

## Fordham Urban Law Journal

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Volume 45

Number 4 *Taking a Bite out of the Big Apple: A  
Conversation About Urban Food Policy (Colloquium)*

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Article 1

2018

# Forging Food Justice Through Cooperatives in New York City

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### Recommended Citation

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Available at: <https://ir.lawnet.fordham.edu/ulj/vol45/iss4/1>

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# FORGING FOOD JUSTICE THROUGH COOPERATIVES IN NEW YORK CITY

*Dan DePasquale,\* Surbhi Sarang\*\* & Natalie Bump Vena\*\*\**

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## INTRODUCTION

In the United States and New York City, low-income communities of color have unequal access to healthy and nutritious foods. Federal programs like the Supplemental Nutrition Assistance Program (“SNAP”) have proven inadequate in the face of such fundamental injustice, especially in light of President Trump’s recent proposals to cut SNAP benefits.<sup>1</sup> As a result, low-income communities of color find themselves in the unenviable position of having to forge alternative avenues to achieve food equity—cooperatives may act as one such avenue.

Cooperatives have a long history in the United States and New York City, and people of color have used them to further their economic self-determination since at least the 1930s.<sup>2</sup> In addition to advancing economic justice and food access, cooperatives also

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1. Annie Lowrey, *President Trump’s Hunger Games*, ATLANTIC (Feb. 18, 2018), <https://www.theatlantic.com/politics/archive/2018/02/snap-trump-harvest-box/553481/> [<https://perma.cc/U52S-T3YZ>] (detailing the Trump Administration’s “America’s harvest box” proposal to reduce the amount of money given to families through SNAP and instead send food directly to those families).

2. See ANNE MEIS KNUPFER, *FOOD CO-OPS IN AMERICA: COMMUNITIES, CONSUMPTION, AND ECONOMIC DEMOCRACY* 37–38 (2013) (noting the instrumental role played by prominent activists in African American communities in forming and promoting cooperatives in the 1930s, including organizations such as the Young Negroes’ Co-operative League in New York and the Negro Co-operatives Stores’ Association in Indiana).

provide other benefits for workers and communities, including attractive work cultures,<sup>3</sup> conscientious environmental stewardship,<sup>4</sup> and the capacity to act as local food hubs.<sup>5</sup> They can also serve as community-based alternatives to the global, industrial food complex.<sup>6</sup> This Article proposes that cooperatives may serve as a means of furthering food justice because they can simultaneously promote economic development in low-income communities of color and increase access to affordable and desirable foods in those neighborhoods.

Cooperatives can support economic development by putting the food system back into the hands of communities that can better serve their own needs. This Article asserts that, for cooperatives to transform the urban food ecosystem, state and city officials must develop policies to further their growth. Part I of this Article provides an overview of the food system today and the ways in which it perpetuates social and environmental harms. Part II outlines the food justice movement and how it seeks to remedy these inequities and hazards. Part III proposes that cooperatives further food justice by providing an alternative to the capitalist food system model. Part IV examines the challenges cooperatives must overcome to increase their role in the food system. Given these challenges, Part V offers policy solutions, including those derived from domestic and international models, to facilitate the expansion of cooperatives to advance food justice.

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3. See JESSICA GORDAN NEMBHARD, BENEFITS AND IMPACTS OF COOPERATIVES 8–9 (2014), <http://geo.coop/sites/default/files/0213-benefits-and-impacts-of-cooperatives.pdf> [<https://perma.cc/AL84-M3C3>].

4. *Why Form Worker Cooperatives?*, CO-OP LAW.ORG, <http://www.co-oplaw.org/co-op-basics/types/worker-cooperatives/> [<https://perma.cc/P6D4-7NGT>].

5. CYNTHIA PANSING ET AL., WALLACE CTR. AT WINROCK INT’L, NORTH AMERICAN FOOD SECTOR, PART ONE: PROGRAM SCAN & LITERATURE REVIEW 61–62 (2013), <http://www.ngfn.org/resources/ngfn-database/knowledge/Program%20Scan%20and%20Literature%20Review.pdf> [<https://perma.cc/C8B9-UD9S>].

6. The “food-industrial complex” refers to the idea that large multinational organizations have gained control over one commodity market after another, with “[f]armers and cattle ranchers . . . losing their independence, essentially becoming hired hands for the agribusiness giants or being forced off the land” and “[f]amily farms . . . being replaced by gigantic corporate farms with absentee owners.” ERIC SCHLOSSER, FAST FOOD NATION: THE DARK SIDE OF THE ALL-AMERICAN MEAL 8 (2001).

## I. THE UNSUSTAINABLE, INEQUITABLE STATE OF THE UNITED STATES FOOD SYSTEM

The food system in the United States comprises a complex set of interconnected processes that deliver food for consumption. The Farmland Information Center explains that this system “includes all processes involved in keeping us fed: growing, harvesting, processing (or transforming or changing), packaging, transporting, marketing, consuming and disposing of food and food packages.”<sup>7</sup> The food system has tremendous implications for human health and well-being, the U.S. economy, and the environment. An examination of the food system’s influence on all three of these spheres reveals that there exist vast inequities among who is able to access healthy food, jobs in this sector are low-wage and fraught with labor abuses, and current methods of growing and transporting food deplete natural resources and wreak havoc on the environment.

### A. Inequity in Food Access

In the United States, communities do not share equal access to produce and other healthy foods, which are often acquired at supermarkets. According to a 2009 U.S. Department of Agriculture (“USDA”) study, 23.5 million Americans do not have a supermarket within one mile of their homes.<sup>8</sup> Particularly in low-income communities of color:

Food access is often limited to the cheap, high-fat, high-salt, high-calorie, processed food available at gas stations, liquor stores, corner stores, and fast food outlets . . . [while] available[] fruits, vegetables, and low-fat dairy products are often of inferior quality and are more expensive at these establishments than in supermarkets and grocery stores.<sup>9</sup>

Eight percent of black Americans live in a census tract<sup>10</sup> with a supermarket, compared to 31% of white Americans.<sup>11</sup> Nationally,

7. FARMLAND INFO. CTR., CORNELL UNIV., A PRIMER ON COMMUNITY FOOD SYSTEMS: LINKING FOOD, NUTRITION, AND AGRICULTURE 1 (2013), [http://www.farmlandinfo.org/sites/default/files/Primer\\_1.pdf](http://www.farmlandinfo.org/sites/default/files/Primer_1.pdf) [<https://perma.cc/W3W6-F3XB>].

8. U.S. DEP’T OF AGRIC., ACCESS TO AFFORDABLE AND NUTRITIOUS FOOD: MEASURING AND UNDERSTANDING FOOD DESERTS AND THEIR CONSEQUENCES, at iii (2009), [https://www.ers.usda.gov/webdocs/publications/42711/12716\\_ap036\\_1\\_.pdf](https://www.ers.usda.gov/webdocs/publications/42711/12716_ap036_1_.pdf) [<https://perma.cc/26KN-A5ND>].

9. Eric Holt-Giménez & Yi Wang, *Reform or Transformation? The Pivotal Role of Food Justice in the U.S. Food Movement*, 5 RACE/ETHNICITY 83, 84 (2011).

10. A “census tract” is a small, relatively permanent subdivision of an area. *Geographic Terms and Concepts – Census Tract*, U.S. CENSUS BUREAU,

low-income zip codes have 30% more convenience stores—which are less likely than supermarkets to stock healthy food options—than middle-income zip codes.<sup>12</sup> Ultimately, low-income communities lack viable access to healthy foods and are therefore forced to turn to the unhealthy foods that are within their physical and economic reach.

In addition to lacking healthy food options in their communities, many Americans cannot afford any kind of food, healthy or unhealthy. In 2016, Americans spent an average of \$7203 on food, which constituted 12.6% of their total expenditure.<sup>13</sup> The USDA has found households to be food insecure when their members are unable to access “enough food for an active, healthy lifestyle.”<sup>14</sup> The estimated percentage of food-insecure households remained largely unchanged from 2015 to 2016, with 12.3% of U.S. households, approximately 15.6 million households, being characterized as such at some time during the year.<sup>15</sup> While food insecurity affects both rural and urban communities, New York City provides a particularly urgent case given its expensive living conditions. New Yorkers pay notoriously high rent, and researchers have found that “families with housing costs that consumed more than 30% of their income were at greater risk of food insecurity.”<sup>16</sup> Furthermore, food prices are often higher in cities,<sup>17</sup> and in New York City, “groceries cost between 28%

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[https://www.census.gov/geo/reference/gtc/gtc\\_ct.html](https://www.census.gov/geo/reference/gtc/gtc_ct.html) [<https://perma.cc/NFJ6-ZKW3>]. They range from 1200 to 8000 people—with 4000 being the optimum size. *Id.*

11. SARAH TREUHAFT & ALLISON KARPYN, POLICYLINK & THE FOOD TRUST, *THE GROCERY GAP: WHO HAS ACCESS TO HEALTHY FOOD AND WHY IT MATTERS* 7 (2010), [http://thefoodtrust.org/uploads/media\\_items/grocerygap.original.pdf](http://thefoodtrust.org/uploads/media_items/grocerygap.original.pdf) [<https://perma.cc/AGR9-UH62>].

12. *Id.* at 8.

13. U.S. BUREAU OF LABOR STATISTICS, *CONSUMER EXPENDITURE SURVEY 2016*, <https://www.bls.gov/cex/2016/combined/income.pdf> [<https://perma.cc/J2NJ-KRQS>].

14. ALISA COLEMAN-JENSEN ET AL., U.S. DEP'T OF AGRIC., ECON. RES. SERV. NO. 237, *HOUSEHOLD FOOD SECURITY IN THE UNITED STATES IN 2016*, at 2, 4 (2017), <https://www.ers.usda.gov/webdocs/publications/84973/err-237.pdf?v=42979> [<https://perma.cc/375L-6CBM>] (“[The report’s statistics] are based on a measure of food security calculated from responses to a series of questions about conditions and behaviors that characterize households when they are having difficulty meeting basic food needs. . . . Households are classified as *food secure* if they report no food-insecure conditions or only one or two food-insecure conditions. . . . They are classified as *food insecure* if they report three or more food-insecure conditions.”).

15. *Id.* at 6.

16. Jessica Clendenning et al., *Food Justice or Food Sovereignty? Understanding the Rise of Urban Food Movements in the USA*, 33 *AGRIC. & HUM. VALUES* 166, 168 (2016).

17. *Id.* at 166.

and 39% more than the national average.”<sup>18</sup> Many of the most vulnerable New Yorkers live in poverty,<sup>19</sup> making local groceries prohibitively expensive. Notably, 15% of city dwellers in the United States are food insecure.<sup>20</sup> These inequities demonstrate the need for meaningful approaches to increase food access and security in low-income and urban communities.

### B. Employment Conditions in the Food System

Not only is food access a persistent problem, but the current industrial food system also exploits food workers and their families. The food sector makes up the largest sector of employment in the United States, employing 21.5 million workers (14% of the U.S. work force)<sup>21</sup> across the production, processing, distribution, retail, and service sectors of the food chain.<sup>22</sup> Migrant farmworkers, grocery stockers, and fast food cashiers all work in the food sector. While employment in this sector plays a critical role in the national economy, wages remain low; at \$10 per hour in 2016, the median hourly wages for workers in the food system were the lowest of the industries measured.<sup>23</sup> A 2016 report found that the food system “is beset by stagnant wages, poor working conditions, a lack of benefits, health and safety issues, and mistreatment at work.”<sup>24</sup> Consequently, many food workers struggle to be able to afford food. In 2016, 13% of food workers received food stamps through SNAP<sup>25</sup> and in 2014,

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18. Kathleen Elkins, *15 Facts About New York City That Will Make You Think Twice About Whether You Can Afford to Live There*, BUS. INSIDER (Sept. 4, 2015, 2:03 PM), <http://www.businessinsider.com/how-expensive-is-new-york-city-2015-9> [<https://perma.cc/6Q3P-VJQ4>].

19. MAXWELL AUSTENSEN ET AL., NYU FURMAN CTR., 2016 FOCUS: POVERTY IN NEW YORK CITY 1 (2017), [http://furmancenter.org/files/sotc/SOC\\_2016\\_FOCUS\\_Poverty\\_in\\_NYC.pdf](http://furmancenter.org/files/sotc/SOC_2016_FOCUS_Poverty_in_NYC.pdf) [<https://perma.cc/NML6-6AT4>]; see also *Focus on Poverty in New York City*, NYU FURMAN CTR.: THE STOOP (June 7, 2017), <http://furmancenter.org/thestoop/entry/focus-on-poverty> [<https://perma.cc/L8JE-WM44>] (“While 30% of New York City children were poor in 2011–2015, just 22% were poor nationally. The poverty rate for seniors in New York City (18%) is twice the poverty rate in the U.S. (9%).”).

20. Clendenning et al., *supra* note 16, at 166.

21. FOOD CHAIN WORKERS ALL. & SOLIDARITY RES. COOP., NO PIECE OF THE PIE: U.S. FOOD WORKERS IN 2016, at 1, 5 (2016), [http://foodchainworkers.org/wp-content/uploads/2011/05/FCWA\\_NoPieceOfThePie\\_P.pdf](http://foodchainworkers.org/wp-content/uploads/2011/05/FCWA_NoPieceOfThePie_P.pdf) [<https://perma.cc/5S92-T4CQ>].

