



Down the Rabbit Hole: A Critique of the [®] in HAES[®]

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At the 2010 ASDAH (Association of Size Diversity and Health), Conference a decision was made to trademark Health at Every Size (HAES). Trademarking is a means of protecting intellectual property (IP). It is denoted by the superscript letters [™], which indicates that a trademark has been assigned, and a superscript [®], which indicates that the trademark has been registered. This means that it can be unlawful in some jurisdictions to use the IP denoted by the trademark without the permission of the owner. Trademarking is typically carried out by private businesses seeking to protect their IP. While we understand the intent of this move to trademark was protect HAES from being misappropriated by the diet industry, we disagree with the effect a trademark spawns.

Through discussions snatched in moments when our paths crossed, the two of us decided that we wanted to open public dialogue about the trademarking. Our intent is to deepen a collective understanding of what the trademark does and does not promise the movement known as HAES. To say that the topics of food, body, and health are important to us is hyperbolic understatement. We are both truly passionate about social justice, voice, and representation that is imbued by feminist and queer ethics. We not only theorize, we enact through our bodies and our relations. These ideas are fleshy and real to us and in saying so we wish to emphasize the importance of this critique to be received in the spirit of openness, transparency, and compassion. We hope that by placing our concerns in print, they can be vigorously debated and contested as a means for all those who choose to engage with our concerns to come to a new understanding of the effects of trademarking HAES. We will be entirely dissatisfied if this opinion piece is read as divisive or polarizing. We believe that the HAES-positive community and readers of the Journal of Critical Dietetics are capable of taking up our critique and enriching it beyond its original maneuvers.

Before expanding on our critique, we first wish to situate ourselves in relation to HAES to provide further context for the debate we conjure. As an early size acceptance practitioner, I (JG) was active in diet book shreddings, scale smashings, and non-diet

support group facilitation. I was trained as a dietitian, but quickly realized that my training did not prepare me for the sheer complexity and sociality of food and the relationship between food, body, and gender. Reading my profession through a feminist lens has helped me to understand the predicament in which we, as dietitians, are in; perpetrators of a reductionist approach to bodies through the control of weight vis-à-vis nutrition. These are ideas I have explored at length in my current preoccupation as an academic. I am a relatively new member of ASDAH and wish to enliven debate on how to strengthen the HAES movement.

I (CC) am a fat activist of some 25 years or so, and I live in the UK. I am queer, white, punk, a carer, working class, and a recent PhD graduate. My Doctoral research explored fat activism using feminist, queer and poststructuralist theory. My work has been widely published. I am currently practicing as a psychotherapist/counsellor and I freelance on various projects.

I am ambivalent about and unsure of my relationship to HAES, and to ASDAH. The upholding of professional respectability that I see in HAES publications and organisations, and through individual work, is at odds with my interest in fat activism that is lawless, messy, ambiguous, uncomfortable and far out. I don't know how, or if I want to, fit myself within this increasingly dominant paradigm. I am concerned with how radical ideas and communities have been appropriated and sanitised

by HAES, how fat identity and culture is reduced to a question of health, and that the movement's roots in fat activism are frequently sidelined, as though professionals were the original instigators. At the same time, I think it is important that people organise around fat and health, and I see a lot of value in a theoretical framework that enables people – service users and providers – to develop a critical praxis of fat health that has benefits for people of all sizes.

We have known each other for a few years, and share friends, colleagues and community, though live on different continents, and are at different points in our working lives. We built this discussion through a series of emails, adding and editing our thoughts about what the trademarking of HAES means to us. So we begin...

Trademarking inculcates dualisms. When a concept is trademarked, it becomes much less capable of existing beyond the two most obvious positions; it either is HAES or it is not. The dualism is also apparent in those who are practicing HAES correctly or not, those who are HAES-positive or not, and those who are in the movement or not. As soon as HAES was trademarked, it became time to discern who was using HAES correctly and who was not. We are deeply concerned about who decides how HAES is defined, who benefits from this definition, and who does not. We become locked into a stultifying orientation when we rely on trademarking to protect HAES. Our notions of HAES are multiple.

