

America's Food Crisis and Poverty;
How U.S. Agricultural Policy Hurts the Poor the Most

U.S. agricultural and food policies, especially farm subsidies, procurement programs, and research funding, which all favor commodity crops, have a disproportionately detrimental effect on poor populations on each side of the food industry: both poor food consumers and poor food growers. In the words of New York Times food columnist Mark Bittman, "[a]gricultural subsidies have helped bring us high-fructose corn syrup, factory farming, fast food, a two-soda-a-day habit and its accompanying obesity, the near-demise of family farms, monoculture and a host of other ills."¹ Stemming from foundations provided by farm subsidies, food assistance programs too, have proven problematic in their implementation. The cruelest irony is that many farm subsidies and related food policies set out expressly to help the economically vulnerable. Unfortunately, over time that interest has not been served.

On the consumer side, due to commodity subsidization unhealthy processed food products remain artificially discounted, while the price of healthful items rises far more rapidly.² The "predominant view is that agricultural policies

¹ Bittman, Mark, *Don't End Agricultural Subsidies, Fix Them*, THE NEW YORK TIMES, March 1, 2011, available at <http://opinionator.blogs.nytimes.com/2011/03/01/dont-end-agricultural-subsidies-fix-them/>.

² Judy Putnam, Jane Allshouse, and Linda Scott Kantor, *U.S. Per Capita Food Supply Trends: More Calories, Refined Carbohydrates, and Fats*, Economic Research Service, USDA, FoodReview, Vol. 25, Issue 3 (Winter 2002) at 14. (Showing that from 1985

have contributed to rising obesity rates by promoting overconsumption of simple carbohydrates and food that are high in saturated fat."³ The discounted price and vast supply of these products especially contribute to the deterioration in the quality and healthfulness of food for low income Americans. The grave implications of these food quality problems become evident when one examines the current U.S. obesity epidemic and the cost of obesity to the health care system, the human condition, and human capability. However, in addition to the immediate detriment of consuming these cheap food products, many hidden costs such as environmental damage, fossil fuel dependence, and safety concerns also exist in their production.⁴

Agricultural policy has also affected our nation's small farmers. It was recently said by Michael Pollan, food journalist and professor at the University of California, Berkeley that "[w]e have a system where wealthy farmers feed the poor crap and poor farmers feed the wealthy high-quality food."⁵ On the side of growers, industrial scale agri-business has largely replaced the small family farm, helped along by policies that place importance on yield and favor large-scale production. A

to 2000 fresh fruits and vegetables have led retail food price increases with an increase of 118%, while carbonated soft drinks showed the smallest price increase at only 20%). Note that according to The U.S. Inflation Calculator, available at <http://www.usinflationcalculator.com> the rate of inflation change from 1985 to 2000 was 60%.

³ Patricia L. Farnese, *Remembering the Farmer in the Agricultural Policy and Obesity Debate*, 65 Food & Drug L.J. 391, 391 (2010).

⁴ See Runge, C. Ford, *King Corn: The History, Trade and Environmental Consequences of Corn (Maize) Production in the United States*, MIDWEST COMMODITIES AND CONSERVATION INITIATIVE, Sept. 2002. (evaluating the negative environmental impact, oil dependence and history of one of the U.S. policy's most favored crops, corn, and suggest policy changes at the national, state and farm levels.)

⁵ Lisa Miller, *Divided We Eat*, NEWSWEEK, Nov. 22, 2010 available at <http://www.newsweek.com/2010/11/22/what-food-says-about-class-in-america.html#> at 3.

machine driven enterprise, with emphasis placed on profitability, there is little room left for thoughtful farming that concerns itself with making growing environmentally sustainable, food healthier and holding itself personally accountable for the quality and safety of its products.⁶ Certainly, the local and organic food movements have seen an upswing in popularity in recent years, but the main participants in these movements are well-to-do consumers with extra expendable income.⁷ "Food has become the premier marker of social distinctions, that is to say—social class. It used to be clothing and fashion, but no longer, now that 'luxury' has become affordable and available to all."⁸

Policy reforms can redress some of these health hazards for the poor and also improve prospects for small scale farming operations. Naturally, as an essential building block of people's lives, food is not affected only by governmental policy. It is intertwined inextricably with the culture, habit, and individual choices of every person. There are limits to what policy can do, and alternative approaches to the food dilemma need also to be considered. However, policy plays a major role in

⁶ See generally Richard Manning, *Against the Grain; How Agriculture has Hijacked Civilization*, North Point Press (2004). This is not to say that farmers don't deserve to make a profit – they certainly do. But, since as food makers they are producing a product everyone needs, you and your children must consume every day, and upon which the health of the nation is inescapably intertwined, should we demand progress in healthfulness and safety, as we expect pharmaceutical companies to do? Should not an industry with such far-reaching environmental impact be examined with the same scrutiny as the automakers?

⁷ Lisa Miller, *Divided We Eat*, NEWSWEEK, Nov. 22, 2010 available at <http://www.newsweek.com/2010/11/22/what-food-says-about-class-in-america.html#>.

⁸ Id.

forming culture, habit and choices, and its far-reaching consequences should not be disregarded.

I.