22. *Id.* at 6–7.

23. *Id.* at 12.

24. *Id.*

25. *Id.* at 16.

almost 20% lacked food security.<sup>26</sup> This data suggests that the people working the hardest to supply the population with food may not be able to afford food themselves.

### C. Environmental Impacts of the Food System

The industrial food system also has significant adverse environmental impacts, resulting from agricultural production, transportation, packaging, and distribution.<sup>27</sup> Agricultural production can damage the land by introducing harmful fertilizers and pesticides and interfering with biodiversity, soil quality, and water.<sup>28</sup> The processes required to produce food contribute to energy demand and associated greenhouse gas emissions,<sup>29</sup> and landfilled food waste generates methane, significantly contributing to climate change.<sup>30</sup> Industrial agriculture has increased adverse environmental consequences as the United States transitions away from small sustainable farms to large industrial complexes operated by a handful of national corporations.<sup>31</sup> Local community food systems, including cooperatives, may redress environmental harms by creating “shorter distances from the farm to the dinner plate,” conserving transportation energy.<sup>32</sup> Recognizing the flaws in the current food system is necessary to build a more just and sustainable model for future generations.

## II. FOOD JUSTICE

The food justice movement seeks to redress food insecurity as well as other inequities throughout the food system. Organizations and activists differ in how they define food justice, but, “[b]roadly speaking, food justice encompasses a vision of social, environmental, and economic justice; improved nutrition and health; and community

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26. *Id.* at 17.

27. Thomas Nemecek et al., *Environmental Impacts of Food Consumption and Nutrition: Where Are We and What Is Next?*, 21 INT’L J. LIFE CYCLE ASSESSMENT 607, 609 (2016).

28. *Id.* at 609.

29. *Id.*

30. EarthTalk, *Waste Land: Does the Large Amount of Food Discarded in the U.S. Take a Toll on the Environment?*, SCI. AM. (Mar. 3, 2010), <https://www.scientificamerican.com/article/earth-talk-waste-land/> [<https://perma.cc/4M3K-M4A4>].

31. See generally Leo Horrigan et al., *How Sustainable Agriculture Can Address the Environmental and Human Health Harms of Industrial Agriculture*, 110 ENVTL. HEALTH PERSP. 445, 446 (2002).

32. *Id.*



activism.”<sup>33</sup> Just Food, a food access advocacy organization, emphasizes community control over food systems in their definition of food justice as “communities exercising their right to grow, sell, and eat healthy food. Healthy food is fresh, nutritious, affordable, culturally-appropriate, and grown locally with care for the well-being of the land, workers, and animals.”<sup>34</sup>

Food justice advocates identify both laissez-faire economics and discriminatory policies, such as redlining and expulsive zoning, as explanations for food injustice.<sup>35</sup> These economic and political forces have caused systematic divestment in certain communities, leaving them without grocery stores.<sup>36</sup> In such circumstances, food justice advocates will seek alternative pathways for bringing healthy food to these neighborhoods, by empowering communities to design and implement their own solutions through economic development.<sup>37</sup> As activists Robert Gottlieb and Anupama Joshi explain, “[t]he food justice approach is centrally about jobs and communities, and is inherently linked to the economic development and revival of communities and the creation of sustainable livelihoods.”<sup>38</sup> They also assert that food justice “emphasizes food’s community value rather than its commodity value.”<sup>39</sup> Rather than viewing food as a commodity used by corporations to maximize profits through food production and consumption, food justice organizations seek to advance equity through agriculture and food distribution.

The Black Panther Party’s Free Breakfast for School Children Program exemplified “food justice” principles before the movement had a name.<sup>40</sup> The program began in Oakland, California in 1968.<sup>41</sup> At its peak, forty-nine Black Panther chapters played a critical role in

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33. Cassidy R. Hayes & Elena T. Carbone, *Food Justice: What Is It? Where Has It Been? Where Is It Going?*, 5 J. NUTRITIONAL DISORDERS & THERAPY 1, 1 (2015), <https://www.omicsonline.org/open-access/food-justice-what-is-it-where-has-it-been-where-is-it-going-2161-0509-1000179.pdf> [<https://perma.cc/G2BH-9L9W>].

34. *What Is Food Justice?*, JUST FOOD, <http://justfood.org/advocacy/what-is-food-justice> [<https://perma.cc/UQ3G-DF9L>].

35. Clendenning et al., *supra* note 16, at 175.

36. *Id.* at 170; Julie Guthman, *Doing Justice to Bodies? Reflections on Food Justice, Race, and Biology*, 46 ANTIPODE 1153, 1153 (2012).

37. Holt-Giménez & Wang, *supra* note 9, at 88.

38. ROBERT GOTTLIEB & ANUPAMA JOSHI, *FOOD JUSTICE* 227 (2013).

39. *Id.* at 223.

40. *See* Holt-Giménez & Wang, *supra* note 9, at 89.

41. Andrea King Collier, *The Black Panthers: Revolutionaries, Free Breakfast Pioneers*, NAT’L GEOGRAPHIC: THE PLATE (Nov. 4, 2015), <http://theplate.nationalgeographic.com/2015/11/04/the-black-panthers-revolutionaries-free-breakfast-pioneers/> [<https://perma.cc/QG6T-TX68>].

feeding 250,000 kids each morning before school.<sup>42</sup> The program relied on private donations and demonstrated the Black Panther's practice of self-determination in the realm of food access.<sup>43</sup>

Food justice aims not just to feed people,<sup>44</sup> but also to spur structural changes in the food system to provide lasting solutions. Geographers Kirsten Valentine Cadieux and Rachel Slocum argue that food justice work requires confronting “persistent race, gender, and class inequalities,” “pursuing labor relations that guarantee a minimum income,” and protecting ecosystems from commodification.<sup>45</sup> Food justice activists are increasingly addressing issues of labor and the environment through their organizing efforts. The Health Environment Agriculture Labor Food Alliance (“HEAL”), for example, describes itself as “a multi-sector, multi-racial coalition building collective power to transform our food and farm systems.”<sup>46</sup> Its members include farmers, food chain workers, and environmentalists.<sup>47</sup> HEAL's goals range from “ensur[ing] dignity for food workers and their families” to “protect[ing] . . . sustainable farming, ranching, and fishing systems.”<sup>48</sup> HEAL's theory of change recognizes that “[t]he root causes of our destructive food system are tied to mythologies that value profit over people and the planet,” and that structural change will only come about with “[c]ommunity stewardship of land, water, [and] resources” and when “[p]eople control their own labor.”<sup>49</sup> Likewise, several professional associations, including the American Nurses Association and the American Public Health Association,

42. Holt-Giménez & Wang, *supra* note 9, at 89.

43. *See id.* (“Food was part of a much larger program for black liberation and community autonomy as expressed in the October 1966 Black Panther Party Platform and Program. The first point in the program demanded freedom and the power for the black community to determine its own destiny.”).

44. More activists are acknowledging that food banks and their model of charity address only the “symptoms of a problem rather than its root causes.” JESSICA POWERS, SPECIAL REPORT: AMERICA'S FOOD BANKS SAY CHARITY WON'T END HUNGER 2 (2016), <https://whyhunger.org/images/publications/Special-Report.pdf> [<https://perma.cc/5MJA-3HXP>].

45. Kirsten Valentine Cadieux & Rachel Slocum, *What Does It Mean to Do Food Justice?*, 22 J. POL. ECOLOGY 1, 13–14 (2015).

46. *About*, HEAL FOOD ALL., <http://healfoodalliance.org/who-is-heal/> [<https://perma.cc/CXP3-TKL4>].

47. *Member Organizations*, HEAL FOOD ALL., <http://healfoodalliance.org/who-is-heal/members/> [<https://perma.cc/W933-648C>].

48. *Our Platform for Real Food*, HEAL FOOD ALL., <http://healfoodalliance.org/strategy/the-real-food-platform/> [<https://perma.cc/QY5F-LS4U>].

49. *Theory of Change*, HEAL FOOD ALL., <http://healfoodalliance.org/strategy/theory-of-change/> [<https://perma.cc/S6T2-A2JC>].

have espoused a definition for healthy food systems that contains equity in food access, natural resources conservation, and living wages for all workers.<sup>50</sup>

### III. COOPERATIVES AND FOOD JUSTICE

As discussed above, many of the inequities in the food system stem from the lack of power that low-income communities of color have in the food system and the food system's capitalist structure, which values profits above all else. Thus, any attempt to pursue food justice today must prioritize shifting political and economic power to communities to do this work, in line with social justice and environmental sustainability. Cooperatives are powerful means of achieving these ends. The International Cooperative Alliance defines a cooperative as "an autonomous association of persons united voluntarily to meet their common economic, social, and cultural needs and aspirations through a jointly owned and democratically-controlled enterprise."<sup>51</sup> Most cooperatives adhere to the Alliance's seven principles, which include voluntary and open membership; the economic participation of members; education and training; and concern for community.<sup>52</sup>

While cooperatives come in a variety of forms, this Article focuses on consumer cooperatives and worker cooperatives. In consumer cooperatives, customer-members collectively own, and often manage, the business. In these enterprises, customer-members may pay dues and/or work limited shifts at the storefront to establish equity.<sup>53</sup> Additionally, members earn profits based on their stake in the business.<sup>54</sup> Consumer food cooperatives essentially function as consumer-owned grocery stores. In worker cooperatives—as the

50. See generally FOOD SYSTEMS & PUB. HEALTH CONFERENCE WORK TEAM, W.K. KELLOGG FOUND., PRINCIPLES OF A HEALTHY, SUSTAINABLE FOOD SYSTEM (2012), [https://planning-org-uploaded-media.s3.amazonaws.com/legacy\\_resources/nationalcenters/health/pdf/HealthySustainableFoodSystemsPrinciples\\_2012May.pdf](https://planning-org-uploaded-media.s3.amazonaws.com/legacy_resources/nationalcenters/health/pdf/HealthySustainableFoodSystemsPrinciples_2012May.pdf) [<https://perma.cc/KC4E-7GEQ>].

51. *Co-operative Identity, Values & Principles*, INT'L COOP. ALL., <https://ica.coop/en/whats-co-op/co-operative-identity-values-principles> [<https://perma.cc/V2UP-WZ4S>].

52. *Id.* The seven cooperative principles are: "voluntary and open membership"; "democratic member control"; "member economic participation"; "autonomy and independence"; "education, training and information"; "co-operation among co-operatives"; and "concern for community." *Id.*

53. Marilyn Scholl, *Membership is Ownership: The Cooperative Advantage*, COOP. GROCER NETWORK (June 2008), <https://www.grocer.coop/articles/membership-ownership-cooperative-advantage> [<https://perma.cc/Q5YT-Z5LW>].

54. *About Co-ops*, COOP. DEV. INST., <http://cdi.coop/resource-center/about-co-ops/> [<https://perma.cc/6AWE-YPP5>].

name suggests—workers collectively own and manage the business. According to the Democracy at Work Institute, “workers at worker cooperatives participate in the profits, oversight, and often management of the organization using democratic practices. Workers own the majority of the equity in the business and control the voting shares.”<sup>55</sup> Unlike consumer cooperatives, which can be organized as non-profits, worker cooperatives operate as for-profit businesses. Cooperatives have many potential benefits, depending on the objectives of their members. These may range from selling affordable products to reducing waste to creating good jobs. Democratic ownership and participatory management help ensure that cooperatives benefit members and meet their goals.<sup>56</sup>

### A. History of Cooperatives in the United States

Cooperatives have a long and radical history in the United States. In the 1830s, “the first cooperatives were created as economic alternatives to industrial capitalism,” producing a variety of goods from local, collectively-owned sources.<sup>57</sup> Many of the original food cooperatives were affiliated with unions in the late nineteenth and early twentieth centuries,<sup>58</sup> and some members in these early cooperatives were committed socialists.<sup>59</sup> As part of the broader counter-culture movement, a new wave of cooperatives opened in the 1960s and 1970s.<sup>60</sup> In 1979, the United States had roughly 3000 food cooperatives and wholesale food buying clubs.<sup>61</sup> Today, cooperatives continue to provide an alternative to corporate capitalism through collective ownership and democratic decision-making.<sup>62</sup> Brooklyn’s Park Slope Food Coop, a longstanding food cooperative, has served as a model for many, and its membership manual reads, “[b]y taking some control away from corporations and putting it into the hands of

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55. *The Benefits of Worker Cooperatives*, DEMOCRACY AT WORK INST., <http://institute.coop/benefits-worker-cooperatives> [<https://perma.cc/62UH-FEGK>].

56. *Ask Co-op Cathy: How Do Co-ops Benefit Their Communities?*, COOP. DEV. INST. (Oct. 28, 2014), <http://cdi.coop/coop-cathy-coops-benefit-communities> [<https://perma.cc/LD28-AEVD>].

57. KNUPFER, *supra* note 2, at 14.

58. *Id.* at 23.

59. *Id.*

60. *Id.* at 129.

61. *Id.* at 134. In food buying clubs, members combine their buying power to purchase goods in bulk at wholesale prices. These clubs normally lack a storefront (or any retail space).

