



The contested terrain of biological citizenship in the seizure of raw milk in Athens, Georgia



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ABSTRACT

This paper examines a raw milk seizure in Athens, Georgia, USA, and its aftermath as a moment of contention over the contours of biological citizenship. Conflicts around the sale of raw milk are flashpoints in a biopolitical struggle over who decides what constitutes health or disease in the food system. Drawing on Rose's (2006) framework, the paper illuminates how discourses of life, health and disease are used by the state in expressions of biological citizenship 'from above', and interpreted by raw milk consumers in acts of individual and biosocial citizenship 'from below'. We argue that regulations restricting access to raw milk rest on a view of Pasteurian science as unproblematic, while efforts to expand market access to raw milk represent efforts to pluralize biological truth and introduce post-Pasteurian views into decision-making arenas.

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1. Introduction

On Thursday, October 15th, 2009, state agriculture officials, operating on a tip in a local newspaper, appeared at the distribution site for Athens Locally Grown (ALG), an internet-based farmers market in Athens, GA. They came looking for uninspected meat, but what they found was raw milk produced in South Carolina, which is illegal to distribute in Georgia. Without warrants, they "seized" the milk, which amounted to closing the truck and ordering Eric Wagoner (the temporary owner of the milk, and the creator and manager of ALG) to impound the milk at his home until federal agents could be alerted to the possible violation of interstate commerce laws. On the following Monday morning, state and federal agents met at Wagoner's home to supervise the destruction of the milk, which involved dumping the 110 gallons of milk on Wagoner's driveway, although several disappointed customers disposed of the milk by drinking it. The outrage that followed resulted in the unsuccessful introduction of a bill in the Georgia Legislature to legalize the sale of raw milk in the state, and a lawsuit against the Food and Drug Administration (FDA) and the U.S. Department of Health and Human Services (HHS), on behalf of Wagoner and several other plaintiffs in similar, but unrelated cases. The plaintiffs argued that FDA's ban on interstate commerce in raw milk infringes on rights to travel and to privacy, and abrogates substantive due process. After 2 years in which the FDA tried repeatedly to have the suit dismissed, the case was dismissed by a federal judge in March 2012.

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Conflicts around the sale of raw milk, such as the Athens Locally Grown milk seizure, are flashpoints in a biopolitical struggle between producers and the state over who decides what constitutes health or disease in the food system. In this case, the dangers associated with the presence or absence of pathogens in milk is interpreted in vastly different ways by those involved in the production, distribution, consumption and regulation of the product. This paper examines the Athens raw milk seizure and its aftermath to illuminate how discourses of life, health and disease are used by the state and interpreted by consumers, to shape what Rose (2006) calls "biological citizenship". Rose's concept of biological citizenship draws on Foucault's characterization of biopower and biopolitics as two different ways to understand decision-making power over life, health and death. This framework offers insight into the ways by which biopolitics are mobilized around discourses of health and disease to challenge and reconfigure notions of citizenship and power. In the following sections we provide a short history of milk and pasteurization, followed by an explication of the ways in which biopolitics and biological citizenship frame our analysis. We present and analyze the Athens milk seizure and its aftermath, drawing on public commentary, in-depth interviews with raw milk consumers, and the court case. We conclude by speculating on the way this case might change understandings of biological citizenship.

2. Brief history of pasteurization in the united states

Restrictions on raw milk distribution are founded on a long history (real and embellished) of contamination leading to tuberculosis and other unsavory ailments, and on the shockingly high rates

of urban infant mortality attributable to contaminated milk in the mid-nineteenth century (Schmid, 2009). Both present-day advocates and antagonists of pasteurization attribute nineteenth century milk-related diseases, at least in part, to the deplorable conditions of “swill” dairies, which utilized the leftover slop from nearby urban spirit distilleries as feed for cows; the nutrient-poor diet combined with unhygienic milking conditions and cramped quarters for human and bovine urban dwellers constituted a veritable breeding ground for infectious disease (Wright and Huck, 2002; Craddock, 2000).

The discovery, in 1864, that heating milk to 161 °F would kill pathogenic organisms (including virulent *Mycobacterium tuberculosis*) was widely embraced as life-saving technology; to quote from Latour's (1988, p. 8). *The Pasteurization of France*:

“No one—except extreme cynics—can doubt the value of Pasteur's discoveries to medicine. All of the other technological conquests have their embittered critics and malcontents—but to mention those suffering from radiation—but to prevent children from dying from terrible diseases has never been seen as anything other than an advantage—except, of course, by the microbes of that disease”.

State efforts to regulate access to particular foods represent a complex combination of interests and allegiances, including a concern for public health, a longstanding relationship with industrial operations, and an attention to economies of scale that value consistency, concentration, and convenience (Schmid, 2009; Weisbecker, 2007). Legislation banning the sale and transport of raw milk can be traced to Progressive Era attempts to safeguard the milk supply at a time when milk was a nearly ubiquitous feature of American diets (DuPuis, 2002). Wright and Huck (2002) consider the emergence of stringent pasteurization laws during the late 19th century “a leading strategy in the drive to reduce infant mortality... [through] the control of milk-borne diseases” (p. 60). An oft-cited court decision from 1914 proclaimed, “There is no article of food in more general use than milk; none whose impurity or unwholesomeness may more quickly, more widely, and more seriously affect the health of those who use it” (Koy v. Chicago 1914, cited in Wright and Huck, 2002, p. 58).