The Food Crisis and Poverty

The United States is not necessarily conventionally thought of as a nation with a food crisis. The advances in technology and infrastructure in the early 20th century rendered the problem of food supply obsolete for a large part of the U.S. population.⁹ Historically, American agriculturalists have had great success in increasing yield and improving crop strains.¹⁰ However, it seems all these great successes in the agriculture industry have made Americans not the best fed, but the most fed people in the world, at least in terms of caloric intake. "The American Food industry generates substantially more calories than the American population can, or, for optimal health, should, consume . . . a daily average of 3,800 calories for every person."¹¹ Today, starvation might be considered primarily a problem of the developing world, but a new food related health epidemics have arisen in the U.S. most notably in the form of obesity and obesity related diseases. According to one study, in 2009 the percentage of adults who were obese (defined as having a Body Mass Index over 30) was 26.7%.¹² Two thirds of Americans are overweight.¹³

⁹ Elaine N. McIntosh, *American Food Habits in Historical Perspective*, Praeger Publishers, (1995) at 97.

¹⁰ Burton Folsom, *The Origin of American Farm Subsidies*, THE FREEMAN, April 2006.

¹¹ Emily J. Schaffer, *Is the Fox Guarding the Henhouse? Who makes the rules in American Nutrition Poolicy?* 57 Food and Drug L.J., (2002) at 374.

¹² <http://www.cdc.gov/mmwr/preview/mmwrhtml/mm59e0803a1.htm>

Approximately 25.8 million people, or 8.3% of the population, suffer from diabetes.¹⁴

This is not to say that food insecurity ceases to be a problem in the U.S. Just because more food is being grown does not mean it reaches all those with a need for it. The USDA reports that in 2009 "14.7 percent of households were food insecure at least some time during that year, essentially unchanged from 14.6 percent in 2008. This remains the highest recorded prevalence rate of food insecurity since 1995 when the first national food security survey was conducted."¹⁵ However, strangely enough, some studies show that the same populations effected by food insecurity are often also those plagued by obesity.¹⁶ One such study of a New York homeless shelter turned up a 39 percent rate of obesity.¹⁷ Researchers have observed for a long time now that as socioeconomic status falls, obesity rates tend to climb.¹⁸ Essentially, poor individuals in the United States are much more likely to be obese

¹³ Patricia L. Farnese, *Remembering the Farmer in Agriculture Policy and the Obesity Debate*, 65 *Food and Drug L.J.* 391 (2010) (Discussing the possible undermining of domestic food supply and negative effects on farmers should agricultural policy be changed in response to the obesity epidemic).

¹⁴ Centers for Disease Control and Prevention. *National diabetes fact sheet: national estimates and general information on diabetes and prediabetes in the United States, 2011*. Atlanta, GA: U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, 2011. Available at <http://www.cdc.gov/diabetes/pubs/factsheet11.htm>.

¹⁵ USDA Economic Research Service, *Briefing Rooms*, <http://www.ers.usda.gov/briefing/FoodSecurity/>, last visited April 4, 2011.

¹⁶ Kristi Lofton PhD and Carol Connell PhD, *Examining Relationships among Obesity, Food Insecurity, Stress, and Emotional Eating in Low-Income Caregivers of Head Start Children*, The University of Southern Mississippi, srdc.msstate.edu/ridge/files/recipients/06_lofton_final.pdf last accessed April 5, 2011.

¹⁷ CURRIE, JANET M. *THE INVISIBLE SAFETY NET*, 63 (Princeton University Press) (2006).

¹⁸ Patricia K. Smith, *Obesity Among Poor Americans, Is Public Assistance the Problem?* Vanderbilt University Press 2009 at 13.

or overweight than their wealthier counterparts.¹⁹ Admittedly, the connection between obesity and socioeconomic status is a complicated one, but the link is strong enough that some have gone so far as to suggest that public assistance causes obesity.²⁰

The obesity epidemic is a widespread problem with costs to all Americans, even including those who are not obese. In 1995, the economic cost of obesity was estimated at \$100 billion a year, not including losses resulting from decreased productivity of workers due to chronic health problems.²¹ The American Public Health Association recently predicted that obesity will cost \$344 billion in medical-related expenses by 2018, or about 21% of health-care spending.²²

Admittedly, there is a host of contributing factors in the obesity epidemic including personal responsibility, culture, genetics, inactivity, and lack of nutritional knowledge. However, agricultural policy has a role to play, and with a problem this big, that role should not be discounted.

¹⁹ Eric A. Finkelstein and Laurie Zuckerman, *The Fattening of America; How the Economy Makes Us Fat, If it Matters, and What to Do About It*, 8 (John Wiley & Sons Inc., 2008). (Explaining additionally that the gap between the obese above and below the poverty line has narrowed in recent years.)

²⁰ Food Research and Action Center, *Do the Data Show A Relationship between Obesity and Poverty?* [frac.org/wpcontent/.../09/do_data_show_obesity_poverty_link_brief.pdf](http://www.frac.org/wpcontent/uploads/09/do_data_show_obesity_poverty_link_brief.pdf), accessed Mar. 27, 2011. (outlining that while obesity rates are higher at lower income levels, demographics such as age and gender also play important roles). *See also*, Patricia K. Smith, *Obesity Among Poor Americans, Is Public Assistance the Problem?* 1 (Vanderbilt University Press, 2009).