This is borne out in various ways in the literature. HAES is frequently referred to as a fixed set of interests, but a review of the literature reveals that it is ambiguous and can be interpreted in many ways, including those that are apparently contradictory to HAES tenets. A Canadian study by Gail Marchessault et al revealed, for example, that some dieticians use HAES as a weight management tool or consider it only appropriate for normatively-sized people (Marchessault et al. 2007). Sometimes social justice is included in definitions of HAES, and sometimes it is not, which raises questions about HAES and political activism more broadly, as well as those regarding more individualistic models of health.

Trademarking silences multiplicities. We wish to see HAES thrive as a fluid entity, resisting classification, and talking back to polarization. Although using HAES as a weight management tool, or one reserved only for thinner clients, is clearly problematic, complex interpretations of HAES should not be disregarded, or treated as a threat to the purity of the model. Purity and simplicity are

overrated! We have seen how energy balance models of weight diminish fat experience and, instead of creating more reductive readings, we seek understandings of health that reflect the wild, beautiful, uncontainable complexity of human embodiment. This complexity is what we believe keeps HAES strong and vital.

By existing outside of formal and regulatory norms, HAES can be seen to develop in complex and unpredictable ways. A broad and open discourse, rather than one which is tightly bounded and policed, means that diverse people can adopt and adapt it to their own requirements in multiple settings. Enabling the paradigm to grow in any number of directions allows it the possibility of being enriched beyond the originators' intentions, and generates infinite spaces for discussion and further development. This may well include interpretations of it that are lacking, but there would undoubtedly be other ways of using it that are less pessimistic. We see a peace movement as taking many directions, most of which are unbeknownst to us at the outset, but which we are willing to be surprised and excited by upon their emergence. We expect to be astonished by what HAES looks like in a diverse array of interpretations for this astonishment fuels our own creative impulses in relation to HAES.

Trademarking creates a system of insiders and outsiders. This is an obstruction to the free sharing of power related to the concept, from which everybody should be entitled to benefit. Drawing on a rhizome metaphor, we support HAES as a movement with no centre, no controlling body of government, and no end of potential.

The creation of insiders and outsiders is damaging to the movement. For those who are recipients of constructive education in the form of a letter from ASDAH indicating their misuse of HAES or the like, the outcome could promote distrust with an organization's attempt to control and manage well-intended efforts at health promotion. Anyone misappropriating HAES would be positioned as an outsider in need of correction, which in turn could become adversarial. Such is the cycle regulation espouses; by trademarking what is ours, we prevent outsiders from damaging that which we hold dear. Letters pointing out how we may have inadvertently or otherwise betrayed the sacred trust that is HAES tend not to befriend us to the HAES movement.

Trademarking promotes commodification. The irony is that in attempting to protect HAES from falling into the hands of the billion-dollar diet industry such that evildoers can profit from co-opting HAES, we have permitted HAES to become something co-optable. It presupposes that the only way of resisting corporate intervention is to use the tools of the corporation. But as Audre Lorde famously wrote: “The master’s tools will never dismantle the master’s house” (Lorde 1984). Trademarking HAES fails to interrogate broader misuses of power, particularly under capitalism, or build an intersectional movement that is able or ready to engage with a multiplicity of social justice issues. It is a move that, ironically, concedes powerlessness. It reveals that HAES is not yet a movement that can respond to and anticipate attacks in a flexible, multifaceted way, mobilising different communities in multiple contexts, and using its power imaginatively and effectively to inspire and enlighten. It reveals our weaknesses.

In order to maintain a system of regulation and surveillance over HAES, we must be willing to pay for it and such an effort is not inexpensive. To maintain our rigid grip on HAES as a trademarked entity, we have to pay people such as lawyers to file and hold the trademark. This money is generated by ASDAH membership. What once did not require finances to exist, now does and HAES has entered the commodification cycle; perpetually spending money to prevent others from making money. Although, insiders to the HAES movement are fully welcome to make money using the HAES trademark, as long as they are using it appropriately. However, we assert that if a mega-national diet company wanted to brand its next righteous slogan as the HAES Diet, there is very little that could be done about it without again spending large sums of money to beg said diet company to stop misbehaving. By then the diet company might be on to their next brilliant market strategy and ASDAH would be destitute.