Skeptics may argue that tight allegiances between federal agencies and the National Dairy Board suggest pasteurization legislation may be motivated as much by economic considerations as by a concern for public health (Gumpert, 2009). Pasteurization, as a form of milk processing, requires a centralized facility in which value is added through a variety of modifications, including homogenization. Mandatory pasteurization thus makes milk unavailable legally for direct purchase from a dairy farm, and ensures that all sales occur within a codified supply chain, in which all milk processors are able to profit. Mandatory pasteurization, contested in various states over several decades, is an exercise of biopower in which administrative strategies of government are linked to certain forms of scientific explanation (e.g. germ theory) (Speake, 2011) in an effort to “cultivate germophobic subjects who will make rational decisions to safeguard their health” (Paxson, 2008, p. 28). More recently, FDA's recommendation of mandatory pasteurization “to assure the destruction of pathogenic microorganisms” is, they argue, a decision that is “science based and involving epidemiological evidence”, (US FDA, 2003).

Currently, it is illegal to sell unpasteurized (raw) milk in 11 states and the District of Columbia (FTCLDF, 2012). In the others, operators may sell raw milk through restricted channels, primarily direct-to-consumer on-farm; in some cases as “cow-shares”, and in just ten states, in retail outlets such as farmers' markets or grocery stores (FTCLDF, 2012; Weisbecker, 2007; Kennedy, 2004). Interstate commerce in raw milk has been illegal since 1987, and the

US Food and Drug Administration (FDA) continues to push for a comprehensive nationwide ban on the sale of unpasteurized milk (Weisbecker, 2007, p. 63; US FDA, 2003).

Curiously, while FDA considers raw milk a dangerous foodstuff (US FDA (2011)), the greatest demand for raw milk and other “live” foods comes not from people who are reckless about their health but rather from people who are passionate about being and feeling as healthy as possible (Gumpert, 2009, p. 144). Paxson (2008) coins the term “post-Pasteurians” to describe raw milk enthusiasts who “want to invest in the potentialities of collaborative human and microbial cultural practices” (p. 17). Post-pasteurians argue that raw milk has health benefits deriving from the presence of beneficial bacteria such as *Lactobacillus*, and other nutrients that are destroyed on pasteurization. Recent studies also show a relationship between the consumption of raw milk and the reduction of asthma and allergies in children (Waser et al., 2006). Others argue that because raw milk often involves direct sales, the origin and conditions of production (i.e., animal health and welfare) are known and make the milk safer than milk from unknown origins (c.f. Gumpert, 2009). Because of the potential dangers inherent in raw foods, many people who consume them pride themselves on being discerning consumers who invest energy and resources to ensure the clean and pastoral provenance of their sustenance (Gumpert, 2009; Schmid, 2009; interview data). The intentness with which ardent raw milk drinkers pursue personal health strategies suggests the importance of exploring the ways in which individuals situate themselves in relation to multiple, and often conflicting discourses and paradigms of health, many of which derive from regulatory apparatuses. In the sections that follow, we outline a conceptual framework centered on biopower, biopolitics, and biological citizenship, then use it to illuminate commentary, interpretations, and contestations made by people who favor liberalizing access to raw milk in the state of Georgia.

3. Biopower, biopolitics and biological citizenship

3.1. Biopower

Biopower refers to the capacity to manage the health of human populations through the use of vital statistics (and other less quantitative interventions) and the resulting emergence of ‘population health’ as a political object (Foucault, 2003). As new forms of knowledge and regimes of truth made populations and their distinctive traits legible, the biological experiences shaping individual and collective life became linked to the exercise of state power (Raman and Tutton, 2009; Dean, 1999). As Foucault (2003, p. 241) explained,

[P]rocesses – the birth rate, the mortality rate, longevity, and so on – together with a whole series of related economic and political problems... become biopolitics' first objects of knowledge and the targets it seeks to control... At the end of the 18th c., it was not epidemics that were the issue, but... endemics... as permanent factors – and that is how they were dealt with – that sapped the populations' strength, shortened the working week, wasted energy, and cost money, both because they led to a fall in production and because treating them was expensive... These are the phenomena that begin to be taken into account at the end of the 18th c., and they result in the development of a medicine whose main function will now be public hygiene, with institutions to coordinate medical care, centralize information, and normalize knowledge. And which also takes the form of campaigns to teach hygiene and to medicalize the population.

States exert biopower by managing population health in arenas including public hygiene, clean water supplies, food safety and nutrition (Rabinow and Rose, 2006; Coveney, 2000). The growth

of biopower since the 17th century entailed an alignment between the health sciences and technologies of hygiene, the administrative capacity of the state, and the dictates of capitalism (Brooks, 2005).

Scholars recognize that contemporary biopower is exercised in multiple and overlapping arenas and political projects (Hannah, 2011). Braun (2007) considers the play of biopower in geopolitics, highlighting the centrality of biosecurity as a political paradigm in which immunization from risk takes center stage (see also Esposito, 2008; Cooter and Stein, 2010). Rose (2001) argues that with the advance of genomics, biopower over the body and the population has been supplanted by the management of life at the molecular level. Scholarship tracing biopower in food systems reflects these multiple perspectives. Nally (2011) highlights that states have exercised perhaps some of the most aggressive biopower in developing extensive and large-scale food systems (in the entwined interests of capital), beginning with plantation agriculture and expressed most recently in the application of biotechnology to agrarian economies across the world. Raman and Tutton (2009) argue that biopower plays out in complex relationships between populations and molecules, as in biotechnology (Brooks, 2005; Herring, 2007; Schlosser, 2008), where whole systems of food provision and thus human nourishment rest on interventions at the level of plant and animal genes.

3.2. Biopolitics

Paxson (2008) suggests the notion of “microbiopolitics” to characterize the “post-Pasteurian” activism of raw milk enthusiasts, whose bacteriophilia stems from the belief that pasteurization destroys milk’s natural “power to support a diverse range of beneficial microbial life” (Schmid, 2009, p. 345). Paxson’s microbiopolitics represent an appreciation that “dissent over how to live with microorganisms reflects disagreement about how humans ought to live with one another” (2008, p. 16); to fear the gut flora universally, and to homogenize the milk, in other words, are tantamount to the larger biopolitical projects of “decid[ing] life and death” (Foucault, 2008, p. 136).