²¹ Emily J. Schaffer, *Is the Fox Guarding the Henhouse? Who makes the rules in American Nutrition Policy?* 57 *Food and Drug L.J.*, (2002) at 375.

²² Nancy Hellmich, *Rising Obesity Will Cost U.S. Health Care \$344 a Year*, *USA Today*, Nov. 17, 2009 http://www.usatoday.com/news/health/weightloss/2009-11-17-future-obesity-costs_N.htm last accessed April 5, 2011.

II.

How The U.S. National Food Policy Got Where it is Today

When the government first began involvement in Agriculture, the interests of farmers, consumers and researchers were largely aligned.²³ When vitamins were first discovered in 1912, farmers were eager to encourage research that would promote consumption of their nutrient rich agricultural products.²⁴ In turn, the newfound knowledge about micronutrients helped make great strides against some of the biggest health concerns of the time; deficiency diseases such as pellagra, rickets, goiter, scurvy, and beriberi.²⁵

During the Depression, the government began acting not only as a regulator and educator, but also as a provider of agricultural commodities to an impoverished population.²⁶ People in cities were unable to afford basic foodstuffs, and in turn farmers were left without a market for their product.²⁷ Farm Subsidies, or commodity support programs, began with the Farm Board and the Agricultural Adjustment Act of 1933.²⁸

²³ Schaffer, 379. It was in the 1950s, when the interests of farmers and health diverged. Previously, nutrition scientists had supported increased consumption of agricultural products so that consumers would ingest the gambit of recently discovered micro-nutrients, but then they began to discover the detriments of dietary excess.

²⁴ Id.

²⁵ id.

²⁶ Id at 382.

²⁷ Id.

²⁸ Agricultural Marketing Act, 12 U.S.C. §1141 (1929).

The Farm Board was an effort of Hoover and Coolidge administrations established by the Agricultural Marketing Act of 1929 that set floors on the price of wheat and cotton to combat falling prices.²⁹ If prices fell below a certain amount, the federal government would buy the crop and store it, hoping to sell it later at a better amount.³⁰ The problem that arose was that many farmers who typically grew other crops now switched to wheat or cotton because it was protected, resulting in overproduction and even further drops in price.³¹

When the Presidency transitioned to Roosevelt, he supported the Agricultural Adjustment Act, which provided payments to farmers to idle their land in order to combat agricultural surplus.³² The program was supported by a tax on processors of food and was intended to be temporary.³³ Without a program like this to buffer against the inherent risks of farming and the economic factors that were depressing the agriculture sector, government feared there might be a great exodus from farming and the national food supply might have been jeopardized.³⁴ In turn, in 1935 Congress authorized the USDA to purchase surplus commodities and donate them to public assistance programs.³⁵

²⁹ Folsom, Burton, *The Origin of American Farm Subsidies*, THE FREEMAN, April 2006 available at fee.org/pdf/the-freeman/0604Folsom.pdf last visited April 11, 2011.

³⁰ Id.

³¹ Id.

³² Farnese at 393.

³³ Bittman, Mark, *Don't End Agricultural Subsidies, Fix Them*, THE NEW YORK TIMES, March 1, 2011, available at <http://opinionator.blogs.nytimes.com/2011/03/01/dont-end-agricultural-subsidies-fix-them/>.

³⁴ Farnese at 393.

³⁵ Schaffer at 383.

The Agricultural Adjustment Act was the first incarnation of the modern Farm Bill, which today provides direct payments, counter-cyclical payments and marketing loan programs.³⁶ During the New Deal, farm programs made particular use of loan programs, giving farmers a loan (with their crop for collateral) to store their grain until prices recovered.³⁷ If prices didn't recover to suit the farmer, they could keep the money, and the government would keep the grain at the "Ever-Normal-Granary."³⁸ Most of the loans were repaid, and for those that were not, the government eventually sold the grain.³⁹

However, significantly for farmers, the government began dismantling various parts of the New Deal program, such that the modern Farm Bill has deviated substantially from its roots. Under the purview of Nixon's second Secretary of Agriculture, Earl Butz, when the 1973 Farm Bill rolled around the Ever-Normal-Granary disappeared and the system of supporting prices with loans, government grain purchases, and land idling was largely eliminated.⁴⁰ Now the emphasis was placed on direct payments. This had monumental effects. The floor had been removed from grain prices, and instead of keeping grain out of a falling market the new subsidies encouraged farmers to sell their grain at any price, since the government would make up the difference.⁴¹ Not surprisingly, more grain came into the market every year. Also unsurprising, the demand for food can only

³⁶ Farnese at 392.

³⁷ Michael Pollan, *THE OMNIVORE'S DILEMMA*, 48 (Penguin Press) (2006).

³⁸ *Id.*

³⁹ *Id.* at 50.

⁴⁰ *Id.* at 52.