62. *Id.* at 2.

our working membership, the Coop has been able to make healthy, affordable food available to all members.”<sup>63</sup>

Cooperatives also have the potential to empower communities that have experienced racial discrimination. Beginning as early as the 1930s, people of color have started their own food cooperatives, in part as a means of self-determination. W.E.B. DuBois, for instance, viewed cooperatives as a way for black Americans to fight poverty and racism; through cooperatives, black communities could collectively own businesses, build capital, and keep money in their own neighborhoods.<sup>64</sup> With the goal of building the black community’s economic power, civil rights leader Ella Barker, in collaboration with George Schuyler, helped establish the Young Negroes Cooperative League (“YNCL”) in New York City in 1930.<sup>65</sup> The YNCL’s stationery had the slogan, “gain economic power through consumer cooperation.”<sup>66</sup> In the 1930s, one food cooperative in Harlem was so successful that it outcompeted a local A&P store, and forced its closure.<sup>67</sup> In 1935, Barker expressed her dream that cooperatives would enable black Americans to fund their own basic social services, from healthcare to education, by investing their profits locally in “clinics, libraries, and cooperative housing to combat slums.”<sup>68</sup> A. Phillip Randolph, the leader of the Brotherhood of Sleeping Car Porters, the first black union recognized by the American Federation of Labor, advocated for cooperatives, viewing them as another means to protect black workers in a capitalistic system.<sup>69</sup> Then in 1943, after studying how the enterprises worked, members of the Chicago Ladies’ Auxiliary to this union opened a grocery consumer cooperative in Chicago.<sup>70</sup>

### B. How Consumer Food Cooperatives Further Food Justice

Today, there are over 300 consumer food cooperatives in the United States, not including wholesale food buying clubs.<sup>71</sup> In New

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63. PARK SLOPE FOOD COOP, MEMBERSHIP MANUAL 1 (2017), <https://www.foodcoop.com/manual> [https://perma.cc/525Z-JUZQ].

64. BARBARA RANSBY, ELLA BARKER AND THE BLACK FREEDOM MOVEMENT: A RADICAL DEMOCRATIC VISION 88 (1st ed. 2003).

65. KNUPFER, *supra* note 2, at 37.

66. RANSBY, *supra* note 64, at 82–83.

67. KNUPFER, *supra* note 2, at 37.

68. RANSBY, *supra* note 64, at 86.

69. MELINDA CHATEAUVERT, MARCHING TOGETHER: WOMEN OF THE BROTHERHOOD OF SLEEPING CAR PORTERS 141 (Anne Firor Scott et al. eds., 1998).

70. *Id.* at 143.

71. KNUPFER, *supra* note 2, at 190.

York City, there are currently eight consumer food cooperatives across the five boroughs.<sup>72</sup> The Park Slope Food Coop opened in 1973 and now has the largest membership of any cooperative in New York City, with roughly 17,000 members.<sup>73</sup> Only members may shop at the cooperative, and each member is required to work roughly three hours each month.<sup>74</sup> A hired staff manages the cooperative's everyday activities and seventy paid employees now work there.<sup>75</sup> Members elect a board, which sets routine store policies.<sup>76</sup> Additionally, members make major decisions, such as whether to expand, via referendum.<sup>77</sup> The Park Slope Food Coop has provided technical assistance and general mentorship to other individuals and groups starting cooperatives in New York City, including the founders of the Windsor Terrace Food Cooperative in Brooklyn and the (now-closed) South Bronx Food Co-op.<sup>78</sup>

Cooperatives have struggled to flourish across New York City's various boroughs. Most consumer cooperatives in New York City initially had limited hours or began as wholesale food buying clubs. For example, the Park Slope Food Coop was originally only open in the evenings and on weekends.<sup>79</sup> The Bay Ridge Food Co-op began as a buyers club and now distributes food out of a church twice a month.<sup>80</sup> Today, there are no consumer food cooperatives in the Bronx, Queens, or Staten Island. The South Bronx Food Co-op, a

72. These eight include: 4th Street Food Co-op, Bushwick Food Coop, Flatbush Food Co-op, Greene Hill Food Co-op, Park Slope Food Coop, Lefferts Community Food Co-op, Windsor Terrace Food Co-op, and Bay Ridge Food Co-op. See generally Sonia Gonzalez, *Joining a NYC Food Coop: Shopping Locally and Investing in Your Community*, MOMMY POPPINS (May 12, 2013), <https://mommypoppins.com/nyc-food-coops-local-food-locavore> [<https://perma.cc/29SU-BHD4>]; Paul Stremple, *Park Slope Food Co-op Will Expand, Considering Central Brooklyn*, BKLYNER (Mar. 9, 2018), <https://bklyner.com/park-slope-food-co-op/> [<https://perma.cc/ND2M-6C9B>].

73. Stuart Miller, *In Brooklyn, First Comes Gentrification, Then Comes a Food Co-op*, N.Y. TIMES (Feb. 27, 2015), <https://www.nytimes.com/2015/03/01/nyregion/a-new-food-co-op-in-brooklyn-centered-on-community-joins-the-hub.html> [<https://nyti.ms/2n9fBQU>].

74. KNUPFER, *supra* note 2, at 200.

75. Mary Williams Walsh, *Skip the GMOs: Park Slope Food Co-Op Fights Over Its Pension Fund*, N.Y. TIMES (Jan. 30, 2017), <https://www.nytimes.com/2017/01/30/business/park-slope-food-coop-pension-fund-fight.html> [<https://nyti.ms/2jO8Vfy>].

76. Eve Jochnowitz, *Edible Activism: Food, Commerce, and the Moral Order at the Park Slope Food Coop*, 1 GASTRONOMICA 56, 60 (2001).

77. *Id.*

78. KNUPFER, *supra* note 2, at 192; Miller, *supra* note 73.

79. Jochnowitz, *supra* note 76, at 56.

80. *About the Co-op*, BAY RIDGE CO-OP, <http://www.foodcoopbayridge.com/about-the-bay-ridge-coop> [<https://perma.cc/TM7H-QG2W>].

consumer cooperative, closed in 2010 due to a small membership base.<sup>81</sup> While open, it was a food justice organization with the mission of providing “affordable and nutritious food to all residents of the South Bronx (and New York City) while empowering the local community by encouraging good health, providing relevant job skills and fostering environmentally responsible activities through democratic cooperation.”<sup>82</sup> More consumer cooperatives in under-resourced urban communities could advance these goals alongside others, like economic development.

Consumer cooperatives (like the South Bronx Food Co-op) further food justice by increasing food access. In consumer food cooperatives, member labor cuts down on costs and lower markups make food prices cheaper compared to those at conventional grocery stores. The Park Slope Food Coop states in its manual:

Unlike most cooperatives in the United States, the Park Slope Food Coop requires members to work . . . . The benefit of this shared responsibility is two-fold, the most obvious being that with scheduled, reliable member labor we are able to keep down our payroll costs—the single largest expense for a grocery store—which translates to low prices.<sup>83</sup>

The South Bronx Food Co-op, which required its members to work at its store, provided concrete evidence of these lower prices by charging \$22.30 for the same amount of kale that supermarkets sold for \$50.<sup>84</sup> Consumer cooperatives, then, are well-positioned to offer affordable groceries in low-income communities.

All food cooperatives can become local food hubs. Scholars Ani Katchova and Timothy Woods have argued that cooperatives are more likely to support regional food networks, in part because “food co-ops make decisions locally at their store rather than at remote headquarters.”<sup>85</sup> Cooperatives have approximately 40% more local sourcing and sourcing from small farms compared to other grocery

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81. Daniel Rosenblum, *South Bronx Food Co-op Closes Its Doors*, MOTT HAVEN HERALD (Dec. 14, 2010), <http://www.mothavenherald.com/2010/12/14/south-bronx-food-co-op-closes-its-doors/> [<https://perma.cc/EZQ9-GVL9>].

82. KNUPFER, *supra* note 2, at 192.

83. PARK SLOPE FOOD COOP, *supra* note 63.

84. Anthony Ramirez, *City's Newest Food Co-op Gains a Foothold in the South Bronx*, N.Y. TIMES (Nov. 11, 2007), <http://www.nytimes.com/2007/11/11/nyregion/11co-op.html> [<https://nyti.ms/2GMIL3A>].

85. Ani Katchova & Timothy A. Woods, *Local Foods and Food Cooperatives: Ethics, Economics and Competition Issues*, in THE ETHICS AND ECONOMICS OF AGRIFOOD COMPETITION 227, 237 (Harvey S. James ed., 2013).

stores.<sup>86</sup> Local products constitute 21% of food cooperative sales while they make up just 1.8% of national grocery store sales.<sup>87</sup> By doing business with local businesses and distributing profits to member-owners, cooperatives reinvest in the local economy. Consequently, they have a local economic multiplier of 1.6 compared to 1.36 for conventional grocery stores.<sup>88</sup>

The owners of cooperatives also have the ability to influence their stores' environmental policies to promote sustainability. For instance, the Park Slope Food Coop cuts down on its waste by donating unsalable food, composting inedible food, and recycling packing materials.<sup>89</sup> In general, consumer cooperatives divert relatively more food waste from landfills, mitigating greenhouse gas emissions. While the average conventional grocery store donates an average of 12,500 pounds of food annually, the average food cooperative gives 24,100 pounds to food pantries each year.<sup>90</sup> These substantial food donations also improve food access for some of the neediest individuals within their communities.

Consumer cooperatives are well-positioned to become centers of educational programming, civic engagement, and job creation. These initiatives reflect the seventh principle of the International Co-operative Alliance: "concern for community."<sup>91</sup> The South Bronx Food Co-op hosted "cooking classes, yoga sessions, and nutrition courses."<sup>92</sup> The chairman of the Windsor Terrace Food Coop has said, "[t]his is a community-building experience where food is the vehicle."<sup>93</sup> Furthermore, cooperatives are institutions through which local community members can build business expertise that they can share with their neighbors.<sup>94</sup> Consumer cooperatives therefore offer community support not only through food access and economic

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86. NAT'L COOP. GROCERS ASS'N, *HEALTHY FOODS HEALTHY COMMUNITIES: MEASURING THE SOCIAL AND ECONOMIC IMPACT OF FOOD COOP 4* (2012) [hereinafter *HEALTHY FOODS HEALTHY COMMUNITIES*], [http://www.uwcc.wisc.edu/pdf/Healthy\\_Foods\\_Healthy\\_Communities.pdf](http://www.uwcc.wisc.edu/pdf/Healthy_Foods_Healthy_Communities.pdf) [https://perma.cc/L3ZX-8DCC].

87. NAT'L COOP. GROCERS ASS'N, *YOU ARE THE CO-OP DIFFERENCE 4* (2017), [http://strongertogether.coop/sites/default/files/You\\_Are\\_Co-op\\_Difference\\_2017\\_lr.pdf](http://strongertogether.coop/sites/default/files/You_Are_Co-op_Difference_2017_lr.pdf) [https://perma.cc/6PKV-9V4S] (reporting research conducted by the ICA Group).

88. *HEALTHY FOODS HEALTHY COMMUNITIES*, *supra* note 86, at 10.

89. Jochnowitz, *supra* note 76, at 60.

90. NAT'L COOP. GROCERS ASS'N, *supra* note 87, at 8.

91. *Co-operative Identity, Values & Principles*, *supra* note 51.

92. Rosenblum, *supra* note 81.

93. Miller, *supra* note 73.

94. *Share the Benefits! Six Benefits of Cooperatives in Development*, COOPS. EUR., <https://coopseurope.coop/share-benefits-six-benefits-cooperatives-development> [https://perma.cc/B2ZA-PQL4].



empowerment, but also through educating and investing in future development.

### C. How Worker Cooperatives Further Food Justice

There exist between three and four hundred worker cooperatives (across sectors) in the United States.<sup>95</sup> New York City has approximately forty worker cooperatives, which range from cleaning services to law firms.<sup>96</sup> Two of them appear to be in the grocery sector: Brooklyn Packers and Bed-Stuy Fresh and Local. Brooklyn Packers “prepares packaged food products including fresh produce, meats, homemade snacks, and other items.”<sup>97</sup> Bed-Stuy Fresh and Local is a grocery store that provides “affordable and healthy food to residents of Bedford-Stuyvesant, Brooklyn.”<sup>98</sup>

Depending on the priorities of their owners, worker cooperatives may sell affordable food, act as local food hubs, promote environmental sustainability, and become centers of community life. Worker cooperatives are also uniquely positioned to generate grassroots economic development in low-income communities, another goal of food justice. Since they entail the pooling of member investments, worker cooperatives can give people who otherwise lack access to sufficient capital the opportunity to become business owners. Without that capital, many Americans have been excluded from business ownership and its benefits. For instance, in 2012, black Americans owned just 2% of businesses in the United States, even though they made up 12.6% of the population.<sup>99</sup>

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95. Michelle Chen, *Worker Cooperatives Are More Productive Than Normal Companies*, NATION (Mar. 28, 2016), <https://www.thenation.com/article/worker-cooperatives-are-more-productive-than-normal-companies/> [https://perma.cc/3SNC-KGG3].

96. *About Us: Growing Employment*, N.Y.C. NETWORK OF WORKER COOPS., <https://nycnowc.dev.glocal.coop/about-us/growing-employment/> [https://perma.cc/Q2QB-5APC].