State-mandated pasteurization acts on the premise of maintaining a robust and healthy populace, in an effort to preserve “vital value” and generate “biological capital” (Rose, 2006, p. 150). “Best practices” of raw milk production and distribution are based on the intention of protecting and proliferating beneficial microbial life, concomitant with the mandate to generate robust and healthy human bodies. Paxson describes the ethos of Pasteurianism as “a biopolitics predicated on the indirect control of human bodies through direct control over microbial bodies” (Paxson, 2008, p. 36). Interestingly, post-Pasteurian discourse relies heavily on notions of self-care, and individual responsibility for maintaining optimal health. For raw milk advocates, taking charge of one’s health demonstrates personal virtue (Berg, 2008); it is precisely the desire for agency and self-care that drive raw milk advocates to contest legislation banning access to what they perceive to be an essential component of a healthy life. Focusing on agency and self-care calls for a theorization of individuals in relation to biopolitics, here, through the concept of biological citizenship.

3.3. Biological citizenship

Rabinow and Rose (2006) offer a useful framework for studying biopower and biopolitics, highlighting the importance of examining the truth discourses and authorities that shape knowledge of population health, the modes and strategies of intervention legitimated by those truths, and the modes of subjectification through which individuals

“are brought to work on themselves, under certain forms of authority, in relation to truth discourses, by means of practices of the self, in the name of their own life or health, that of their family or some other collectivity, or indeed in the name of the life or health of the population as a whole” (p. 197).

In *The Politics of Life Itself*, Rose (2006) expands on this schema to consider the outlines of what he calls biological citizenship. Refining Petryna’s (2004) concept of biological citizenship in post-Chernobyl Ukraine,¹ and invoking a Marshallian view of citizenship (Marshall, 1950), Rose recognizes the play of multiple ‘citizenship projects’ shaping the inclusions of (some) citizens in the polity over time. Citizenship projects are shaped by biologically referenced ideas of race, degeneracy, lunacy, demographics, femininity, motherhood and the family. The subjects of the biopolitical state are enrolled as “biological citizens” (Rose, 2006) in state discourses and practices around meanings of life and health. Good citizens are expected to adhere to norms of self-care in pursuing “the minimization of illness and the maximization of health”, (p. 147) often taking special measures to evaluate and understand potential health threats, to boost immunity to particular diseases, and to avoid practices known to make one more susceptible to disease.

Rose (2006) differentiates between citizenship projects that make up citizenship “from above”, and citizenship “from below”.² Citizenship from above is characterized by government efforts such as eugenics campaigns and, more benignly, public health campaigns, in which we would see the play of truth discourses, authorities to speak them, and interventions legitimated by these. The emergence of citizenship identities “from below” concerns the modes of subjectification, or “[t]he languages and aspirations of citizenship [that] have shaped the ways in which individuals understand themselves and relate to themselves and others” (p. 133). The emergence of citizenship from below signals a shift toward individual responsibility for health and wellness, and a diminishment of the role of the state in either sponsoring or sanctioning practices that do or do not promote health or wellness in the population (Rabinow and Rose, 2006).

In Rose’s (2006) view, citizenship from below is both individual and collectivized. It is individualized in the sense that individuals forge “relations with themselves in terms of a knowledge of their somatic individuality” (p. 134) and collectivized in what Rose and Novas (2005) refer to as biosociality. Biosocial groups cohere around “a biological conception of a shared identity” (Rose, 2006, p. 134) and often take the form of advocacy and support groups formed around medical conditions. A critical function of biosociality has been to contest the hegemony of medical expertise, advocate for rights and services and to form communities on the basis of shared experiences.

Biosociality, then, plays a key role in the development of citizenship projects “from below”. Rose (2006), notes that

“strategies for making up citizens ‘from above’ tend to represent science itself as unproblematic: they problematize the ways in which citizens misunderstand it. But these vectors ‘from below’ pluralize biological and biomedical truth, introduce doubt and controversy, and relocate science in the fields of experience, politics, and capitalism” (Rose, 2006, p. 142).

This insight is significant to the argument we advance in this paper. Regulations restricting access to raw milk rest on a view

¹ Petryna (2004) introduced the concept of biological citizenship in her study of how Chernobyl survivors made claims against the new Ukrainian state. Whereas traditional claims to citizenship reference national territory, belief system or culture, Ukrainian activists succeeded in articulating a ‘biological citizenship’ defined scientifically in terms of degree of radiation exposure from the Chernobyl explosion.

² As an heuristic, this spatial positioning of power is over-simplified. We subscribe to Foucault’s conceptualization of power as capillary and pervasive, but find Rose’s schema helpful as an orienting device.

of Pasteurian science as unproblematic, while efforts to expand market access to raw milk represent efforts to pluralize biological truth and introduce post-Pasteurian views into decision-making arenas. The mosaic of state regulations concerning raw milk, and a federal ban on interstate commerce in raw milk, sustain openings for formation of new biosocial collectivities, even while it seeks to contain their reach. Partial and geographically uneven access to raw milk fosters new modes of individualization and autonomy alongside enduring modes of biosociality centered on consumption of historically provisioned food, milk straight from the cow/sheep/goat. Contemporary biosocialities centered on raw milk play in a defensive register, in a context shaped by federal antagonism toward sales of raw milk expressed unevenly and unpredictably in raids, lawsuits and other actions.

3.4. Extending biological citizenship

We extend Rose's concept of biological citizenship to examine controversy over access to and distribution of raw milk, tracing a tension between citizenship projects from above and from below centered on situating Pasteurian science in relation to citizenship rights. After outlining a brief critique of Rose's understanding of biopower, we situate biological citizenship in the context of multiple discourses of citizenship to highlight the enduring role of the state in shaping citizenship.