⁴¹ *Id.*

increase as fast as the population (despite the efforts of food producers to get Americans to eat ever more), so commodity grain prices continued to fall. Responding to the real drop in price, every Farm Bill since 1973 has actually lowered the target price of these crops.⁴² This means two things; farmers have been incentivized to grow as much of a subsidized grain as they possibly can since they are paid per bushel (further deflating the market price) and since even the price the government will make up keeps dropping, so has the profitability of each unit of crop. As a result commodity grain farming has become a game of scale – where, in "defiance of all rational economic behavior" farmers seek to grow more every year, squeeze just a little more yield out of their acreage, lest they make less profit than the year before, and eventually be pushed out of the industry.⁴³ So it is that farmers, including those in the countries to which we export our cheap grain, become more impoverished every year (an Iowa State University study estimates that the typical Iowa farmer sells corn for a dollar less than it costs him to grow it), and the buyers of all that cheap grain reap the benefits.⁴⁴ The system also leaves little room for farmers to prioritize any values outside of yield.⁴⁵ The first farm subsidies were

⁴² Id at 52-53.

⁴³ Id. at 53.

⁴⁴ Id at 54-55.

⁴⁵ Pollan argues in *The Omnivore's Dilemma* that the market does not realistically reflect the true societal price of commodity crop based food from industrial agriculture, not only because of subsidization, but also because of increases in externalities such as environmental harm, ramifications from pesticides use, and fossil fuel dependence which are propagated by the current incentive structure. The use of corn as feed in concentrated animal feeding operations (CAFOs) also makes animal products cheaper at the market, but lends itself to inhumane treatment of animals, anti-biotic resistance, and pollution.

aimed at corn and wheat producers, and today include rice, sugar and oilseeds.⁴⁶

From 1995 to 2009 direct payments alone totaled \$37.6 billion, with more than \$12 billion of that going to Corn.⁴⁷

In line with Earl Butz's attitude of "get big or get out," the system has fostered the concentration of commodity farming into fewer and larger operations. Today 10 percent of participants collect 74 percent of agricultural subsidies – a far cry from the original aims of farm subsidies to help struggling farmers.⁴⁸ This top echelon of participants includes huge names in agribusiness like Cargill, Tyler, and Riceland.⁴⁹ Between 1995 and 2009 the top recipient of Farm Subsidies was Riceland Food Inc, a joint venture by Archer-Daniels-Midland Company and Riceland Partnership, as well as the country's largest rice producer. In those years, Riceland Food Inc. received \$554 million dollars.⁵⁰ Riceland had \$1.3 billion dollars in sales in 2009, and an 8% increase in profits.⁵¹

⁴⁶ Farnese at 393.

⁴⁷ Farm Subsidy Database, http://farm.ewg.org/progdetail.php?fips=00000&progcode=total_dp®ionname=theUnitedStates

⁴⁸ Farm Subsidy Database, available at <http://farm.ewg.org/>, last visited April 12, 2011.

⁴⁹ Farm Subsidy Database.

⁵⁰ Archer-Daniels-Midland Company - Company Profile, Information, Business Description, History, Background Information on Archer-Daniels-Midland Company, available at <http://www.referenceforbusiness.com/history2/18/Archer-Daniels-Midland-Company.html>, last accessed April 12, 2011.

⁵¹ Riceland Food Sales at 1.3B for fiscal year, The Street, Nov. 25, 2009. Available at <http://www.thestreet.com/story/10633354/1/riceland-foods-sales-at-13b-for-fiscal-year.html>, last accessed April 12, 2011.

Whatever form they take, these subsidies increase production by encouraging farmers to plant specific crops.⁵² "Increased acreage devoted to a subsidized crop creates a surplus that drives the price of that bulk commodity downward."⁵³ Unfortunately, since the grain we are subsidizing is the storable variety that isn't really edible by humans until processed (and even then only produce "low-quality calories of fat and sugar"), the benefits go in large part neither to the farmer nor the consumer, but to the food processor.⁵⁴

Food processors are able to get these bulk commodity ingredients at an artificially low price. The food-processing sector, which is dominated by a few very big players, is in a unique position to take advantage of even negligible changes in commodity prices by taking advantage of economies of scale.⁵⁵ Funding for agricultural research has also disproportionately related to supporting progress in production and processing of bulk commodities, and has also contributed to the price decrease for commodity crops.⁵⁶ Sensibly, lower prices encourage over-consumption of products made from subsidized ingredients. Over time, processors have created products derived increasingly from surplus commodities.

Unsurprisingly, Americans exceed dietary guidelines for products derived from these energy dense subsidized commodity crops: enriched grains, fats, and added

⁵² Farnese at 393.

⁵³ Farnese at 393.

⁵⁴ Micheal Pollan, *Farmer in Chief*, THE NEW YORK TIMES, Oct. 9, 2008 available at http://www.nytimes.com/2008/10/12/magazine/12policy-t.html?_r=2&hp&pagewanted=all, last visited April 11, 2011.

⁵⁵ Farnese at 395.