Trademarking is not a transparent activity. HAES is a concept in wide usage across many different communities but, presumably because of the necessity to keep the intervention secret from weight loss corporations, there was no widespread community consultation about the action and, apart from a web page indicating their guidance for the use of the trademark, little indication that the organisation embarked on an open and public discussion about why they took this step, or how it might develop.

Fat activism and HAES are indeed delectable concepts and, in our years of involvement, we have seen various groups and individuals jockeying for ownership of them and developing cultures of celebrity, self-aggrandisement and exploitation at various times which rarely enrich the movement for everybody else. This leads us to wonder how and why did ASDAH, an organisation of members and a leadership structure, assume the mandate for owning the free floating concept of HAES without consultation? What right do they have to maintain a bounded, presumably universal, definition of HAES? What alternatives did they explore, for example the use of Creative Commons licences? What is the jurisdiction of their ownership, for example how does it affect activists and practitioners beyond the US? How will the trademark be upheld? What happens if people do not comply? The ASDAH website page contains plenty of legalese but does not answer these questions.

Trademarking relinquishes our history. HAES emerged from a rich history of people working very hard to promote body love free from dieting, amongst other related social justice goals. The movement was only recently named HAES, but existed previously as non-diet, size acceptance, fat activism, and so on. Much went on before we arrived at HAES, much will go on after, and many of those earlier iterations remain concurrent to HAES. However, the richness of this past is glossed over with the advent of a trademark. It is like the trademark wiped the slate clean, but not for a new mess to emerge, but instead for a clear set of tenets to define HAES for now and the foreseeable future. We don’t see our past as definitive, but it is part of our present that needs to be revisited, reconfigured, and revitalized for us to grow the movement into the future.

Trademarking invites protectionism. Instead of doing the hard work a peace movement requires, some of us may find ourselves monitoring our own or others’ HAES efforts for errors or omissions. This self-surveillance requires energy and puts people in opposition to each other. Protectionism has not been shown to amplify and enrich movements. We respectfully submit that when we orient ourselves towards a protectionist mentality, we operate from scarcity, fear, and power-over. This is not the dream we hold for HAES or any other HAES-like iteration.

The trademarking of HAES by ASDAH highlights one of the tensions that exists when aspects of social movements become professionalised. In seeking to protect HAES

from other corporations, ASDAH staged its own corporate takeover of the concept in order to maintain control of it and to protect its own professional interests. But it is not acceptable for professional organisations to assume the mandate of representing a grassroots movement's interests without prior consultation and transparency. Through the trademarking, the question arises, then, of the relationship between professionalised organisations and grassroots activism. These divisions are not easily distinguishable: fat activism is a diverse endeavour that takes place in many different social spaces, for example; and activists and professionals are not necessarily mutually exclusive groups. Yet how might activists who work beyond ASDAH's remit respond to the trademarking of HAES? How might ASDAH work productively and ethically with the communities upon which it has been built, and those that lie beyond its immediate spheres, for example internationally?

There is also much to be learned in the trademarking of HAES from the Open Rights movement, and concepts such as 'Copyleft,' which rethink IP in the digital age. These initiatives support the rich propagation of knowledge in the public domain, protecting its originators, but remaining open to all (Berry 2008). This is based on an activist philosophy of sharing and accountability, which uses such tools as Creative Commons licences to disseminate information (Creative Commons 2013). It would be thrilling, for example, to see how these ideas could be adopted by HAES advocates but at the moment this remains unlikely, the trademarking has already limited possibilities for such projects.

For now, we invite rebellion and critique. Grapple with our seven trepidations on trademarking. Incite debate. Rail against us. But, please do not go silent. This is a moment in our collective history that insists on your participation and perspective. How do you wish to see the movement move from this day on?

References

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