As Raman and Tutton (2009) explain, underwriting Rose's conception of individualized biological citizenship, or ethopolitics, is a neglect of the ways in which states still figure in the disciplinary exercise of biopower. Rose (2001, p. 18) defines ethopolitics as the "self-techniques by which human beings should judge themselves and act upon themselves to make themselves better than they are". Such a view forecloses attention to the ways in which multiple apparatuses of the state continue to discipline and socialize members of populations – e.g. biological citizens – to act upon themselves and their health in specifically authorized ways.

Rose's pastoral view of biosociality and ethopolitics appears to rest on a truncated reading of Foucault's analysis of power – which is capillary, pervasive, and met always with some form of resistance (Foucault, 2008; Smart, 2002). As Foucault famously, noted, "where there is power, there is resistance" (quoted in Atkins, 2000); the inverse is true as well – where there is resistance – such as that expressed by raw milk drinkers carrying raw milk over state lines against an FDA ban on such transport – there is some form of (bio)power in play.

In addition, while Rose (2006) seems to derive his understanding of citizenship implicitly from Rawls' (1993) influential model of contractual liberalism, Rawls' liberal citizenship sits among myriad citizenship discourses and critiques, including feminist, communitarian, and nationalist views of citizenship. As Shafir (1998, pp. 23–24) notes:

"In most societies these multiple citizenship frameworks coexist uneasily and sometimes in outright conflict with each other. By 'citizenship,' therefore, we need to understand not only a bundle of formal rights, but the entire mode of incorporation of a particular individual or group into society... [Citizenship refers to] a simultaneous and interconnected struggle for membership or identity or both with the intention of ensuring access to rights that are disbursed by state (and, occasionally, local and transnational) institutions".

Geographers have explored the "modalities of citizenship" which link formal citizenship with lived experiences of substantive (or insubstantive) citizenship in different settings (Painter and Philo, 1995, p. 107; Pincetl, 1994; Kofman, 1995; Kraxberger, 2005; Hankins, 2005; Ghose, 2005; Kurtz, 2005; Russell, 2005). While

formal citizenship or, for Rose, citizenship from above, concerns individuals' position in relation to the polity, substantive citizenship, or citizenship from below, is "wrapped up in questions about who is accepted as a worthy, valuable and responsible member of living and working [communities]" (Painter and Philo, 1995, p. 115).

Emphasizing this distinction enables us to sharpen the use of biological citizenship as a tool for examining how raw milk drinkers act to meet their biological needs, in contradiction of the US Food and Drug Administration's view that drinking raw milk is injurious and irresponsible. As Rose (2006, p. 133) notes in reference to citizenship projects of the 19th and 20th centuries, citizens' "biological senses of identification and affiliation made certain kinds of ethical demands possible: demands on oneself; on one's kin, community, society; on those who exercised authority". This is no less true today. In this paper, we conceptualize biological citizenship as the contested terrain in which individuals and collectives (biosocially), negotiate their ethical relationship as biological beings to the state and its apparatuses of regulation that impact on personal health. State doctrines that pasteurized milk "does a body good" normalize knowledge in order to maintain bodily productivity, and rest on the assumption that protecting subjects from death (and enhancing health) entails protecting them from the freedom to make poor choices about what to consume, while at the same time urging them to be good, consuming subjects residing in healthy bodies.

Schematically, we consider Rabinow and Rose's modes of subjection through the lens of biological citizenship, and trace the play not only of truth discourses in relation to practices of the self, but also to rights discourses, as they frame individuals' sense of their relation to the state. Focusing on the seizure of milk brokered by Athens Locally Grown in October 2009, and individual and biosocial responses to that event, we examine tensions between individualized and biosocial citizenship projects from below and citizenship projects from above.

4. Research context and methodology

Debates over what constitutes power, rights and responsibilities figure strongly in contestations over the regulation of raw milk. We use qualitative methods and discourse analysis (Fairclough, 1995; Gill, 1996; Tonkiss, 2004) to examine the ways in which parameters of biological citizenship are articulated in informal online public comments on the milk seizure, in-depth interviews with raw milk consumers, and elements of the lawsuit that two members of ALG later joined. We chose this case for this analysis primarily for its local and national significance, but also because of the way we individually and collectively articulate with the local food system in Athens. Our insider status (Naples, 2003) in this community makes possible an insight into the events around the raid and its aftermath that is unavailable to most. Our relationship to the case comes about primarily through our participation in the local food activist community in Athens, and via our relationship with the Athens Locally Grown market, in which we are involved as customers. One of us also volunteers at the market, and drinks raw milk.

Athens Locally Grown (ALG) was launched 2001 as an online market through which to link local food producers with restaurant owners. It soon became apparent that wholesale distribution could not afford farmers the prices needed, so the market shifted its customer base to retail consumers. Having started with a handful of small-scale growers and approximately twenty customers, the ALG network now encompasses nearly one-hundred producers selling local produce, meat, dairy, baked goods, value-added food items, and handmade crafts to over 1200 members in the Athens

area. The web-based market model that Eric Wagoner designed is simple and transferable, and has been adopted in nearly 200 communities nationwide.

The market started distributing raw milk in 2005³ via strict protocol, which Wagoner still insists was within the laws permitting personal consumption of raw milk in Georgia. As with other farm products sold through ALG, South Carolina dairy farmers posted the available quantity on the ALG website every week and had the products delivered on Thursday at 3:30 pm at the market's pick up site. Customers placed an order directly with the producer via the website and in the case of milk, the market picked up the product on the customers' behalf on Thursday, paying the dairy farmer at that time. The customer paid for the milk at the market site when they picked up their produce. In Wagoner's view, this is no different than an individual driving to South Carolina to privately purchase raw milk for themselves. The ALG market simply acts as an agent providing efficient access to a product that is legal to purchase for human consumption on the other side of the state line. This process follows the letter of the law, according to Wagoner, who also argues "what we [were] doing is also being done by thousands of groups and individuals throughout the country" (ALG Newsletter, October 15, 2009).