⁵⁶ Farnese at 397. "For example, in 2007, the corn and soybean sectors alone received \$24 million in research support from the government, while just \$23 million was awarded to research related to all other vegetables."

sugars like high fructose corn syrup.⁵⁷ Some of these subsidized crops are also used in animal feed, lowering the price and increasing consumption of meat and dairy.⁵⁸ A Tufts University study showed that between 1997 and 2005 subsidies saved chicken, pork, beef and High Fructose Corn Syrup producers roughly \$26.5 billion.⁵⁹ "In the short term, that saved consumers money too — prices for these foods are unjustifiably low — but at what cost to the environment, our food choices and our health?"⁶⁰ In contrast, fruits and vegetables do not receive this level of support, and Americans tend not to meet the dietary guidelines in that regard.⁶¹

Since there has traditionally been a lot of cheap surplus subsidized corn in the U.S., a common proposal that appears very green-friendly at the outset is that this surplus should be used for ethanol and other bio-fuels. A thorough discussion of this argument is beyond the scope of this paper, but it should not go without a detailed argument that this approach comes with challenges. First, the process of growing corn itself has become very fossil-fuel-dependant, relying on oil for the nitrogen-enriched fertilizer in which it grows, the mechanized processes of plowing, planting, weeding, watering, and harvesting, and for transport of the grain.⁶² This movement in agriculture toward oil and away from the energy of the sun and natural cycles is a major criticism of the "Sun Food" movement. Second, recently,

⁵⁷ Farnese at 394.

⁵⁸ Farnese at 394. *See also* Pollan, *The Omnivore's Dilemma*, Chapter 4, for a rather hair-raising account how switching cattle from feeding on grass to grain has transformed the meat industry.

⁵⁹ Bittman, *Don*

⁶⁰ *Id.*

⁶¹ Farnese at 393.

⁶² POLLAN, *THE OMNIVORE'S DILEMMA*, 41-47.

there has been some concern in the media that food prices are climbing at an alarming rate as a response to increased demand for ethanol production. Indeed, it has been reported that 39% of this year's U.S. corn crop is being used for biofuels.⁶³ So, it would appear, that for the first time in almost a century, the free market might create enough demand to account for the vast amount of corn grown in the U.S. The largest effects of this cost increase will be felt abroad, especially in poorer nations where countries that have been importing cheap grain from America have let their own agricultural infrastructure lag, and will now face food shortages and spikes in price.⁶⁴ However, here in the U.S. the effect may also be felt to a lesser degree. Adjustments in demand will have to be made. Food processors have been working for some time to manipulate the market to increase demand for corn, and since this has resulted in changes in food culture the reversal is unlikely to happen overnight. Regardless, the development of the ethanol issue is relatively recent, and the ramifications for food policy as discussed above will have effect for years to come.

Even larger concerns arise when one realizes that the packaged products processors put together to utilize commodity crops have innumerable marketing advantages over bare produce. An apple, head of lettuce, or broccoli floret sits silently on a shelf, generally without the benefit of large advertising campaigns or name branding. In contrast, the value-added products of processors (with their

⁶³ Elizabeth Welse, *Ethanol Pumping up food Prices*, USA TODAY, Feb 14, 2011, available at http://www.usatoday.com/money/industries/food/2011-02-09-corn-low_N.htm

⁶⁴ Mark W. Rosegrant, *Biofuels and Grain Prices: Impacts and Policy Responses*, International Food Policy Research Institute Sustainable Solutions For Ending Hunger and Poverty, May 7, 2008.

larger profit margins, thanks to subsidies), often have large advertising campaigns, and labels which proclaim the product's health benefits in the most favorable light.⁶⁵ Additionally, many pre-packaged food products can tout their convenience, a whole meal ready in the microwave in minutes. This is a factor one can see having infinite value to the working poor who are pressed for time, and also perhaps without cooking acumen, equipment, or ability to consistently stock a pantry with staples.

There is also another systemic reason poor Americans are more likely to eat the fruits (or really, non-fruits) of subsidized farming. Since Farm subsidies can create surplus, the USDA still utilizes procurement programs, which purchase commodities and provide food to vulnerable populations.⁶⁶ Today, approximately one in five Americans uses a federal food program every day, and these programs have made great strides in eradicating hunger in America.⁶⁷ The 2008 Farm Bill increased funds for purchasing commodities for food assistance programs from \$140 million to at least \$250 million.⁶⁸

Perhaps the most prominent food assistance programs are the Supplemental Nutrition Assistance Program (SNAP) (formerly the Food Stamp Program (FSP)), the Special Supplemental Feeding Program for Women, Infants, and Children (WIC) and

⁶⁵ Michael Pollan, *In Defense of Food*, 32-36 (Penguin Press) (2008)

⁶⁶ Farnese at 395 and Schaffer at 383. . (explaining that "[a]lthough both state and local governments authorized local school districts to supply meals to children whose families lacked the means to feed them, it soon became apparent that local governments and school boards could not provide the funds necessary to carry the increasing load.")

⁶⁷ CURRIE, JANET M. *THE INVISIBLE SAFETY NET* 61-63 (Princeton University Press) (2006).

⁶⁸ Farnese at 395.

the National School Lunch and Breakfast Programs (NSLBP). SNAP essentially provides a direct payment to needy families that can be used for any kind of food (including unhealthy products).⁶⁹ Long-term participation in the Food Stamp Program has been linked to a greater Body Mass Index for women.⁷⁰ In contrast, WIC coupons can only be redeemed for specific types of food.⁷¹ Both WIC and the FSP have been criticized on the theory that coupons redeemable for food rather than cash encourage consumption of excess calories.⁷² There has also been criticism of the foods eligible for purchase by participants, which do not correspond to dietary guidelines.⁷³

Start here.