97. N.Y.C. DEP'T OF SMALL BUS. SERVS., WORKING TOGETHER: A REPORT ON THE SECOND YEAR OF THE WORKER COOPERATIVE BUSINESS DEVELOPMENT INITIATIVE (WCBDI) 13 (2016) [hereinafter WCBDI SECOND YEAR REPORT], <http://www.nyc.gov/html/sbs/downloads/pdf/working-together-fy16-local-law-22-report.pdf> [https://perma.cc/EPD9-UQZ7].

98. *Id.*

99. NAT'L URBAN LEAGUE ET AL., LEGACY BUSINESS: OUR OPPORTUNITY TO BUILD WEALTH, ECONOMY, AND CULTURE 5 (2017), <https://institute.coop/legacy-business-our-opportunity-build-wealth-economy-and-culture> [https://perma.cc/Z5HR-BCFP].

Worker cooperatives build wealth for employee-owners,<sup>100</sup> and can drive their economic mobility.<sup>101</sup> Unlike traditional businesses that generate income for employees and owners, but provide wealth only to the owners of the business stock,<sup>102</sup> cooperatives grant workers assets that continue to produce income for them and their families on an ongoing basis.<sup>103</sup> Thus, by promoting worker cooperatives, cities can build wealth in otherwise under-resourced communities. Moreover, owners normally reinvest their profits in the business, or spend locally, thereby keeping the profits from cooperative business within the neighborhood.<sup>104</sup>

Beyond ownership, worker cooperatives create dignified opportunities for employment. In worker cooperatives, people with barriers to employment, including the undocumented and the formerly incarcerated, can gain professional experience.<sup>105</sup> According to the Democracy at Work Institute, “[m]ore than half of worker cooperatives in the United States today were designed to improve low-wage jobs and build wealth in communities most directly affected by inequality.”<sup>106</sup> In addition to employment opportunities, cooperatives tend to have more progressive labor practices than conventional stores; many offer benefits, bonuses, and profit sharing.<sup>107</sup> Workers at cooperatives have been shown to enjoy increased job security,<sup>108</sup> higher incomes,<sup>109</sup> and greater skills development.<sup>110</sup> Furthermore, because workers, rather than outside

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100. Rachael A. Tanner, *Worker Owned Cooperatives and the Ecosystems That Support Them* 20 (June 20, 2013) (unpublished M.A. thesis, Massachusetts Institute of Technology) (on file with the Massachusetts Institute of Technology Library), <https://dspace.mit.edu/handle/1721.1/81643> [<https://perma.cc/9UUB-V8MU>].

101. DEMOCRACY AT WORK INST., *supra* note 55.

102. Tanner, *supra* note 100, at 18.

103. *Id.*

104. DEMOCRACY AT WORK INST., *supra* note 55.

105. Chen, *supra* note 95.

106. DEMOCRACY AT WORK INST., *supra* note 55.

107. HEALTHY FOODS HEALTHY COMMUNITIES, *supra* note 86, at 7–8.

108. Ben Craig & John Pencavel, *The Behavior of Worker Cooperatives: The Plywood Companies of the Pacific Northwest*, 82 AM. ECON. REV. 1083, 1089–91 (1992).

109. JENNIFER JONES AUSTIN, FED’N OF PROTESTANT WELFARE AGENCIES, *WORKER COOPERATIVES FOR NEW YORK CITY: A VISION FOR ADDRESSING INCOME INEQUALITY* 13–14 (2014), <http://fpwa.org/wp-content/uploads/2015/01/Worker-Cooperatives-for-NYC-A-Vision-for-Addressing-Income-Inequality.pdf> [<https://perma.cc/T7RR-JEB4>].

110. David I. Levine, *Public Policy Implications of Imperfections in the Market for Worker Participation* 5 (Inst. for Research & Labor Emp’t, Working Paper No. 27–

investors, make business decisions, worker cooperatives are also less likely to shed jobs in order to prioritize profits, as compared to other firms.<sup>111</sup> Worker cooperatives, then, may advance food justice by providing living wages and humane working conditions in the food sector.

#### IV. CHALLENGES THAT COOPERATIVES FACE

Increasing the role of cooperatives within the food system could help address the root cause of food injustice by building wealth and power in low-income communities of color, while simultaneously providing these communities with access to nutritious food. Cooperatives also provide an alternative to the structural inequalities of the industrial and corporate-controlled food system. However, consumer and worker cooperatives are still relatively scarce businesses that differ in critical ways from traditional corporations, and the institutions that currently support businesses do not adequately meet the needs of cooperatives because they deal primarily with traditional businesses. Thus, there are numerous opportunities for governments, particularly on the state and municipal level, to promulgate policies and laws to promote cooperatives and ease their development. Non-profit and commercial entities that serve businesses could also tailor their services to support cooperatives.

Data reveals that cooperatives are still quite rare. The Cooperative Economics Alliance of New York City's 2017 New York City Co-op & Solidarity Economy Directory lists just seventy-nine worker cooperatives and sixty-nine food and consumer cooperatives in New York City.<sup>112</sup> In addition to the general hurdles of starting a new business, cooperatives come with their own unique challenges. Despite these challenges, studies suggest that cooperatives may have higher rates of success than traditional corporations.<sup>113</sup> Given their

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91, 1991), <http://irle.berkeley.edu/workingpapers/27-91.pdf> [<https://perma.cc/AXD8-CL8F>].

111. Alana Semuels, *Getting Rid of Bosses*, ATLANTIC (July 8, 2015), <https://www.theatlantic.com/business/archive/2015/07/no-bosses-worker-owned-cooperatives/397007/> [<https://perma.cc/73LT-EQX3>].

112. See COOP. ECON. ALL. OF N.Y.C. (CEANYC), NEW YORK CITY CO-OP & SOLIDARITY ECONOMY DIRECTORY 47–51, 96–99 (2017). While these statistics present data on different types of cooperatives, it is important to note that it is possible for a worker cooperative to also be a consumer cooperative.

113. A commonly cited statistic is the Small Business Administration's statistic that only two-thirds of businesses with employees survive two years and only half survive at least five years. SMALL BUS. ADMIN. (SBA), SMALL BUSINESS FACTS (2012),

many benefits and higher success rates, it is worth examining why cooperatives are not more common in the food sector. Policymakers and change agents should be called on to provide solutions to these barriers. This section will discuss some of the obstacles to creating and maintaining successful cooperatives in the food sector, first with a discussion of consumer food cooperatives, followed by a discussion of worker cooperatives.

### A. Areas Where Food Sector Worker Cooperatives Need Support

Worker cooperatives face a number of difficulties that range from lack of awareness about the cooperative structure to financial and technical hurdles that could require institutional reform. To help communities pursue cooperative development, state and local governments should provide resources and support to address these challenges.

#### 1. Raising Awareness of Cooperatives

For cooperatives to serve as meaningful vehicles of change in the food system, greater awareness of what cooperatives are and how they benefit workers and communities must be built. Though interest in cooperatives is increasing,<sup>114</sup> the general public still is not as familiar with the worker cooperative model as they are traditional firms and, as a result, potential entrepreneurs do not seriously consider worker cooperatives as an alternative business form.<sup>115</sup>

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<https://www.sba.gov/sites/default/files/Business-Survival.pdf> [<https://perma.cc/3ZR3-YXCJ>]. While data on the success rates of cooperatives in the United States is scarce, one source provides that:

[N]ational records show that 60 to 80 percent of corporations in the US fail after their first year in business, and cooperatives fail only at the rate of about 10 percent after their first year (WOCCU, 2003) . . . . Cooperatives are also more likely to survive in the long term. More than 90 percent of cooperatives are still operating while only 3–5 percent of standard corporations remain active after five years.

RICHARD C. WILLIAMS, *THE COOPERATIVE MOVEMENT* 9–10 (2007); *see also* Erik K. Olsen, *The Relative Survival of Worker Cooperatives and Barriers to Their Creation*, *in* 14 *SHARING OWNERSHIP, PROFITS, AND DECISION-MAKING IN THE 21ST CENTURY: ADVANCES IN THE ECONOMIC ANALYSIS OF PARTICIPATORY & LABOR-MANAGED FIRMS* 83, 83–107 (Douglas Kruse ed., 2013) (discussing international studies suggesting the short-term success rate of worker cooperatives is comparable to or better than traditional firms).

114. Michael Palmieri, *Measuring the Impact of the Cooperative Sector*, *DEMOCRACY AT WORK* (Oct. 26, 2017), [http://www.democracyatwork.info/measuring\\_impact\\_cooperative\\_sector](http://www.democracyatwork.info/measuring_impact_cooperative_sector) [<https://perma.cc/4JQG-TTRD>].

115. HILARY ABELL, *DEMOCRACY COLLABORATIVE, WORKER COOPERATIVES: PATHWAYS TO SCALE* 22 (2014), <https://community-wealth.org/sites/clone.community->

Policymakers must be educated as to how cooperatives can further existing political objectives. And those funding new business endeavors must be informed so they feel more secure about investing in cooperatives.<sup>116</sup> Not only are people uninformed about cooperatives,<sup>117</sup> but misinformation about cooperatives paints them—contrary to what objective data reveals—as riskier than traditional enterprises.<sup>118</sup> Thus, the success of cooperatives in the United States will require a cultural shift to promote appreciation for the cooperative model of business.<sup>119</sup>

## 2. *Increasing Access to Financing and Managing Risk*

One of the largest deterrents to new business startups is lack of access to capital,<sup>120</sup> so increasing the number of cooperatives in the

wealth.org/files/downloads/WorkerCoops-PathwaysToScale.pdf [<https://perma.cc/8H93-TVGD>] (“The cooperative model is rarely taught in schools, nor is it visibly present in most communities or in the mainstream media. Students of social science, law, and industrial relations occasionally get exposure to the cooperative model, but cooperative businesses are almost invisible in business school curricula.”).

116. CAMILLE KERR ET AL., DEMOCRACY AT WORK INST. & DEMOCRACY COLLABORATIVE, TAKING EMPLOYEE OWNERSHIP TO SCALE 4 (2016), <https://institute.coop/sites/default/files/resources/DAWI%20-%20taking%20employee%20ownership%20to%20scale.pdf> [<https://perma.cc/N5NY-Y2XT>] (experts convening to discuss how to increase employee ownership noted that “[f]unders and change leaders don’t recognize employee ownership as a tool for positive social change” and “[t]he business community is not very aware of employee ownership as a viable option.”).

117. Justin Schwartz, *Where Did Mill Go Wrong?: Why the Capital-Managed Firm Rather than the Labor-Managed Enterprise Is the Predominant Organizational Form in Market Economies*, 73 OHIO STATE L.J. 219, 276–77 (2012) (“Labor management in market societies is, to say the least, unfamiliar because it is so rare—the mere exposure effect predicts that it would be rare in part because it is unfamiliar. In contrast, capital management is highly familiar, indeed predominant. Most workers (and most lenders and investors) do not know about cooperative organization, while self-employment or small capitalist business is widely known and moderately well understood.”).

118. VIRGINIE PEROTIN, CO-OPERATIVES UK, WHAT DO WE REALLY KNOW ABOUT WORKER CO-OPERATIVES? 4, 14 (2010), [https://www.uk.coop/sites/default/files/uploads/attachments/worker\\_co-op\\_report.pdf](https://www.uk.coop/sites/default/files/uploads/attachments/worker_co-op_report.pdf) [<https://perma.cc/DJX4-DNSA>] (presenting a study of international data on worker cooperatives and finding that the evidence directly contradicts the traditional view of worker cooperatives as “small, specialised and undercapitalised organisations . . . [that] thrive in unusual conditions and cannot possibly constitute a serious alternative to conventional firms.”).

119. ABELL, *supra* note 115, at 1.

120. Scott A. Shane, *The Costs of Entrepreneurial Job Creation*, N.Y. TIMES: YOU’RE THE BOSS BLOG (July 6, 2009, 7:00 AM), <https://boss.blogs.nytimes.com/2009/07/06/how-much-does-it-cost-to-create-a-job-by-encouraging-entrepreneurship/> [<https://perma.cc/N5YQ-EU36>] (“Surveys of entrepreneurs consistently reveal that the biggest deterrent to starting a company is lack of capital[.]”).

food sector will require more readily available financing.<sup>121</sup> Cooperatives are typically financed differently than traditional companies. Businesses normally finance their operations through a combination of equity and debt.<sup>122</sup> Traditional businesses take advantage of equity financing by selling shares of the business to external investors who gain ownership in the business and voting rights proportional to their amount of capital investment.<sup>123</sup> However, the cooperative form is designed for worker-members to retain ownership and control over the business and to participate economically in the cooperative. Thus, cooperatives are generally funded through a combination of equity investments from members, which grants them the equivalent of one vote in the cooperative,<sup>124</sup> and debt from lenders.<sup>125</sup> Some cooperatives may seek equity investments from external investors, for example through non-voting preferred shares. But because these shares often carry more limited voting rights, and cooperatives prioritize benefits to their members, external investors may not find cooperatives to be lucrative economic investments and often need to be motivated by an independent desire to support the mission of the cooperative.<sup>126</sup>

Cooperatives may also face barriers in obtaining loans from traditional lending bodies. The major sources of debt financing for businesses are financial institutions, including commercial banks (which make up 18.75% of total financing) and finance companies (which make up 4.91% of total financing).<sup>127</sup> However, banks and other traditional lending institutions can be reluctant to make loans to

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121. MARJORIE KELLY ET AL., DEMOCRACY COLLABORATIVE, FINANCING COOPERATIVES 6–7 (2016), [https://democracycollaborative.org/sites/clone.community-wealth.org/files/Coop\\_Excerpt.pdf](https://democracycollaborative.org/sites/clone.community-wealth.org/files/Coop_Excerpt.pdf) [<https://perma.cc/396U-9GVB>].