4.1. Data sources

In a 2 day period, 77 comments were posted under 47 different usernames to the online site of the local newspaper, Athens Banner Herald, after the publication of an article on the raid on Saturday October 17, 2009 (ABH, *Some sour*, 2009). While a self-selected and non-representative sample, the online forum for the newspaper is one of the only public forums for comment about raw milk production, consumption and distribution. The comments are indicative of the way people might interpret, resist and/or support the role of the state in making decisions about life, health and disease. The discussions are not limited to the subject of raw milk, but extend to issues of state-sponsored/mandated health care, the influence of capital in the regulatory process and the role of personal responsibility in health decisions. In addition to analysis of the online comments, semi-structured interviews conducted with 15 raw milk drinkers of whom 4 were producers (primarily goat dairymen) in the spring of 2012 elaborate on the themes identified in the on-line forum. The comments and the interview data were iteratively coded according to the analytical framework outlined above by Rabinow and Rose (2006). Lastly, the court case also provides insight into the way citizenship is codified by the federal state, and how the state shapes modes of subjectification to particular truth and rights discourses.

5. Discussion and results

5.1. Online comments

Comments in the online forum highlight how individuals may assert and articulate a citizenship from below that is in opposition to and perhaps constitutes biopolitical resistance to a citizenship from above. The truth discourses "from above" that circulate about raw milk, are for the most part articulated by state authorities who argue that raw milk is universally dangerous to consume. Interventions in the interest of public health involve mandatory pasteurization, and disallowing the legal sale of raw milk for human consumption. The way this regime is brought to bear on

individual behavior is through restricting the supply of raw milk products, demonstrating the health benefits of pasteurized milk and the dangers of raw milk through various media and punishing violators of the law. In contrast to the biopower of the state, we see in raw milk drinkers and advocates a very different set of truths, interventions and practices in the name of health.

In general, and consistent with the kind of public *fora* the online environment offers, the reader comments were long on "truth discourses" and included a range of perspectives that suggest a different reading of the safety of pasteurized versus raw milk. For example, one reader (*goatlady*) claims to know about the safety of raw milk on the basis of personal experiences: "My family was in the dairy business for years and that was the only milk we drank and we never got sick from it". *Savannah 1110* makes the opposite claim about pasteurized milk by commenting that "I've known kids to get sick drinking pasteurized milk too including myself as a young student in a Georgia elementary school". *Mom23* backs this up by writing that "[y]ou can get listeria from pasteurized milk". These experience-based truth claims (and a website about the risks of pasteurized milk which is shared in the comment) work against the dominant narrative (and the truth claims proffered by the state) that the only "safe" milk is pasteurized. *Stefka* identifies another source of risk in pasteurized milk that comes from unknown sources, which is the use of hormones to stimulate milk production "Unless the milk is raw or organic it is loaded with...hormones". These truth discourses and their associated authorities invoke a source of knowledge outside the official state discourses of risk and safety. Dominant narratives about milk draw a stark binary, glossing conventional supplies as safe, and raw milk supplies as dangerous (and therefore illegal), leaving questions about the health and safety of conventional supplies unexamined, and obfuscating the fact that raw milk is deemed safe and legal to buy and sell in the neighboring state of South Carolina.

A reader identifying as *neoconfromhell* suggests an intervention for ALG to allow individuals access to a product they feel is necessary for their health and life: "Just label the raw milk for pet food, not for human consumption and drive on with the Athens Sales. . . Problem solved: I doubt the state agricultural dept will check to see if you are drinking from the dog bowl". In fact, Georgia does allow the sale of raw milk for pet food, but with no regular inspections for pet dairies. This effective "looking the other way" could be construed as an abdication of responsibility for the health of that part of the population who may choose to resist the biopolitical power of the state.⁴ Another intervention suggested by *Savannah1110* is that since "it's okay to sell fresh milk retail in SC. . . Maybe we should just drive to SC to drink fresh milk and send the sales tax to Columbia". Assuming that *Savannah1110* would not only drink such milk in South Carolina, but bring some of it home to Georgia, s/he identifies an alternative political engagement that involves subverting the law (i.e., crossing the border illegally with milk) and transgressing the dominant political-economic order (i.e., paying sales taxes to the state of one's residence). In so doing, s/he articulates a subversive citizenship that accommodates his/her biophysical needs for health. *Savannah1110* also identifies the source of the state's inability to meet his/her needs as a lack of democratic process within the state, and suggests a corrupting influence: "The state does not want honest debate over this issue...maybe Georgia's law need to be changed to allow choice...is there an organization that might not like this and holds sway over state government?" By allegedly suppressing democratic process, the State of Georgia is able to create a mode of subjectification to its authority that limits meaningful dialogue about alternatives.

³ Initially raw goat milk cheese was available to ALG customers from a dairy in South Carolina. Raw cow's milk became available in 2006 from two dairies in South Carolina.

⁴ Understanding why the state does not engage with raw milk legislation is an empirical question which is beyond the scope of this paper.

A 2 day hearing about raw milk was held in 2008 by a state legislative study committee. The outcome of this hearing was that the risks of allowing the sale of raw milk far outweighed the benefits. Without begging the obvious questions of risks and benefits to whom and where (i.e., the citizens of South Carolina versus Georgia), the outcome of this formal democratic process was the reiteration of the state's biopolitical power to decide what constitutes risk, safety and benefit for and to its population, and reasserting its commitment to mandatory pasteurization.

One truth discourse frequently invoked was that large corporate entities are corrupting the democratic process and curtailing the rights of citizens. *Mom23* asks, "You know who really doesn't want people buying raw milk? Huge megafarms and their lobbies. ...Perdue and Irvin are not concerned about your health". *Thinker* follows this up by commenting on the criminalization of people seeking foods deemed illegal – "They pass laws which makes honest, good people become 'criminals'". This reader identifies a mode of subjectification to the state that has entangled Wagoner and others in a zero sum game; either abide by pasteurization laws or face legal consequences.