Perhaps the most interesting assistance program in light of Farm subsidies and procurement programs is the NSLBP. During the Depression, "school lunch programs were one of the principal outlets for surplus agricultural supplies."⁷⁴ NSLBP provides free and reduced price meals to low-income children in schools.⁷⁵ Participating schools receive a per-meal subsidy for "entitlement" commodities, that is, commodities regularly purchased by the USDA and donated to the program for purchase at a reduced price.⁷⁶ Over the years school lunch has become big business, with the Consumer Marketing Service taking over its administration in the 1950s,

⁶⁹ Currie, 64-72.

⁷⁰ Smith at 135.

⁷¹ Id at 72.

⁷² Farnese at 395.

⁷³ Id.

⁷⁴ Schaffer at 383.

⁷⁵ Currie at 79-80.

⁷⁶ Farnese at 396.

and fast food companies competing for school lunch money starting in the 1990s.⁷⁷ The program has been criticized on several counts but especially for promoting high-fat foods.⁷⁸ Although the programs are supposed to follow certain dietary guidelines, the levels of fat and saturated fat exceed their own standards by 10 percent.⁷⁹

The policies enumerated above may not be the sole causes of the obesity epidemic, but they certainly aren't helping to contend with the issue. Considering the impact research and farm subsidies could have on the American diet, how many people rely on food assistance programs, and how research has shaped our nation's robust agriculture industry, they are uniquely placed to combat obesity and the other consequences of dietary excess as it exists today in America.

These policies have also contributed to consolidation within the agriculture industry, leaving both small farmers and producers of non-commodity crops at a distinct disadvantage. This might be alright if large-scale farming were truly superior to the small-scale enterprise. Unfortunately however, there seem to be two very important arguments against this. First, when one considers that between subsidies and societal harm (including the health impact on those that eat them, environmental damage, among others) the true cost of industrial foodstuffs is not reflected on the price tags seen at the store, it becomes questionable whether these products are actually cheaper to society as a whole than those produced by smaller

⁷⁷ Susan Levine, *SCHOOL LUNCH POLITICS; THE SURPRISING HISTORY OF AMERICAN'S FAVORITE WELFARE PROGRAM*, 95 and 180 (Princeton University Press, 2008).

⁷⁸ Farnese at 396.

⁷⁹ Currie at 81.

farmers who participate in the local and organic trends. Second, because of the emphasis placed unwaveringly on yield in the industrial commodity setting, it seems that the values of small farmers who seek to move the industry in a direction with practices that propel environmental sustainability, better nutrition, humane animal treatment, biodiversity, and less oil dependence should at least be entitled to an even playing field.

III.

How Policy can Address these Issues

Small changes in the farm subsidy and food assistance programs could combat the problems faced by the population in general, and the poor in particular, when it comes to food. The original purpose of Farm Subsidies was to help the struggling farmer and make sure the U.S. population was well fed. Unfortunately, as demonstrated above, the current state of affairs propagates obesity and gives handouts to farming conglomerates that are not struggling. However, farm subsidies cannot be done away with altogether. For one thing, completely banishing the farm subsidy poses a political impossibility. For another, taking subsidies away in one fell swoop would give our food system a perilous shock. Additionally, the natural risks of farming like plagues, floods, and droughts, that we want to insure against as a public good, still exist. However, in general food policy should match what we want to incentivize people to eat and grow—through subsidies, research funding, and public assistance alike. In general our policy needs to stop favoring commodity crops so heavily.

Farm subsidies should undergo some changes. They should be means tested, like other forms of public assistance are.⁸⁰ Fruits and vegetables should get equal treatment under the policy. Farms that use sustainable practices should be treated favorably. Finally, if ethanol causes food prices to rise, measures to combat increasing prices should be aimed at struggling consumers, not the farmers and distillers who will reap the benefit of increased demand for their products.

Another set of solutions can be found by making adjustments in the SNAP program. Food stamps should have increased value with healthy foods in local farmers' markets.⁸¹ Farmers' markets allows direct farmer to consumer marketing,

⁸⁰ Considering that many of the policy reasons for farm subsidies have disappeared over time, and that the current policy now results in federal funding going to very financially lucrative operations, as in the Riceland example discussed *supra*, the system seems to have become something of a political blunder. Perhaps farm policy makers should look to how assets are assessed for public benefit programs. The HHS, USDA, Department of Energy, Department of Labor and Legal Services Corporation all make use of means testing to determine eligibility for programs ranging from weatherization assistance to the National Farmworker Jobs Program. Institute for Research on Poverty, *What are Poverty Thresholds and Poverty Guidelines?* available at <http://www.irp.wisc.edu/faqs/faq1.htm>, last accessed Apr. 20, 2011. Even in the commercial sector bankruptcy courts look to means testing to determine if an entity qualifies for certain kinds of relief. See U.S. Trustee Program, *Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 (BAPCPA)*, available at <http://www.justice.gov/ust/eo/bapcpa/index.htm>, last accessed Apr. 20, 2011.