122. Allen N. Berger & Gregory F. Udell, *The Economics of Small Business Finance: The Roles of Private Equity and Debt Markets in the Financial Growth Cycle*, 22 J. BANKING & FIN. 613, 618 (1998).

123. AllBusiness.com, *Funding Your Business with Loans vs. Equity Capital*, N.Y. TIMES (Feb. 12, 2008), [http://www.nytimes.com/allbusiness/AB6635119\\_primary.html](http://www.nytimes.com/allbusiness/AB6635119_primary.html) [<https://perma.cc/Q2H2-KJ85>].

124. See DORIAN GREGORY ET AL., THE LENDING OPPORTUNITY OF A GENERATION 8 (2016), <http://www.project-equity.org/wp-content/uploads/2017/02/LendingOpportunityOfAGeneration-1.pdf> [<https://perma.cc/KVB2-3SXM>].

125. *Id.* at 7; MARGRET LUND, COOPERATIVE EQUITY AND OWNERSHIP: AN INTRODUCTION 9 (2013), <http://www.uwcc.wisc.edu/pdf/Cooperative%20Equity%20and%20Ownership.pdf> [<https://perma.cc/CGB7-HEGX>].

126. DORIAN GREGORY ET AL., *supra* note 124, at 9; AUSTIN, *supra* note 109, at 30 (“Worker cooperatives also have trouble attracting other outside investors as the structure of their business model allows for surpluses to accrue more towards workers than investors, contrary to traditional businesses.”).

127. Berger & Udell, *supra* note 122, at 619.

cooperatives because they lack knowledge about the business model.<sup>128</sup> These lending institutions may also find it difficult to apply their standard methods of assessing credit scores and risk to cooperatives where risk is spread thinly among multiple owners, each with a relatively small share of the business.<sup>129</sup> In particular, many banks require a personal guarantee by an individual in order to grant a business loan, but this fundamentally conflicts with the cooperative principle that no one member take control of the business.<sup>130</sup> In the absence of a personal guarantee, it can be particularly challenging for new cooperatives to obtain early-stage funding when they have not yet established their profitability.<sup>131</sup> Such external funding challenges pose barriers to cooperative formation in low-income communities in particular. Individuals in communities that lack wealth incur much greater risk when they devote their limited personal funds to a new business.<sup>132</sup>

Given the difficulties in obtaining initial capital or loans from traditional financial institutions, cooperatives may also turn to non-traditional fundraising sources, such as crowd-funding.<sup>133</sup> Nonetheless, cooperatives run the risk of violating highly regulated securities laws and regulations when they approach outside investors for funding, and thus cooperative members may need assistance from

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128. DORIAN GREGORY ET AL., *supra* note 124, at 1 (“[T]here are currently only a handful of lenders in the U.S. that specialize in lending to worker coops.”).

129. *Id.* at 12; KELLY ET AL., *supra* note 121, at 6.

130. AUSTIN, *supra* note 109, at 30; DORIAN GREGORY ET AL., *supra* note 124, at 12; KELLY ET AL., *supra* note 121, at 6; NCBA CLUSA Staff, *Food Cooperatives Now Eligible for Small Business Administration Loans*, NAT’L COOPERATIVE BUS. ASSOC. CLUSA INT’L (Sept. 5, 2017), <http://ncba.coop/latest-initiatives/1934-food-cooperatives-now-eligible-for-small-business-administration-loans> [<https://perma.cc/F66J-5VP4>] (“Because the ownership of most cooperatives consists of multiple members, obtaining personal guaranties from multiple members can be overly burdensome for cooperatives. However, the rules governing guaranties will continue to apply to cooperatives and may ultimately require legislation to change.”).

131. LUND, *supra* note 125, at 9 (“Start-up capital can be some of the most challenging to secure because the co-op has no operating history to rely on.”).

132. CTR. FOR URBAN FUTURE, *LAUNCHING LOW-INCOME ENTREPRENEURS* 17–18 (2013), <https://nycfuture.org/pdf/Launching-Low-Income-Entrepreneurs.pdf> [<https://perma.cc/AX6S-3UFC>] (“While access to capital is an issue for all entrepreneurs and small business owners, it’s particularly acute for the very low-income.”).

133. Armin Schwiendbacher & Benjamin Larralde, *Crowdfunding of Small Entrepreneurial Ventures*, in *THE OXFORD HANDBOOK OF ENTREPRENEURIAL FINANCE* 369, 370 (Douglas Cumming ed., 2012) (“[C]rowdfunding is the financing of a project or a venture by a group of individuals instead of professional parties.”).

business and legal experts to ensure compliance with the law in this process.<sup>134</sup>

Cooperatives could also turn to lending bodies that focus on supporting community development by providing loans in low-income communities. Community Development Financial Institutions are private institutions that provide financial services to low-income communities.<sup>135</sup> A Community Development Credit Union (“CDCU”) is a member-owned (cooperative) financial institution that aims to serve low and moderate-income populations.<sup>136</sup> Given the mission-oriented nature of these institutions and, in the case of CDCUs, their interest in financing other cooperatives, they would be obvious sources of capital for cooperatives.<sup>137</sup> However, because they utilize the same methods of assessing credit and risk as traditional lending institutions described above, cooperatives have not fully leveraged this source of capital.<sup>138</sup> Rules, such as the personal guarantee requirement, must be revised for these collaborations to succeed.<sup>139</sup>

134. KELLY ET AL., *supra* note 121, at 6; *Financing a Cooperative*, CO-OP LAW.ORG, <http://www.co-oplaw.org/finances-tax/financing/> [https://perma.cc/R78Y-RWK9] (advising that “[e]ven asking a potential investor for money can be considered a violation of securities law, unless you’re just applying for a regular business loan from your bank as described above”).

135. *What Are CDFI’s?*, U.S. DEP’T OF TREASURY, [https://www.cdfifund.gov/Documents/CDFI\\_infographic\\_v08A.pdf](https://www.cdfifund.gov/Documents/CDFI_infographic_v08A.pdf) [https://perma.cc/2H65-D3EV].

136. *What Is a Credit Union?*, NAT’L CREDIT UNION ADMIN., <https://www.mycreditunion.gov/Pages/whats-a-credit-union.aspx> [https://perma.cc/X8AL-MLN4].

137. *See* Press Release, CDCU Receives \$3 Million from CDFI Fund Healthy Foods Financing (Sept. 16, 2011), <https://www.cuinsight.com/press-release/cdcu-receives-3-million-from-cdfi-fund-healthy-foods-financing> [https://perma.cc/SJ92-T74J] (emphasizing a CDFI helping fund food cooperatives in food deserts).

138. KELLY ET AL., *supra* note 121, at 6 (“The CDFIs that are lending to worker co-ops have developed appropriate underwriting standards, but this knowledge has yet to be disseminated broadly through the financial services sector.”).

139. John W. Lawrence, *A Call to Develop a Worker Cooperative Sector in New York City: How the City Can Create Jobs and Address Inequality at Its Roots*, TRUTHOUT (Feb. 23, 2014), <http://www.truth-out.org/news/item/22000-a-call-to-develop-a-worker-cooperative-sector-in-new-york-city-how-the-city-can-create-jobs-and-address-inequality-at-its-roots> [https://perma.cc/E4DT-RXNU] (“[C]redit unions are financial co-operatives and have a natural inclination to lend to worker co-ops. However, current regulations make lending to work co-ops difficult.”); *see also* SOLIDARITY NYC, GROWING A RESILIENT CITY: POSSIBILITIES FOR COLLABORATION IN NEW YORK CITY’S SOLIDARITY ECONOMY 9 (2013), <http://solidaritynyc.org/wp-content/uploads/2013/02/Growing-A-Resilient-City-SolidarityNYC-Report.pdf> [https://perma.cc/HM3T-HFUZ].



### 3. Increasing Access to Technical Assistance

Running a successful cooperative takes business acumen, technical skills, and knowledge. One of the major barriers to new cooperatives in the food sector is the lack of access to legal and business expertise.<sup>140</sup> Where legal, business, or technical assistance is available, it is also critical to raise awareness of these resources, particularly among low-income individuals.<sup>141</sup>

Forming a cooperative requires navigating complex legal issues, such as selecting a business entity that will meet the cooperative's goals.<sup>142</sup> While some states, such as New York and Minnesota,<sup>143</sup> have cooperative laws that allow a business to specifically form as a cooperative, a cooperative can form as one of a number of different business entities.<sup>144</sup> Choosing among the different options requires knowledge about their respective benefits and drawbacks, as well as how they fit with the cooperative's set goals.<sup>145</sup> For example, some cooperatives may find it preferable to form as a limited liability company, which protects members from being personally liable and allows for flexibility in organization and management.<sup>146</sup> Making an

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140. Joel Rogers, *Using State and Local Policies*, 22 GOOD SOC'Y 91, 103 (2013) ("One key obstacle to the expansion of democratic, employee ownership is the lack of financial and technical resources available to companies considering this model.").

141. CTR. FOR URBAN FUTURE, *supra* note 132, at 28–29 ("Most of the entrepreneurship assistance organizations interviewed for this report rely heavily on word of mouth, email blasts, referrals and fliers to market their services. The limited outreach—primarily a function of small operating budgets with hardly any dedicated funding for marketing means limited reach.").

142. SUSTAINABLE ECONS. LAW CTR., THINK OUTSIDE THE BOSS: HOW TO CREATE A WORKER-OWNED BUSINESS 8–9 (7th ed. 2016), [https://drive.google.com/file/d/0B\\_rgt0QdXUbycnprd3hhYzdWNnc/view](https://drive.google.com/file/d/0B_rgt0QdXUbycnprd3hhYzdWNnc/view) [<https://perma.cc/ZCX9-QXY5>].

143. N.Y. COOP. CORP. LAW §§ 1, 3 (McKinney 2018); MINN. STAT. §§ 308A.101, 308B.201 (2017).

144. *See Worker Cooperatives*, N.Y.C. BUS. SOLUTIONS, [http://www.nyc.gov/html/sbs/nycbiz/downloads/pdf/educational/sector\\_guides/worker\\_cooperative.pdf](http://www.nyc.gov/html/sbs/nycbiz/downloads/pdf/educational/sector_guides/worker_cooperative.pdf) [<https://perma.cc/9NDJ-BGSA>] ("All major legal structures qualify (partnership, limited partnership, limited liability partnership, 'C' and 'S' corporations, nonprofit corporations, LLCs)."); *see also infra* Part V.

145. DEMOCRACY AT WORK INST., CHOOSING A BUSINESS ENTITY: A GUIDE FOR WORKER COOPERATIVES 1 (2014), <http://institute.coop/sites/default/files/ChoicofEntityFinal.pdf> [<https://perma.cc/FGA8-L6CT>] ("Each [business] entity type has implications on important issues including taxation, employment law, and access to capital.").

146. *See generally* SARAH SEXTON, INSIGHT CTR. FOR CMTY. ECON. DEV., LIMITED LIABILITY COMPANIES AS WORKER COOPERATIVES (2009), <http://www.e4fc.org/images/limited-liability-co-worker-coop.pdf> [<https://perma.cc/4SF7-3AGV>].

informed decision about cooperative business formation requires familiarity with the various legal entity options available.<sup>147</sup>

Once they have selected a business entity, cooperative members must then draft organizing documents, such as articles of incorporation and by-laws, which set out binding procedures that will govern the cooperative's business.<sup>148</sup> Members may feel uncomfortable drafting these on their own without legal expertise.<sup>149</sup> Cooperatives also encounter other common legal issues, including labor laws, building codes, and real estate law. Cooperatives that struggle to obtain financing from traditional sources may need experts to assist with other means of raising capital and complying with securities laws.<sup>150</sup> Food sector businesses also need assistance complying with food safety and quality assurance laws, as well as obtaining proper vendor licenses.<sup>151</sup>

Thus, individuals and communities interested in starting a mission-driven cooperative in the food sector may not have the technical knowledge necessary to start and run a business. The relative absence of incubators—companies that help new and startup companies to develop—and resources tailored specifically to the cooperative sector compounds these difficulties.<sup>152</sup> Incubators are essential to ensuring the success of cooperatives because they provide practical support derived from the experiences of other cooperatives.<sup>153</sup> While a small number of incubators exist for

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147. *Id.*; see also Edward W. De Barbieri & Brian Glick, *Legal Entity Options for Worker Cooperatives*, GRASSROOTS ECON. ORG. (GEO) NEWSL. (2011), <http://www.geo.coop/node/628> [<https://perma.cc/3878-2G9W>].

148. SUSTAINABLE ECONS. LAW CTR., *supra* note 142, at 17–20.

149. Karen Zimelman, *Bylaws: How Strong Is Your Co-op's Foundation?*, COOPERATIVE GROCER NETWORK (Feb. 15, 1988), <https://www.grocer.coop/articles/bylaws-how-strong-your-co-ops-foundation> [<https://perma.cc/35E8-E5UT>].