5.2. Semi-structured interviews

More than half of the interview participants shared personal experiences of ill health to validate their choice of raw milk as a healthier alternative to pasteurized milk. In separate interviews, two women each explained that the death of their husbands from diet-related illnesses spurred them to seek out alternative health and nutrition guidelines, which included raw milk and other nutrient-dense foods. These and two other women, all aged over fifty, referred to their own age-related health concerns and considered raw milk to be key to their continued health. A vegetarian mother described reaching a point of fatigue where she desperately needed more protein, and was drinking raw goat's milk because her nursing baby seemed to tolerate it better than cow's milk. A man in his 30s described painful conditions of lactose intolerance as a teenager and his satisfaction when he learned he could tolerate raw cow's milk as an adult. As Georgia residents, each person understood to some degree that buying raw milk for human consumption is illegal in the state. In expressions of individualized biological citizenship, each acted on their health in an arena in which the state registers strong concerns, in defiance of both FDA recommendations and of state law. Their choices were then justified by positive personal experiences of good health.

Such acts of biological citizenship, although taken individually, are prompted and legitimated in the context of knowledge networks and systems of value, that is, from within biosocialities. Interview data suggest that biosociality for these raw milk drinkers was grounded first in published sources of 'alternative' health information, and subsequently in Athens Locally Grown as a source of information about the quality of the milk they were drinking. When asked what prompted them to try raw milk, almost all participants indicated a growing mistrust of conventionally produced foods, and described seeking out or stumbling across alternative health information in sources such as cookbooks, trade books, or the website of the Weston A. Price Foundation (Weston A. Price, 2011), which promotes the consumption of nutrient-dense foods, including raw dairy. Weston A. Price executive director Sally Fallon's (2001) *Nourishing Traditions* cookbook was the most commonly cited source of insights into the benefits of drinking raw milk, followed by the organization's web site, Nina Planck's (2006) book *Real Food: What to Eat and Why*, alternative health magazines, and general reference to Michael Pollan's work. Curiously, excluding the goat dairy farmers, none of the raw milk drinkers knew anyone else socially who drinks raw milk, a point to which we return later.

Having been drawn into biosocialities of alternative health practices, these people all then purchased raw milk from Athens Locally Grown, now, or in the past. Interviews suggest that Athens Locally Grown itself is a site for the enactment of biosociality – as one participant put it, Athens Locally Grown is "definitely a knowledge and information community" (R, interview) in addition to being a market for the raw milk product itself. Because FDA's interventions based in unproblematic Pasteurian truth discourses are intended to encourage only pasteurized milk consumption, once raw milk drinkers doubt the value of pasteurized milk, they seek alternative biosocialities which support and legitimate their aims and actions. Significantly, ALG constitutes a community of people who share some key beliefs about their own health. The market not only gives them material access to raw milk, but also serves as a source of knowledge about raw milk and its safety and/or benefits. This practice of biosociality in turn shapes ideas about what it means to be a good citizen in terms of maintaining bodily health.

Another raw milk drinker explains the role played by ALG to vouch for the quality of the milk sold there. Having expressed a preference for the regulated raw milk from South Carolina that had been available through ALG before the raid, she said that

"The reason I do order from ALG, even if I don't personally know that farmer, [is] if something happened, they know exactly who, you know, and this is their livelihood. ...What we get from there, you know the exact farm, the day, the whole nine yards". (H, interview)

This comment reflects a theme that emerged in many of the interviews – recognition of the potential hazards of unpasteurized milk, linked with a strong preference for carefully produced and regulated raw milk. Registering concerns about the differences in regulation of raw milk in South Carolina and Georgia, another ALG customer indicated,

"When we had South Carolina milk available at ALG, I had it every week...now we have Georgia milk available, but I definitely liked the idea of being able to get it from an inspected dairy...so I feel like I had more confidence". (R, interview)

She now uses the milk to make cheese, but does not drink it as regularly as she had before the raid. She continued later in the same interview to explain that

"The focus on milk seems unfair to me, it seems like a bias in the system that isn't really about my health...It undermines their authority for me that it's a state regulated thing, and that different states handle it differently. I mean one of the things that really boggled my mind about the whole kerfuffle over raw milk sales through Athens Locally Grown was just this idea that...the state of Georgia thinks differently about this question than the state of South Carolina...The people of South Carolina, I don't perceive as a different entity from me with different needs for their health".

Concerns about differing state regimes for raw milk regulation segued in many interviews to indignation at the criminalization of their food preferences. Interviews suggest the pervasiveness of the biopower which normalizes pasteurization, as participants referred to a range of authorities and members of social networks expressing concern about raw milk, including state officials, medical professionals, co-workers, and friends and family members. Indignation at the illegality of raw milk sales in Georgia was perhaps best expressed by a long time goat dairy farmer, who explained that when raw milk sales were made illegal in Georgia in the late 1980s,

"I realized quite quickly...that [dairy regulation] has profound effects on me. Because living in this country, you always think,

we've got all these rights...And all of a sudden, now we're turned into, you know, illegal bootleggers!" (M, interview)

Others alluded to the suspicion of their family members, or co-workers toward raw milk, and having to defend their actions against critique. A raw milk drinker laughed as she shared an encounter with her doctor:

"My sister and I go to the same doctor here. . .and I remember when I was telling her I was drinking raw milk, she was horrified...You know, it's kind of like, your frame of reference, I can understand it, so I just quit telling her I was doing it". (H, interview)

While this story was shared to illustrate both the sanctioning "H" feels from a medical authority, it also highlights her understanding of milk production as a system requiring care and a broader context that supports some (unspecified) threshold level of animal and milk hygiene.