⁸¹ The USDA is beginning to move in this direction. The 2008 Farm Bill authorized 20 million dollars for "pilot projects to evaluate health and nutrition promotion in . . . SNAP to determine if incentives provided to recipients at the point-of-sale increase the purchase of fruits, vegetables or other healthful foods among SNAP participants. The Food and Nutrition Service refers to this effort as the Healthy Incentives Pilot or HIP." Hampton, Massachusetts was chosen as the pilot site, and The Government Accountability Office has issued a report analyzing issues related to the pilot, such as selection of foods to be incentivized, incentive amount, informing participants, and program monitoring and evaluation. United States Department of Agriculture Food and Nutrition Service, *Supplemental Nutrition Assistance Service, Healthy Incentives Pilot*, available at <http://www.fns.usda.gov/snap/HIP/default.htm>, last accessed April 20, 2011. Michael Pollan has also suggested creating a federal

which allows farmers (who currently only receive about 20 percent each food dollar) to capture more of the price.⁸² It also deals with some of the criticism of the Food Stamp system, which currently helps participants to buy healthy and unhealthy food equally.⁸³ This system would encourage not only the purchase of

definition of "food" saying "[i]t makes no sense for government food-assistance dollars, intended to improve the nutritional health of at-risk Americans, to support the consumption of products we know to be unhealthful. Yes, some people will object that for the government to specify what food stamps can and cannot buy smacks of paternalism. Yet we already prohibit the purchase of tobacco and alcohol with food stamps. So why not prohibit something like soda, which is arguably less nutritious than red wine?" Pollan goes on to suggest "Food-stamp debit cards should double in value whenever swiped at a farmers' markets — all of which, by the way, need to be equipped with the Electronic Benefit Transfer card readers that supermarkets already have. We should expand the WIC program that gives farmers'-market vouchers to low-income women with children; such programs help attract farmers' markets to urban neighborhoods where access to fresh produce is often nonexistent. (We should also offer tax incentives to grocery chains willing to build supermarkets in underserved neighborhoods.) Federal food assistance for the elderly should build on a successful program pioneered by the state of Maine that buys low-income seniors a membership in a community-supported farm. All these initiatives have the virtue of advancing two objectives at once: supporting the health of at-risk Americans and the revival of local food economies."

⁸² Farnese at 399. One of that nation's largest and most celebrated farmer's markets, Pike Place in Seattle, arose in 1907 when the price of onions increased ten fold and consumers sought to cut out "price gouging middlemen." History of Pike Place Market, http://www.pikeplacemarket.org/visitor_info/market_history, last accessed Apr. 20, 2011.

⁸³ In 2010 Mayor of New York, Michael Bloomberg, embraced this criticism, seeking federal permission to prevent New York's 1.7 million food stamp recipients from using food stamps for soda and other sugary drinks. Anemona Hartocollis, *New York Asks to Bar Use of Food Stamps to Buy Sodas*, THE NEW YORK TIMES, Oct. 6, 2010, available at <http://www.nytimes.com/2010/10/07/nyregion/07stamps.html>, last accessed Apr. 20, 2011. However this effort met up with some impassioned opposition (undoubtedly encouraged by the soft drink industry), allegations of paternalism, and phraseology accusing the rich of telling the poor what to do. Edward Isaac-Dovere, *CITY HALL NEWS, Bloomberg Soda/Food Stamps Opponents Seeking Poverty Advocates And Minority Politicians To Head Pushback*, October 11, 2010, available at http://www.cityhallnews.com/newyork/article-1601-bloomberg-soda_food-stamps-opponents-seeking-poverty-advocates-and-minority-politicians-to-head-pushback.html, last accessed Apr. 20, 2011. In any case, the effort was not successful, not least because such action by the USDA would be *ultra vires*, that is, beyond the scope of the agency's

healthier foods, but also an exploration of the farmer's market where consumers are exposed to a culture of healthful food, knowledgeable vendors, and new tastes.⁸⁴

Farmer's markets provide not only a means of buying groceries, but also an experience and intimacy that supermarkets lack.

Implementing a program like the one described here would not be without challenges. For instance hours and location or transportation would have to be considered to allow the working poor reasonable access to these farmers' markets. This is one area where community economic development projects might have a larger role to play than broad federal or state policy. However, farmers markets can provide good alternative sources of fresh produce, especially in urban centers that aren't able to attract sufficient grocery stores to supply the area.⁸⁵ Another problem, addressed by the Government Office of Accountability, would be qualifying

power under existing federal law 7 U.S.C 51, as enacted by Congress – the Department has no power to unilaterally ban foods.

⁸⁴ See USDA Agricultural Marketing Service, *Farmers Markets and Local Food Marketing*, <http://www.ams.usda.gov/AMSV1.0/ams.fetchTemplateData.do?template=TemplateM&navID=WholesaleandFarmersMarkets&leftNav=WholesaleandFarmersMarkets&page=WFMWhoBenefits&description=Who%20Benefits%20from%20Farmers%20Markets?&acct=frmrdirnkt>, last accessed Apr. 20, 2011.