150. SUSTAINABLE ECONS. LAW CTR., *supra* note 142, at 70–75 (advising new cooperatives that “[s]ecurities law is highly complex and failure to comply with securities regulations may lead to civil and criminal sanctions. Consult an attorney before trying to raise money”); Joshua Bloom, *Coops Find New Options in Investment Funds and Crowdfunding*, LOCAVESTING (Aug. 13, 2015), <https://www.locavesting.com/new-economy/coops-find-new-options-in-investment-funds-and-crowdfunding/> [<https://perma.cc/7KGE-EEQ8>].

151. PANSING ET AL., *supra* note 5, at 72–73 (“[C]ritical barriers to entry include: food safety and quality assurance knowledge or licensing; food costs; labor costs; and labor availability (having job openings with no one to fill them).”).

152. AUSTIN, *supra* note 109, at 30.

153. Nina Misuraca Ignaczak, *It Takes an Ecosystem: The Rise of Worker Cooperatives in the US*, SHAREABLE (July 16, 2014), <https://www.shareable.net/blog/it-takes-an-ecosystem-the-rise-of-worker-cooperatives-in-the-us> [<https://perma.cc/Z5P5-Z7U2>].

cooperatives in New York City, more incubators are required to grow the number of cooperatives.<sup>154</sup> Cooperatives also require targeted assistance because pro bono lawyers and consultants that are generally available may not be familiar with their unique legal and business concerns.<sup>155</sup> Cooperatives also tend to be scrappy operations managed by individuals who take an autonomous, “do-it-yourself” approach, and who may be reluctant to reach out to technical and business resources, even where they are available.<sup>156</sup> Thus, there are many unique needs that have yet to be met in providing adequate expert assistance to new cooperatives.

#### 4. *Increasing Access to Affordable Land*

A cooperative’s success will largely depend on finding a convenient and accessible location for the community it wishes to serve. This can be a special challenge in cities like New York where affordable commercial space is scarce. This lack of affordable space further underscores the importance of being able to access sufficient capital and presents a challenge unique to cooperative creation in urban communities. In New York City, for example, the cost of land has risen rapidly in recent years. A 2015 report found that the price of land in Brooklyn rose by ninety-six percent between 2009 and 2014 to \$183 per square foot.<sup>157</sup> Policies should help increase access to desirable assets for cooperatives wishing to serve local community needs.<sup>158</sup>

#### 5. *Supporting Democratic Self-Management*

For cooperatives to be successful, members must learn and adopt participatory and democratic structures that may be unfamiliar and

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154. See NYC Worker Cooperative Services Providers, N.Y.C. NETWORK OF WORKER COOPS., <https://nycworker.coop/resources/> [<https://perma.cc/LD63-VTKK>].

155. AUSTIN, *supra* note 109, at 30–31 (“While other organizations in the city also provide transactional legal services to small business owners, the current capacity of legal service providers to work on worker cooperative-specific issues is limited, as their expertise and the expertise of their pro bono volunteers is in traditional corporate business structures.”).

156. ABELL, *supra* note 115, at 22 (“Whether due to limited funds to pay for business advice or co-op enthusiasts’ penchant for the do-it-yourself approach, far too many co-op founders and developers undertake this work without the benefit of the business expertise that comes only from experience.”).

157. See C.J. Hughes, *The Dirt on NYC’s Soaring Land Values*, REAL DEAL (Apr. 1, 2015), [https://therealdeal.com/issues\\_articles/486631/](https://therealdeal.com/issues_articles/486631/) [<https://perma.cc/4N6U-TPE8>].

158. PANSING ET AL., *supra* note 5, at 39–40.

require new skill-building.<sup>159</sup> Democratic decision-making can take time, but it is an essential component of worker cooperatives. Conflicts about the right course of action can create greater barriers because people expect to be heard and decisions must be made together rather than unilaterally.<sup>160</sup> Indeed, “[o]rganizational democracy requires leadership, good process design, and skilled facilitation,” all of which cooperatives may need help developing.<sup>161</sup> Installing leaders and managers who are able to lead cooperatives can also pose challenges because cooperatives have a natural aversion to the idea of “leadership.” Managers must not only have the capacity to make skilled business decisions but must also be able to build strong relationships among members and keep them engaged.<sup>162</sup> Thus, leaders must be able to skillfully facilitate the democratic decision-making process fundamental to the cooperative structure.

### B. Areas Where Consumer Food Cooperatives Need Support

Consumer food cooperatives share some of the same challenges worker cooperatives face in securing financing,<sup>163</sup> accessing technical assistance,<sup>164</sup> finding affordable land,<sup>165</sup> and managing themselves democratically.<sup>166</sup> Additionally, they can struggle with being accessible to low-income communities of color.<sup>167</sup> Consumer food

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159. Frank Lindenfeld & Pamela Wynn, *Why Some Worker Co-ops Succeed While Others Fail*, GRASSROOTS ECON. ORG. (GEO) NEWSL. (Sept. 1995), <http://www.geo.coop/story/why-some-worker-co-ops-succeed-while-others-fail> [<https://perma.cc/QP5J-GRZ9>].

160. *Id.*

161. ABELL, *supra* note 115, at 24.

162. *Id.*

163. FOOD CO-OP INITIATIVE, THE FCI GUIDE TO STARTING A FOOD CO-OP 49–51 (2017), <https://www.fci.coop/resource-library/> [<https://perma.cc/93Y9-RWJF>].

164. *Id.* at 49 (“Depending on the skills and experience of your project manager, you may need additional technical assistance. Food co-op consultants experienced in cooperative finance, retailing, and membership development are available, and can help ensure that you reach your development goals and have viable plans.”); *id.* at 13 (“One of the most important insights is that when startup groups get professional advice early on in their process, they are much more likely to open their co-ops sooner and with greater financial stability. Expertise promotes best-practices, saving groups time and money.”). Food cooperatives also may need technical assistance with grocery-store-specific issues such as how to properly freeze foods and which point of sale system to use. *See id.* at 62–67.

165. *Id.* at 78 (“One of the common challenges for start-ups is finding the perfect location. Either the real estate costs are prohibitive or there is nothing available.”).

166. *Id.* at 51.

167. *See* Vivian Yee, *Food Co-ops in Gentrifying Areas Find They Aren’t to Every Taste*, N.Y. TIMES (Feb. 11, 2014), <https://www.nytimes.com/2014/02/12/nyregion/as->

cooperatives also face unique challenges in bringing nutritious, affordable, and desirable food to neighborhoods without good food options.

More needs to be done to encourage the development of consumer food cooperatives in low-income communities of color. Joining a consumer food cooperative often involves a commitment of time working at the cooperative in order to benefit from the lower member prices,<sup>168</sup> in addition to an equity investment to become a member.<sup>169</sup> Low-income individuals have fewer financial resources and often have more constraints on their time from commitments such as working multiple jobs or fulfilling childcare responsibilities.<sup>170</sup> Thus, policies must be thoughtful in ensuring these barriers do not prevent them from taking advantage of the benefits membership in a consumer food cooperative could offer.

Additionally, food cooperatives may unintentionally alienate local communities. While many food cooperatives are committed to stocking healthy food that is grown locally, sustainably, and organically, these principles can also lead to higher food prices than at other local grocery stores.<sup>171</sup> These principles may also cause people to think of consumer food cooperatives as specialty health food stores and they may be detached from the cultural context of the community where they sit. Community members may also simply be unaware of what a food cooperative is or why they would benefit from being a member. Outreach and education are therefore essential.<sup>172</sup>

In order to ensure they are benefiting their target clientele and not contributing to gentrification, cooperatives intending to serve low-income communities of color must also be careful about their

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neighborhoods-gentrify-co-ops-find-they-are-not-to-everyones-taste.html  
[<https://nyti.ms/2GLtFv3>].

168. See, e.g., Ann Herpel, *Park Slope Food Coop*, COOP. GROCER NETWORK (May 3, 2004), <https://www.grocer.coop/park-slope-food-coop> [<https://perma.cc/82U6-9ZK4>] (“PSFC has more than 17,000 members, most of whom work once every four weeks in exchange for a 20–40% savings on groceries.”).

169. FOOD CO-OP INITIATIVE, *supra* note 163, at 7.

170. See generally Christine E. Gringeri, *The Poverty of Hard Work: Multiple Jobs and Low Wages in Family Economies of Rural Utah Households*, 28 J. SOC. & SOC. WELFARE 3 (2001).

171. See Yee, *supra* note 167 (“A group of local teenagers was abuzz over the price of a single candy bar at the new Bushwick Food Co-op: \$3.10, plus tax. Why so much, they asked, when a candy bar costs a dollar or less at the neighborhood bodega? But this was no bodega candy: It was Equal Exchange fair-trade chocolate, sold alongside milk from grass-fed cows, pasture-raised chicken and produce from the Finger Lakes region.”).

172. FOOD CO-OP INITIATIVE, *supra* note 163, at 46.

locations. New consumer food cooperatives, in particular, have been accused of gentrifying historically low-income communities of color.<sup>173</sup> Critics have charged that they effectively serve new, white, middle-class transplants to these areas and contribute to displacement of long-time residents by raising land prices.<sup>174</sup> Cooperatives thus must be conscious about providing services that truly meet local community needs, and policies should support cooperatives with these values.

## V. POLICIES AND SOLUTIONS

There exist ample opportunities for cities to create new local cooperative businesses that create wealth in communities while serving the nutritional needs of long-time residents.<sup>175</sup> This section proposes policies that cities and states can implement to support the growth of cooperatives and tackle some of the challenges discussed in the previous section. Policies highlighted here include Minnesota's cooperative law, international frameworks developed in Italy and Quebec, and New York City's initiatives to support cooperatives. These models showcase policies that cities and states could adopt to promote their own food sector cooperatives that aim to achieve food justice goals.

### A. State Cooperative Corporations Laws

States may consider passing cooperative laws that establish cooperatives as a specific business entity and provide a template for their formation. Statutes of this kind make it easier to create a cooperative and designate companies as such. These statutes can also be used to actively promote the adoption of the cooperative model. Minnesota demonstrates how a state can write its cooperative laws to better support and encourage those using, or thinking about using, the cooperative form.

The State of Minnesota has had a cooperative corporation law in place since 1989.<sup>176</sup> In addition to this 1989 law, in 2003, Minnesota

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173. Yee, *supra* note 167.

174. *Id.*

175. ANN DILLEMUTH, GROWING FOOD CONNECTIONS, COMMUNITY FOOD SYSTEMS AND ECONOMIC DEVELOPMENT 1 (Kimberley Hodgson & Samina Raja eds., 2017), [http://growingfoodconnections.org/wp-content/uploads/sites/3/2015/11/GFC\\_PlanningPolicyBrief\\_EconomicDevelopment\\_2017Sept.pdf](http://growingfoodconnections.org/wp-content/uploads/sites/3/2015/11/GFC_PlanningPolicyBrief_EconomicDevelopment_2017Sept.pdf) [<https://perma.cc/TJ73-8HLE>].

176. 1989 Minn. Sess. Law Serv. 144 (West) (codified as amended at MINN. STAT. § 308A.001 (2017)).

passed the Minnesota Cooperative Associations Act, successfully providing the option of a second and distinct cooperative form.<sup>177</sup> Today, a cooperative in Minnesota can form through the more traditional 1989 cooperative statute or the new version, which provides more flexibility to the cooperative structure.<sup>178</sup> The addition was implemented in part due to the increasing number of cooperatives switching to LLCs and other business structures to garner greater equity capital.<sup>179</sup> The updated Minnesota statute permits outside equity investment, in addition to limited voting rights within the cooperative for all equity investors.<sup>180</sup> The new cooperative statute introduced investment members, which are distinct from, and in addition to, the more traditional patron members (those who do business for or with the cooperative).<sup>181</sup>

While cooperative laws are not necessary for the development of cooperatives (which can form as a number of different entities), statutes of this kind aim to provide flexibility and still embed essential cooperative principles into the business. In some cases only businesses formed under cooperative laws may officially use the word “cooperative” in their name.<sup>182</sup> Under the new Minnesota statute, patron members must maintain a minimum of 50% of voting control of the board of directors,<sup>183</sup> and must also hold at least 50% of the voting power in “general matters of the cooperative.”<sup>184</sup> This requirement effectively ensures that business decisions are reserved

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177. 2003 Minn. Sess. Law Serv. H.F. No. 984 (West) (codified as amended at MINN. STAT. § 308B.001); see Robert Hensley & David Swanson, *Minnesota Legislature Adopts New Cooperative Associations Act: Coops Should Carefully Review Options to Avoid Pitfalls*, DORSEY & WHITNEY LLP: NEWS ALERT (May 2003), [https://www.dorsey.com/~media/files/newsresources/publications/2003/05/minnesota-legislature-adopts-new-cooperative-ass\\_/files/tbls21publicationspdfupload141352mnlegislatureema\\_/fileattachment/mnlegislaturemay2003.pdf](https://www.dorsey.com/~media/files/newsresources/publications/2003/05/minnesota-legislature-adopts-new-cooperative-ass_/files/tbls21publicationspdfupload141352mnlegislatureema_/fileattachment/mnlegislaturemay2003.pdf) [https://perma.cc/DK7T-LKL9]; see also Memorandum from Bill Oemichen, President & CEO, & Maura Schwartz, Managing Dir., Minn. Ass’n of Coops., to Minnesota Cooperative Leaders (June 5, 2003) [hereinafter Oemichen & Schwartz Memorandum], <http://www.uwcc.wisc.edu/info/legal/mnsummary.pdf> [https://perma.cc/96NT-XRPP] (discussing the difference between Chapter 308A and 308B of the Minnesota statutes).