5.3. Litigation

Indignation at the criminalization of buying raw milk for human consumption, and of transporting a regulated and inspected supply of raw milk across state boundaries led Eric Wagoner and one of the ALG raw milk buyers to join a lawsuit filed by Weston A. Price's Farm to Consumer Legal Defense Fund against Kathryn Sebelius, Director of the Department of Health and Human Services, the DHHS itself, and Margaret Hamburg in her capacity as Director of the Food and Drug Administration. The Farm-to-Consumer-Legal-Defense-Fund (FTCLDF) is a nation-wide non-profit organization that promotes and seeks to protect sustainable farming practices and direct farm-to-consumer transactions. The plaintiff's documents presented evidence as to the safety of raw milk, but concentrated primarily on asserting that FDA's rule banning raw milk from interstate commerce was unconstitutional. Peter Kennedy, the lead lawyer in the suit, argued (among other things) that FDA's ban was "arbitrary and capricious", and violated plaintiffs' Constitutional rights to travel and to privacy, as well as their right to substantive due process under the Fifth Amendment of the United States Constitution. Among the rights invoked under the due process clause were the plaintiffs'

"fundamental and inalienable rights of (a) traveling across State lines with raw dairy products legally obtained and possessed; (b) providing for the care and well-being of themselves and their families, including their children; and (c) producing, obtaining and consuming the foods of choice for themselves and their families, including their children" (Cox, 2010a, p. 12).

The legal battle over the next 2 years consisted of a series of efforts on the part of FDA to have the case dismissed, and rejoinders by the FTCLDF as to why and how the case should be decided. Several lines of argument in this lawsuit speak to questions about biological citizenship; here, we focus narrowly on the arguments about whether the complaint was even ripe for review, and about whether two of the rights claimed by the plaintiffs could be protected by substantive due process.⁵ The nature of the arguments and the eventual dismissal of the case underscore that biological citizenship is enacted very much within the confines of a state apparatus that regulates health on the basis of truth discourses derived from certain forms of scientific explanation. In so doing, the state protects some freedoms and not others, and incorporates citizens differently into society depending on whether or not they comply with the exercise of biopower. The lawsuit as an exercise of biolog-

ical citizenship represented both a "struggle for membership [and] identity" and an effort to "ensur[e] access to rights that are disbursed by state" (Shafir, 1998, p. 24).

FDA argued first, that the case should be dismissed because the plaintiffs had not exhausted administrative remedies for their concerns, and that doing so would have given FDA the needed opportunity to make its own finding of facts. The plaintiffs retorted that such a claim was "a red herring and should not apply", because FDA lacked "institutional competence to evaluate the constitutionality of its own rules", and because FDA had "already exhibited its bias or predetermination that it will not modify, amend or revoke [the relevant statutes]... [A]ssuming an administrative remedy exists in this case, forcing Plaintiffs to engage in this remedy would be an exercise in futility" (Cox, 2010b, pp. 28–29). This line of argument highlights the limits to recourse on the part of biological citizens whose personal health and nutrition choices run counter to state-sanctioned self-care.

More substantively, the plaintiffs attempted to assert fundamental rights to eat, and feed their children, foods of their own choosing, and to physical and bodily health. FDA argued in its April 26, 2010 motion to dismiss the case that substantive due process does not protect, or even recognize, rights to foods of one's choosing or rights to physical health, and that extending constitutional protection to such rights would "place the matter outside the arena of public debate and legislative action". (Rose, 2010, p. 24, citing *Washington v. Glucksberg*, 521 U.S. 702, 720 (1997)) Here, FDA invoked the Supreme Court's criteria for the recognition of fundamental rights, namely that

"a plaintiff must show both that the rights claimed 'are, objectively, deeply rooted in this Nation's history and tradition...and implicit in the concept of ordered liberty, such that neither liberty nor justice would exist if they were sacrificed.'" (op cit, p. 25)

This set of criteria formed the crux of much of the ensuing argumentation. In its attempt to deny the existence of a right to provide one's self and family with foods of one's own choice, FDA invoked a grab bag of precedents that legally or normatively restricted the consumption of at least some foods – with references to biblical times, colonial times, English law, the Pure Food and Drugs Act of 1906, and the Food Drug and Cosmetic of 1938 (Rose, 2010). In response to this somewhat scattershot approach, the FTCLDF invoked, in its response of June 14, 2010, a long history of access to raw milk in particular in the United States noting that

"it is now and it has always been legal to consume raw dairy products in all 50 states. It has never been illegal in any state to consume raw dairy products. Therefore, the nation's history demonstrates that there is a right to consume the raw dairy products of one's choice. The requirement that all milk that crosses state lines be "pasteurized" is a recent phenomenon that does not have a basis in this country's 300 year heritage. . .Indeed, the federal model Pasteurized Milk Ordinance ("PMO") did not require pasteurization until 1965 and the first State (Michigan) did not require pasteurization until 1948. Therefore, the requirement that all fluid milk be pasteurized is a very recent phenomenon and does not have any basis in this country's prior 300 year legal heritage... Before 1987, it was legal to carry raw dairy products across state lines. Consequently, there is no social heritage in this country that citizens cannot have access to raw milk or that they could not take it with them across state lines. To the contrary, citizens have been taking raw milk anywhere they please since at least the 1600s" (Cox, 2010b, pp. 44–45)

⁵ The arguments included a third right, freedom of contract, which we do not discuss here.

While FDA attempted a rather sweeping assertion of the (bio)-power of the state to restrict access to unspecified problematic foods, the FTCLDF's response attempted to ground the debate in the actual history of access to raw milk in the United States. The FTCLDF effectively argued that (biological) citizens' historical relationship to and consumption of raw milk precedes and supersedes subsequent assertions of Pasteurian science about its potential dangers, and grounds practices of self-care in longstanding social and economic relationships pertaining to raw milk.