⁸⁵ Unfortunately, the "food desert" phenomenon, where impoverished urban areas are unable to attract sufficient grocery stores, has become all too common. However as awareness of the issue rises many innovative solutions, such as urban and rooftop gardens, have cropped up to combat the problem. In Dallas, Paul Quinn college actually turned its football field into a garden. Roy Appleton, THE DALLAS MORNING NEWS, *Huge Garden Helping Paul Quinn Dig Out of Difficulties*, available at <http://www.dallasnews.com/news/education/headlines/20100505-Huge-garden-helping-Paul-Quinn-College-7246.ece>, last accessed Apr. 20, 2011.

which foods and producers would qualify for such incentives – a delicate process to be sure.⁸⁶

Finally, and perhaps most plainly, changes must be made in the NSLBP. The federal government should be incurring fewer societal costs by contracting with smaller and more local growers. More fruits and vegetables need to be purchased. Contracting should take into account improving the nutritional value of these meals.⁸⁷ Doing so may cost more at present, but the investment will save costs down the road in healthcare, disability, early retirement, and other public benefits taxed by the obesity epidemic⁸⁸ (Not to mention the external costs, like the environmental impacts outlined earlier).⁸⁹ At the very least, school meals should be adhering to their own dietary guidelines.⁹⁰ The fact that school meals have continued to fail to meet their own dietary guidelines standard shows that enforcement and accountability are lacking in the program. Perhaps this is because the program is not really subject to public scrutiny, after all, voting age constituents

⁸⁶ United States Department of Agriculture Food and Nutrition Service, *Supplemental Nutrition Assistance Service, Healthy Incentives Pilot*, available at <http://www.fns.usda.gov/snap/HIP/default.htm>, last accessed April 20, 2011. See footnote 81, *supra*.

⁸⁷ The Food and Nutrition Service, but way of the Economic Research Service, a part of the FDA, provides some insightful health monitoring and assessment surveys of school lunch programs, such as this one www.ers.usda.gov/publications/err61/err61.pdf. However, weaknesses pointed out in such surveys should be incorporated into the contracting process, under the theory that competition would encourage creative and even profitable means of addressing the programs weaknesses. Also, it is arguable that the very agency that runs the program shouldn't be evaluating it because of self-bias. Objective third party analysts should be commissioned for at least occasional studies.

⁸⁸ Janet Poppendieck, *FIXING SCHOOL FOOD IN AMERICA*, 282-283 (University of California Press, 2010).

⁸⁹ See footnote 45, *supra*.

⁹⁰ See discussion of NSLBP *supra*, page 17.

are not brought into contact with the food—only our nation’s children eat it every day.⁹¹ Significant strides to improve school nutrition have been made in recent years, especially for example, in removing unhealthy sources of food from school vending machines.⁹² However, the program has the potential to do so much good, if it goes just a little further.

The NSLBP should be an educational opportunity, and legislated as such. Instead of viewing meals as a wasted half hour, a time away from instruction, lunch should be utilized as a valuable time to instill into children crucial life skills that will be used every single day. It might even change our national eating habits; it is well known that educational and intervention programs work best among the young.⁹³ Plus, if providing healthful food is not accompanied by explanation, children are unlikely to change their habits – and the result will be the same amount of pizza and french fries in children's stomachs, and a lot of salad and broccoli in trashcans. Nutritional and agricultural ignorance are major causes for obesity in this country. The school lunch programs are already set in an educational environment. There is no reason students should not be learning what their body needs to work its best. Furthermore, children could be gaining skills to set them up for a healthy lifestyle as

⁹¹ Celebrity chef Jamie Oliver points out this lack of transparency in his "Food Revolution" campaign, encouraging parents to go eat and their children's school and see what their kids are really consuming day in and day out.

<http://www.jamieoliver.com/us/foundation/jamies-food-revolution/school-food>

⁹² Susan Levine, *SCHOOL LUNCH POLITICS; THE SURPRISING HISTORY OF AMERICAN'S FAVORITE WELFARE PROGRAM*, 179 (Princeton University Press, 2008) (describing the 2003 "Healthy Schools and Beverages in School" bill).

⁹³ Rand Corporation, *Proven Benefits of Early Childhood Interventions*, available at http://www.rand.org/pubs/research_briefs/RB9145/index1.html, last accessed Apr. 20, 2011.

adults; kitchens are available for students to learn how to prepare their food, a skill that has largely been taken out of public education. Also, school garden movements should be supported so children can learn where food comes from, how it is grown, and might even cultivate better understanding or interest in biology, ecology, farm economics, and agricultural and environmental policy.

V.

Conclusion

The U.S. has reached a point where its partiality to commodity crops has created new demarcations of class. The rich produce cheap foods eaten by the poor, who are generally overweight. These foods are bad for health, and expensive to society.

Since they are heavily subsidized, they are actually paid for in our taxes anyway, but the true cost to society in form of health care, environment, and safety, is not paid by producers. This is bad for everyone and should be fixed. The law cannot be the only solution. The food policy of the past century has shaped our culture, habit, and dispositions toward food. However, there are certainly certain strides which policy can make in the right direction. The beginnings of change are out there, but they will not come to fruition if concerns about food cannot consolidate political support for reform.