178. See Hensley & Swanson, *supra* note 177. See generally, e.g., MINN. STAT. §§ 308A.635, 308B.601.

179. See Oemichen & Schwartz Memorandum, *supra* note 177.

180. See *id.*; see also MINN. STAT. § 308B.501, 308B.545.

181. See Oemichen & Schwartz Memorandum, *supra* note 177.

182. See *Choice of Entity*, CO-OP LAW.ORG, <http://www.co-oplaw.org/governance-operations/entity/> [https://perma.cc/8BYJ-FRKG].

183. MINN. STAT. § 308B.411(2)(b).

184. *Id.* § 308B.411(2)(c).

for patron members, who also have the exclusive rights to elect a majority of the board of directors (unless the cooperative deviates from the rule in its bylaws).<sup>185</sup> Subsequently, patron members generally vote as a block in board decisions or in these general matters.<sup>186</sup> The patron members also retain a minimum of 60% of the cooperative profits, unless they vote to lower this.<sup>187</sup> If they do, investor members may only garner up to 85% of the profits, even if they own more than that amount of the cooperative.<sup>188</sup>

California's Worker Cooperative Act,<sup>189</sup> which went into effect in 2016, also illustrates how a state statute can assist cooperative development. California's law requires that 51% of workers in worker cooperatives must be owners or on a path to ownership<sup>190</sup> and caps distribution of profits to non-worker-owners at 15%.<sup>191</sup> California's cooperative law also provides an exemption from securities regulations for member shares up to \$1000, making it easier for members to invest more money into the cooperative.<sup>192</sup> This type of statutory provision can assist cooperatives that often lack access to legal expertise necessary to comply with these regulations.

While these state statutes may ease cooperative formation, questions remain as to whether laws like these might diminish patron members' earnings in the long-run. Given the need for an updated legal regime in the United States, it is instructive to consider how other countries support cooperative businesses.

## B. International Examples

This section examines two international regimes that have developed policies to support the cooperative business structure. Italy and Quebec have engineered creative solutions for incorporating cooperatives into the economy. These examples present potential alternative solutions for cities and states that seek to introduce and foster cooperatives in their communities.

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185. *Id.*

186. *See* Oemichen & Schwartz Memorandum, *supra* note 177.

187. MINN. STAT. § 308B.601(3).

188. *Id.*

189. CAL. CORP. CODE § 12200 (West 2017).

190. *Id.* § 12253.5.

191. *Id.* § 12451.

192. *Id.* § 25100(r).



### 1. Italy

In many ways, cooperatives in Italy have been boosting the economy, even during the height of the recent Great Recession.<sup>193</sup> In Emilia Romagna, a region in Italy with nearly 4.5 million people, where two out of every three people are cooperative members, cooperatives produce thirty percent of the regional GDP.<sup>194</sup> This economic growth, driven by cooperatives, is a result of successful organizing dating back to the 1800s and growth within a rich tradition of agriculture.<sup>195</sup> In 1971, the regional government passed a law that helped facilitate a great influx of cooperatives.<sup>196</sup> This 1971 law exempted cooperatives from certain banking limitations, thus enabling crowdfunding (for capital), which resulted in raising funds in small amounts from the large cooperative customer base.<sup>197</sup> Moreover, under the Marcora Law, which was passed in 1985, workers' unemployment funds can be used as capital to cooperatize the workplace.<sup>198</sup>

In December of 1977, Article 12, Law 16 exempted profits saved as reserves (indivisible to members) by cooperatives from corporate taxation.<sup>199</sup> Depending on the type of cooperative, different exemptions are available, but overall, this policy helps to preserve capital held by cooperatives.<sup>200</sup> The law also requires three percent of cooperative profits to be sent to cooperative development funds and federations.<sup>201</sup> These profits are also exempt from corporate taxes.<sup>202</sup>

Italian cooperative success also reflects broader values and politics.<sup>203</sup> "The social and financial capital built up by co-operators is considered the 'patrimony' not just of the current members, but of

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193. John Duda, *The Italian Region Where Co-ops Produce a Third of Its GDP*, YES! MAG. (July 5, 2016), <http://www.yesmagazine.org/new-economy/the-italian-place-where-co-ops-drive-the-economy-and-most-people-are-members-20160705> [https://perma.cc/25A5-9PBM].

194. *Id.*

195. *Id.*

196. *Id.*

197. *Id.*

198. *Id.*; see Legge 27 febbraio 1985, n.49, G.U. Mar. 5, 1985, n.55 (It.) (known as the Marcora Law); see also INTERNATIONAL HANDBOOK OF COOPERATIVE LAW 497 (Dante Cracogna et al. eds., 2013).

199. See INTERNATIONAL HANDBOOK OF COOPERATIVE LAW, *supra* note 198, at 496–97.

200. *Id.*

201. *Id.*

202. See Duda, *supra* note 193. This is a lot like lawyers paying a portion of their profits into legal aid services.

203. *Id.*

future generations as well.”<sup>204</sup> Furthermore, no major political party within Italy opposes the use or development of cooperatives.<sup>205</sup> Therefore, it appears cooperative structures are something that the United States will have to build into the social fabric of generations to come, if extensive growth in use of the cooperative form is desired. To achieve true change and empowerment of workers in the food sector, governments should adopt policies modeled after the Italian laws to promote and encourage both worker-owned and consumer food cooperatives.

## 2. Quebec

Quebec presents an alternative cooperative form that United States governments and communities could embrace.<sup>206</sup> In addition to traditional cooperatives, Quebec has “solidarity cooperatives,” where there must be at least two of the following categories of members: (1) user members; (2) worker members; and (3) supporting members.<sup>207</sup> Notably, a member can only fall within one category.<sup>208</sup> User members consist of persons or partners that use the services, while worker members are those who work at the cooperative.<sup>209</sup> Supporting members are any person or partnership that has an economic, social, or even cultural interest in the cooperative.<sup>210</sup> Supporting members may file for creation of a solidarity cooperative if they will constitute a minority of the cooperative founders.<sup>211</sup> The inclusion of supporting members<sup>212</sup> creates an entirely different dynamic—in a solidarity cooperative, individuals who have limited connection to the business still maintain significant power. Under the current cooperative laws and structures in the United States, this kind of diverse ownership is not available.

Governments and cooperative advocates in the United States may consider implementing this type of cooperative in some capacity to broaden the rights of those involved in business with a cooperative.

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204. See Erbin Crowell, *Cooperating Like We Mean It: The Co-operative Movement in Northern Italy*, GRASSROOTS ECON. ORG. (GEO) NEWSL., <http://www.geo.coop/node/357> [<https://perma.cc/C99G-7TJJ>].

205. See generally Duda, *supra* note 193.

206. See generally Québec Cooperatives Act, S.Q. 2017, c 67.2 (Can.).

207. *Id.* art. 226.1.

208. *Id.* art. 226.1(1).

209. *Id.*

210. *Id.* art. 226.1(3).

211. *Id.* art. 226.1(2).

212. See generally Québec Cooperatives Act, S.Q. 2017, c 67.2 (Can.).

Alternatively, states may look to create a hybrid that includes worker members and user members without the “supporting members” category. Excluding the “supporting members” category would certainly be more realistic, as gaining substantive rights resulting from a cultural interest in a business is a foreign and obscure concept. A hybrid cooperative form would support the economic status of workers, while preserving the affordable prices characteristic of consumer cooperatives. This cooperative structure effectively merges the positive outcomes from worker-owned and consumer cooperatives.

### C. Other Solutions and Policies

This section considers other policies and solutions that are available to cities and states seeking to further propagate the use of cooperatives to benefit society. State and local governments can use these strategies to propel cooperatives in any format—whether they are worker-owned, consumer, or another form. These specific examples demonstrate potential policies that localities and states may adopt to further develop cooperatives in underserved communities. While these changes will promote cooperatives in all forms, a strong cooperative base simultaneously furthers food justice.

#### 1. Technical Assistance

Local and state governmental entities should provide technical assistance to new and existing cooperatives. Technical assistance can take many forms, including assistance on strategic planning, market research, financial planning, business plan development, and more. Municipal economic development departments can help convert a retiring small business into a cooperative that is owned by its employees.<sup>213</sup> If this is not possible, then governmental bodies should, at a minimum, connect these cooperatives with non-profits that can provide services needed to help form and fund the cooperative business.<sup>214</sup> Additionally, state universities can create programs that help with conversion activities, or cooperative formation, just as the University of Wisconsin has successfully

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213. *Id.* art. 260.

214. See generally AUSTIN, *supra* note 109; SHARABLE & THE SUSTAINABLE ECONS. LAW CTR., POLICIES FOR SHAREABLE CITIES: A SHARING ECONOMY POLICY PRIMER FOR URBAN LEADERS (2013) [hereinafter POLICIES FOR SHAREABLE CITIES], <http://d3n8a8pro7vhm.cloudfront.net/theselc/pages/204/attachments/original/1393535972/Policies-for-Shareable-Cities.pdf?1393535972> [https://perma.cc/G3WD-VRWV].

done.<sup>215</sup> Municipalities, like Cleveland, Ohio, have done this as well.<sup>216</sup> Richmond, California hired a consultant who has successfully worked with the community to form health food, organic food, and electric bike cooperatives.<sup>217</sup> These examples demonstrate how utilizing funding sources for technical assistance can significantly help developing cooperatives.

### 2. *Public Funding and Incubation*

New York City has begun partnering with a non-profit to provide public funds to help the incubation of newly formed cooperatives.<sup>218</sup> In 2012, the New York City Council teamed up with the Center for Family Life and awarded the organization nearly \$150,000 to train two other non-profits to become incubators for cooperative development.<sup>219</sup> Beyond funding incubators, cities may utilize public funds to help support the acquisition of property for cooperative use because obtaining land or storefront space represents a significant cost to forming new cooperatives.<sup>220</sup> Public funding can also be tied to subsidizing prices at a cooperative or dedicated to making food stamps worth more when used at a cooperative. By providing government funds through local programs, municipalities can help the formation of cooperatives in underserved communities, as well as ensure that cooperatives are effectively meeting the needs of such communities.

### 3. *Federal Grants and Loans*

Governmental bodies can also help cooperatives get federal community block grants or act as an intermediary for loans between other institutions.<sup>221</sup> For example, Cleveland, Ohio's Economic Development Department acted as an intermediary to obtain private funding for the Evergreen Cooperative, while also providing the cooperative with public funds and assistance in securing land for a

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215. *See* POLICIES FOR SHAREABLE CITIES, *supra* note 214, at 35.

216. *Id.* at 34.

217. *Id.* at 34–35.

218. *Id.* at 35.

219. *Id.* The Center for Family Life provides necessary services to more than 55,000 of New York's most vulnerable people, focusing on "safety, stability and mastery, building resilience, strengthening the capacity to make meaningful connections, function independently and become fully integrated into the community." *See About Us*, SCO FAMILY OF SERVS., <http://sco.org/about-us/> [https://perma.cc/4HZB-HABG].

220. *See supra* Section IV.A.4.

221. POLICIES FOR SHAREABLE CITIES, *supra* note 214, at 35.

storefront.<sup>222</sup> Alternatively, local governments could give grants or loans themselves when federal funding is not available.<sup>223</sup> However, at a time when many local governments are strained financially, localities may be unwilling to adopt this approach.<sup>224</sup> Therefore, other policy solutions may be necessary.

#### 4. *Private Investments*

Governments can pass laws that promote private investments in cooperatives, which could, in turn, increase the availability of equity capital.<sup>225</sup> Equity capital can aid cooperatives that are in their infancy as well as those that have been in existence for many years. To ensure that cooperatives realize and implement this investment, governments must amend their existing cooperative corporation law, or create an entirely new law, as was done in Minnesota.<sup>226</sup> Notably, this policy must be implemented with care and in a manner that preserves the power of cooperative members—especially in worker cooperatives. Governments must balance these concerns to develop a policy that best fits the economic and political climate in their given jurisdiction.

#### 5. *Youth Education*

One of the policies most important to the long-term success of cooperatives is incorporating the principles underlying cooperatives into public education programs.<sup>227</sup> The cooperative structure differs from the traditional commercial culture within the United States, and thus implementing meaningful change will require educating young people. Some youth organizations have acknowledged this policy by incorporating these principles into their curriculum. For example, the Bronx Compass High School has partnered with Green Worker

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222. *Id.* at 36.

223. *Id.* at 35.

224. *See generally id.*

225. *See generally, e.g.*, MINN. STAT. § 308B.241 (2017); *see also* Hensley & Swanson, *supra* note 177, at 1 (“The theory behind the new Chapter 308B is that the existing Cooperative Law found in Chapter 308A does not allow for outside equity investment in a cooperative. Thus, the purpose of the new Chapter 308B is to dramatically change the permissible equity structures of a cooperative. As a result, Chapter 308B theoretically allows for outside Investor-Members to hold as much as 99.99% of the equity of the cooperative and receive up to 85% of the profits from the cooperative.”).