FDA effectively dismissed this history of social and legal norms when it responded to this argument in a motion filed May 11, 2011 that "it is wishful thinking on plaintiffs' part to contend that [a fundamental right to a particular type of food] could exist with respect to an inherently dangerous product like raw milk" (Rose, 2011, p. 48). Here, in a powerful and ahistorical conflation, FDA invokes its own Pasteurian truth discourses to circumscribe a rights discourse. The interpellation of truth and rights discourses in this case highlights a key but heretofore overlooked dimension of struggles by biological citizens over inclusion in a polity.

A second right asserted and contested in this lawsuit was a right to bodily and physical health. On this count, FDA noted the Supreme Court's caution in generalizing from any given set of rights concerning personal autonomy and intimacy, and argued somewhat tautologically that even if such a right existed, the statute prohibiting interstate commerce in raw milk would be constitutional because it promotes "bodily and physical health". In this regard, FDA is understandably supporting its own truth discourses, but is also representing Pasteurian science as unproblematic and refusing to acknowledge any other truth discourses with respect to the healthfulness of raw milk. The FTCLDF responded in its June 14, 2010 motion by noting that

'Food is integrally connected to one's health. The foods people consume literally form the building blocks of their health, and science is continually learning more about the impacts of enzymes, probiotics, and other components that were unknown just a few decades ago. Nutrition is a recognized field of health care and choosing one's nutrition is a fundamental part of choosing one's medical treatment. To paraphrase Hippocrates, let your medicine be your food and let your food be your medicine'. (Cox, 2010b, p. 45)

Here, the plaintiffs in the case are clearly invoking scientific advances in the understanding of health and nutrition, even as they seek to "pluralize biological and biomedical truth" (Rose, 2006: 142) and make regulatory room for post-Pasteurian perspectives on raw milk. One of FDA's final substantive arguments, with which we conclude our discussion of this case, was that

"Because the interests asserted by plaintiffs are not fundamental rights, FDA's regulations are not subject to strict scrutiny. Instead, plaintiffs have the burden of showing that the regulations do not bear a rational relationship to legitimate governmental interests" (Rose, 2010, pp. 27–28).

In other words, FDA was invoking its own authority with which it underwrites particular truth discourses. Any challenges to such authority would need to overcome a presumption that the truth discourse and authority to speak them constituted a rational pursuit of government interests in a healthy population. As to be expected, FDA asserted that its restriction of interstate sale of unpasteurized milk is "manifestly appropriate" and "undeniably rational" (Rose, 2010, p. 28), and that Congress rather than the courts should be making the judgment in question. Here we see in fairly bald language an assertion of biopower, here expressed as the capacity to subordinate individual rights to the goal of

population health by linking administrative strategies of government to certain forms of scientific explanation (Speake, 2011). While this is an understandable argument for FDA to make under the circumstances, what stands out here through the lens of biological citizenship is Rose's contention that efforts to delineate biological citizenship from above "tend to represent science itself as unproblematic [and] problematize the ways in which citizens misunderstand it" (Rose, 2006: 142).

In late March 2012, the federal judge in this case dismissed the case on the grounds that the plaintiffs faced no actual harm, and therefore lacked standing in the case. FDA had filed papers indicating that they would not enforce the interstate ban on commerce in raw milk against the plaintiffs. In a telling example of how limited legal recourse can be even while litigation highlights important conceptual and substantive issues, once FDA assured the court there was no threat of enforcement action, the plaintiffs were considered to have no cause for a lawsuit.

6. Conclusion

In tracing the articulation of individualized and biosocial citizenship projects from below in tension with citizenship projects from above, we have attempted to outline an overlooked relationship in the exercise of biological citizenship between truth discourses and rights discourses. On one hand, consuming food that authoritative science has proven to be harmful describes "problematic persons" (Rose, 2006, p. 147) who resist scientific versions of health and generate "lay knowledges" to replace them (Enticott, 2003, p. 259). But taking seriously the notion of citizenship in the construct of biological citizenship highlights that the latter entails not only new modes of self-care enabled by and fostering pluralized understandings of health and science, but also struggle for membership in a polity which does not welcome all [biological] citizens equally.

Taking seriously the rights afforded to citizens also highlights the limits to biopower, as seen here in the case of the ALG seizure and its aftermath. The ban on interstate commerce in raw milk, and the illegality of raw milk in states like Georgia pertain only to the selling of raw milk, not to the act of consuming it. As much as FDA might want to prevent people from drinking raw milk (FDA, 2003), biopower does not extend that far; as a form of power over populations, it does not empirically extend to prohibitions on individual actions.

Biosociality, as a dimension of biological citizenship, emerges as a crucial mechanism for communicating and pluralizing scientific knowledge in the process of changing accepted notions of health and citizenship in the food system. In a country with robust protections for free speech and a free press, the publication of books, articles, magazines, and newsletters about raw milk and other problematized foods fosters biosociality and lays the groundwork for more proximate enactment of biosociality in settings such as the Athens Locally Grown Market.

The ability of the state to shape citizens "from above" arrives in the form of disrupting biosocial collectives such as Athens Locally Grown, even while the limits to its power stop at individuals acting on themselves according to the truth discourses in which they believe. Many people, such as R quoted above, question the degree to which mandatory pasteurization regimes are rooted in concerns about public health, or in the interests of capital, in this case the dairy industry. This mirrors and inverts Foucault's insights into the relationship between population health and economic processes, which make bodies available for the appropriation of value, and make bodies subject to capital via consumption. In this case, an economic process, pasteurization as a form of adding value to milk, is enforced by state law to define that which promotes population

health, in spite of a variety of alternative truth discourses about the subject that are made possible with biosocial collectives. With the disruption of the biosocial collective of ALG, what is left for individuals is a kind of anomie – a space of dissonance between social norms and individual requirements – that requires them to act on themselves as biological citizens in ways that exist outside the law. The ALG customers who drank the impounded milk in 2009 demonstrated as much by defiantly drinking an “inherently dangerous product” as a form of protest, and living to tell about it.

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