable produce are based in a calculus of fairness and purity and a view of our bodies where the ethical is corporeal.

Identities are constructed out of a range of corporeal and cultural elements. Race and gender are well known for the layers of oppression—social, political and personal—that are piled onto dubious distinctions among bodies. They are social categories whose essentialism is founded on the assumed naturalism of the corporeal: sex, skin pigment or facial features. Identities can be negotiated within and among social categories.

Law is one such category. Legal structures frame various definitions of self, including gender, race and nationality. Recognising that these structures are themselves diverse, encompassing informal as well as state law, indicates new pathways for the exploration of identity. Identities are forged from relationships⁵⁴ including kinship, love and the ethical, as well as power. Realisation of identity involves recognition of power relations: how we are powerful as well as how we are powerless; our privileges as well as or our abjection; our recognition and our misrecognition. In this we see the beginnings of a reflexive citizenship, negotiated with others, who are both close to us and far away, those whose recognition we share and those whose misrecognition we strive to overcome: the powerless, those less privileged than we are. This realisation is achieved by expanding social circles, reference groups and cultural repertoire.

The various ethnic and ethical relationships that we noted in multicultural Marrickville are a microcosm of a world of mobile populations, ethical contests and widespread communications. Globally, dual citizenship, statelessness and multicultural citizenship are all challenges to the nation-law-identity nexus that we have been unravelling. Locally, we have seen the everyday negotiations involved in selecting and consuming food by reference to cultural or ethnic, ethical, scientific and religious criteria. Rights and binding contracts gain little purchase in explaining this milieu. Tastes extend across flexible ethnic categories, while accommodation and mutual recognition are observed in cases as diverse as the convergence of animal rights and Islamic interests, or the voracious cosmopolitanism of food choices.

Just as tastes can open to other cultures and peoples, norms can promote these levels of interaction, as well as providing guidelines for ethical choices. This network of interlocking codes, both formal and informal, mediates identity through an internormative gastronomy. This is not the anarchy of "gastro-anomie", where the "eating-individuals are abandoned on their own" (*"l'individu-mangeur se trouve livré à lui-même"*).⁵⁵ Instead it is a framework of interlocking norms, based on the formality of local and state government regulation of planning and food safety. Citizens, producers, restaurateurs and shopkeepers have

⁵⁴ Weir, 2013. 52-3.

⁵⁵ Fischler, Claude. 1979. Gastro-nomie et gastro-anomie: Sagesse du corps et crise bioculturelle de l'alimentation moderne, *Communications* 31: 206.

accommodated within this framework a range of industry, religious and informal codes. This diversity of norms allows consumers to match ethical, spiritual and health requirements with production standards and ingredients.

In conclusion, this framework of internormative gastronomy can be mapped onto Fraser's three dimensions of social justice. The materiality of food as a human need represents distributive justice in areas such as fair access to nutrition and food security. The dimension of recognition requires that the food choices of different cultures and ethical groups should also be respected. This is possible in passive terms, by allowing a range of options and codes to coexist in a multicultural and multi-ethical world. It is expressed positively by the mingling of different groups over food, in convivial and commercial settings: sharing food on "Harmony Days" and in restaurants and shops of various ethnic and ethical persuasions. The dimension of representation suggests, further, that people and groups should have a voice in the standards and codes that apply to the food available to them. Empowerment of consumers is one aspect of this, so that people can be properly informed of their food's nutritional, ethical or spiritual qualities (depending on their own beliefs and relationships). To again shift from a passive or negative mode to an active one, various associations among people can promote institutional responses to food requirements, such as organic food cooperatives or religious organisations which certify food according to mutually accepted standards. Taken together, the full spectrum of social justice can only be covered in regimes and networks that ensure fair and adequate distribution of food, that respect the cultural demands as well as the biological needs of communities, and that ensure participation, through choices informed by personally relevant criteria and social and political structures.

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