226. *Id.*

227. POLICIES FOR SHAREABLE CITIES, *supra* note 214, at 37.

Cooperatives to offer a cooperative development class to students.<sup>228</sup> The students in the class develop their own ideas for cooperative businesses and then present the ideas to the school community, which decides whether they want to incubate their startup.<sup>229</sup> Additionally, the Girl Scouts of America has teamed up with Cabot and the National Cooperative Business Association to implement a program called Co-ops for Community, which provides education and activities about cooperatives.<sup>230</sup> Participants in this program may earn a Girl Scout patch.<sup>231</sup> By connecting with youth, these organizations are instilling a new set of principles that may alter societal norms and bring the United States more in line with the cooperative-friendly Italian approach.<sup>232</sup>

### 6. Land Trusts

Communities may also look to create a community land trust (“CLT”). A CLT is “a non-profit, community-based corporation, with . . . a democratically elected board[] and a charitable commitment to the use and stewardship of the land on behalf of local communities.”<sup>233</sup> By utilizing a CLT, communities can bring privately held capital to lower-income areas, promoting social justice in the process.<sup>234</sup> For example, with respect to urban agriculture projects, the CLT may own the land and rent it out to a cooperative, regardless of whether it is a consumer or worker cooperative.<sup>235</sup> The

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228. *Id.*; see also *Co-op Academy: Fall 2018*, GREEN WORKER, <http://www.greenworker.coop/coopacademy> [<https://perma.cc/79M3-TFX4>]. The Co-op Academy, located in the Bronx, provides over seventy hours of training for new entrepreneurs developing green cooperatives. *Id.* The course, free for participants, is funded by New York City’s Worker Cooperative Business Development Initiative and the Simon Bolivar Foundation. *Id.*

229. POLICIES FOR SHAREABLE CITIES, *supra* note 214, at 37.

230. See generally CABOT CREAMERY COOP. & NAT’L COOP. BUS. ASS’N, CO-OPS FOR COMMUNITY (2017), [https://www.cabotcheese.coop/filebin/pdf/Coop\\_Booklet\\_Final\\_Updated\\_02.23.2017.pdf](https://www.cabotcheese.coop/filebin/pdf/Coop_Booklet_Final_Updated_02.23.2017.pdf) [<https://perma.cc/PT9B-Q2UA>] (teaching girl scouts about the International Principles of Cooperatives and detailing various Patch Activities, including visits to local co-ops and related group projects).

231. *Id.*

232. See Duda, *supra* note 193.

233. Greg Rosenberg & Jeffrey Yuen, *Beyond Housing: Urban Agriculture and Commercial Development by Community Land Trusts* 1 (Lincoln Inst. of Land Policy, Working Paper, 2012), [http://www.lincolninst.edu/sites/default/files/pubfiles/2227\\_1559\\_rosenberg\\_wp13gr1.pdf](http://www.lincolninst.edu/sites/default/files/pubfiles/2227_1559_rosenberg_wp13gr1.pdf) [<https://perma.cc/D84G-CFNQ>].

234. *Id.* at 5.

235. See *id.* at 7–12.

cooperative could potentially pay rent, in part, by giving the CLT a discount on purchases.<sup>236</sup>

#### D. New York City Initiatives

New York City has adopted a number of policies to help the formation of worker cooperatives. In adopting these policies, the city may be leaving consumer cooperatives behind. The New York City Council has provided assistance to the newly formed Worker Cooperative Business Development Initiative (“WCBDI”) through the New York City Department of Small Business Services (“SBS”).<sup>237</sup> The WCBDI, formed in 2015, is working to find “innovative ways for New Yorkers to overcome economic and social inequality.”<sup>238</sup> They offer one-on-one support for new worker cooperatives in the areas of “business plan development, marketing and market research, governance and internal manuals assistance, strategic planning, translation services, bookkeeping, financial planning, and succession planning.”<sup>239</sup> They also provide legal support on a host of issues, aid businesses transforming into worker cooperatives, and recommend use of a local non-profit, The Working World,<sup>240</sup> to provide financial as well as other support services.<sup>241</sup> In 2015, \$1.2 million were distributed to eleven partner organizations, and in 2016, \$2.1 million went to fourteen partner organizations—all while the SBS simultaneously and independently offered services to cooperatives.<sup>242</sup>

New York City funds a number of organizations that serve cooperatives. Green Worker Cooperatives offers technical assistance and training through a sixteen-week program for worker cooperative business development.<sup>243</sup> Make the Road New York provides working-class and Latino communities with legal services, workforce development, adult education, youth services, and other vital social services.<sup>244</sup> Organizations such as Urban Upbound and the Worker’s

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236. *See id.*

237. N.Y.C. Dep’t of Small Bus. Servs., *Worker Cooperative Business Development Initiative*, NYC BUS., <https://www1.nyc.gov/nycbusiness/article/worker-cooperatives> [<https://perma.cc/8DWA-Z5AT>].

238. *Id.*

239. *Id.*

240. *Our Mission*, WORKING WORLD, <http://www.theworkingworld.org/us/our-mission> [<https://perma.cc/ZPU5-PVA5>].

241. N.Y.C. Dep’t of Small Bus. Servs., *supra* note 237.

242. WCBDI SECOND YEAR REPORT, *supra* note 97, at 7.

243. *Id.* at 8.

244. *Id.*

Justice Project also facilitate the formation of worker cooperatives.<sup>245</sup> Finally, the Democracy at Work Institute and ICA Group provide financial assistance, business advice, and legal services to businesses seeking to transform into worker cooperatives.<sup>246</sup>

In fiscal year 2016, the program has helped create twenty-seven worker cooperatives and provided 709 services, including technical assistance and business support, to 114 different worker cooperatives.<sup>247</sup> Two of these businesses are Bed-Stuy Fresh and Local and Brooklyn Packers.<sup>248</sup> While WCBDI supports worker cooperatives, New York City should implement similar policies for consumer cooperatives. Moreover, WCBDI supports all worker cooperatives and as such, does not specifically focus on food justice issues.<sup>249</sup> Finally, because WCBDI is in its infancy, it needs continued and expanded resources to achieve meaningful change.<sup>250</sup>

Beyond the WCBDI program, the New York City government is utilizing regulations to assist cooperatives. Title 6 of the New York City Administrative Code, section 6-139(c)(2), mandates that all worker cooperative city contracts be posted online, along with a list of services that they provide.<sup>251</sup> More importantly, it requires that every three fiscal years, the city post online:

- (a) a description of difficulties or obstacles that worker cooperatives encounter when competing for city contracts; (b) recommended measures to lessen the effects of such difficulties and obstacles and

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245. *Id.*

246. *Id.* at 9.

247. *Id.* at 10–11. In Fiscal Year 2015, it created twenty-one worker coops, with eighty-four services provided to twenty-four existing worker coops. *See* N.Y.C. DEP'T OF SMALL BUS. SERVS., WORKING TOGETHER: A REPORT ON THE FIRST YEAR OF THE WORKER COOPERATIVE BUSINESS DEVELOPMENT INITIATIVE (WCBDI) 6 (2015), <http://www.nyc.gov/html/sbs/downloads/misc/wcbdi2015-booklet/offline/wcbdi.pdf> [<https://perma.cc/2CKH-MY83>]; *see also* Paige Cowett, *6 Things to Know About Worker Coops*, WNYC (July 24, 2017), <https://www.wnyc.org/story/6-things-know-about-worker-coops/> [<https://perma.cc/367Q-H9UQ>] (“There are about 60 worker coops in NYC. That’s triple what it was three years ago, in part because of the city’s Worker Cooperative Business Development Initiative (WCBDI).”).

248. *Id.* at 13; *see also supra* Section III.C.

249. *See* WCBDI SECOND YEAR REPORT, *supra* note 97, at 18–25.

250. *See id.* at 26–27. Currently the program is centrally managed by the New York City Department of Small Business Services and largely depends on privately owned non-profits. *See* N.Y.C. DEP'T OF SMALL BUS. SERVS., WORKING TOGETHER: A REPORT ON THE THIRD YEAR OF THE WORKER COOPERATIVE BUSINESS DEVELOPMENT INITIATIVE (WCBDI) 8, 26 (2017) [hereinafter WCBDI THIRD YEAR REPORT], [http://www1.nyc.gov/assets/sbs/downloads/pdf/about/reports/worker\\_coop\\_report\\_fy17.pdf](http://www1.nyc.gov/assets/sbs/downloads/pdf/about/reports/worker_coop_report_fy17.pdf) [<https://perma.cc/8XGH-CJJ8>].

251. N.Y. CITY ADMIN. CODE § 6-139(c)(2) (2018).



to enhance the ability of worker cooperatives to compete for and obtain city contracts; and (c) a description of the impact of services provided by the department to worker cooperatives in the previous three fiscal years, to the extent such impact can be assessed through consultation with such worker cooperatives and entities that provide advice or other services for worker cooperatives located in the city, to the extent such entities can be identified through the consultations described in paragraph four of this subdivision.<sup>252</sup>

While the city is mandated to post online, it is unclear whether this posting will bring any significant change.

Governmental bodies should prioritize cooperatives whenever the municipality enters a contract with a private business for goods or services.<sup>253</sup> For example, the government could favor a cooperative business over others when bids for a contract are equal, or if the cooperative's bid is slightly higher than the other business. These policies can be formalized in procurement policies and ordinances.<sup>254</sup>

New York City is starting to create policy to help worker cooperatives but has left consumer cooperatives largely unsupported. The city has taken initial steps necessary to promote worker cooperatives, some of which are in the food sector.<sup>255</sup> The city could benefit by looking to cooperative statutes and policies in Minnesota, Italy, and Quebec, along with a host of other states and countries around the world.

### E. Policies Designed to Promote Consumer Cooperatives

Local governments can also incentivize the creation and growth of cooperatives by implementing programs to help wholesale buying clubs transition to cooperatives and by providing subsidies for consumer cooperative memberships.

#### 1. Wholesale Buying Clubs

When a group of people desire to create a consumer food cooperative, a less challenging route may be to start a wholesale buying club, retaining the possibility of transitioning to a cooperative model at a later time. For example, the Hendersonville Co-op in

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252. *Id.*

253. POLICIES FOR SHAREABLE CITIES, *supra* note 214, at 36.

254. *Id.*

255. *See, e.g.*, WCBDI THIRD YEAR REPORT, *supra* note 250, at 11 (detailing how the program helped to launch Woke Foods, a worker cooperative “that taps into the healing traditions of plant-based Dominican food to create recipes, host cooking classes, offer meal planning, and cater events”).

North Carolina,<sup>256</sup> the East End Food Co-op in Pittsburgh,<sup>257</sup> and a number of N.Y.C. consumer cooperatives began as wholesale buying clubs.<sup>258</sup> Creating a wholesale buying club may be particularly attractive when the group has no prior experience with cooperatives or running a business. If the buying club is initially successful, and the members want to become a cooperative, the transition would be much easier than starting from scratch.<sup>259</sup> This process may be a particularly viable option for communities that are under-resourced. In such circumstances, local governments could help the transition from wholesale buying club to cooperative. For instance, New York City could designate a Wholesale Greenmarket<sup>260</sup> liaison to work with and do outreach among buying clubs and cooperatives in low-income communities.

## 2. *Subsidized Cooperative Membership*

In mixed-income communities, there should be a subsidy for consumer cooperative memberships offered to low-income residents—as is done at the Mariposa Food Cooperative in Philadelphia, Pennsylvania.<sup>261</sup> This type of policy enables people with less financial stability to get healthy and fresh foods.<sup>262</sup> Such an arrangement could be formalized in a cooperative's bylaws, or alternatively, the locality could require that cooperatives formed within the jurisdiction provide such a subsidy, as defined within a local ordinance.

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256. *About Us*, HENDERSONVILLE CMTY. CO-OP, <http://www.hendersonville.coop/About-Us.aspx> [<https://perma.cc/AAR8-6CKR>].

257. *Our History*, EAST END FOOD COOP, <http://www.eastendfood.coop/our-history/> [<https://perma.cc/ML9D-66VP>].

258. *See supra* Section III.B.

259. This transition would be facilitated by the group having already overcome some of the challenges discussed *supra* Section IV.B.

260. *Wholesale Greenmarket at Hunts Point*, GROW NYC, <https://www.grownyc.org/wholesale> [<https://perma.cc/7N79-TNFB>]. The Wholesale Greenmarket is New York City's only outdoor wholesale farmers market. *Id.* The vast majority of the food available is locally grown and picked within the previous day. *Id.*

261. *See Food Access*, MARIPOSA FOOD COOP., <http://mariposa.coop/food-access/> [<https://perma.cc/4ZE9-XFYE>].

262. *See id.*; *see also Member-Owner Policy*, PORTLAND FOOD COOP, <http://www.portlandfood.coop/member-owner-policy-2/> [<https://perma.cc/97ZM-NV8C>].

### CONCLUSION

Cities and states should promulgate policies to promote worker and consumer food cooperatives as part of their wider efforts to reform local food sectors and achieve food justice. Cooperatives allow low-income communities of color to own businesses, increase wealth, and take ownership over the food system, and can thereby help increase access to healthy food. Realizing this vision, however, will require city and state governments to dedicate resources and to make capital, land, and expertise available to emerging cooperatives. Education and outreach will also increase awareness of the benefits of cooperatives and create a business culture in which they can thrive. True food justice will only prevail when we transform the food system to empower workers and local communities.