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Food Distribution Within Oregon and the Wider World

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INTRODUCTION

Conversations about food are far from new in this country. Food is not just a necessity, it is culture, love, meditation, and joy. We bond over food. Our holidays surround it. Though food is a passion for many, it is a struggle for even more. The changes to food production and distribution over the last century have caused a radical shift in how we view food. Food has gone from being the centerpiece of every meal to something many simply think about in passing as we get to our next task. As global populations skyrocket, our personal expectations surrounding education, careers, and recreational activities grow, too. This has led to denser population centers, which require us to “define[]

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boundaries and requir[e] complex governance to deliver sufficient quantities and quality of food.”¹

It is easy to ignore how our food gets to the grocery stores. With the growing number of food delivery services and curbside options, the inner workings of distribution are increasingly less visible. Visits to farmers’ markets on the weekends help support local farms, but these visits may occur as infrequently as one weekend out of many, as the ease of a one-stop grocery store is too appealing for our busy schedules. Still, we use these infrequent visits as an attempt to combat the food crisis. Known as reflexive consumption, we “define [our]selves through active engagement with the attributes or qualities of the commodities [we] choose to purchase.”²

Reflexive consumption is not necessarily a negative, but consumers are often only partially honest about how we define ourselves. We are inconsistent. Our lack of time and monetary resources propel us to visit one-stop shops. Smaller markets with locally grown healthy food options are co-opted for frozen meals that will satisfy large families. These quick one-stop shops are pivotal for not just families, but anyone with a hectic schedule. Society’s preference for convenience cannot be denied when assessing the true nature of food distribution.

When considering one’s access to nutritious food in particular, it is necessary for policymakers to recognize three major factors: (1) price, (2) proximity, and (3) cultural appropriateness.³ For example, a “healthy” diet costs about \$2,000 more each year for a family of four.⁴ This, without a doubt, influences how and what people eat. Proximity also comes into play; how easily one can access healthy food will inevitably affect how much of it is consumed.⁵ In 2018, “[s]ix to nine percent of households in the United States lack[ed] access to healthy food. Further, almost thirty million Americans in low-income areas live[d] more than a mile away from a supermarket.”⁶ Finally, culture

¹ WILL HUESTON & ANNI MCLEOD, OVERVIEW OF THE GLOBAL FOOD SYSTEM: CHANGES OVER TIME/SPACE AND LESSONS FOR FUTURE FOOD SAFETY 189 (2012) [hereinafter OVERVIEW OF THE GLOBAL FOOD SYSTEM], <https://www.ncbi.nlm.nih.gov/books/NBK114491/> [<https://perma.cc/FG5G-VX2J>].

² Martha McMahon, *Local Food: Food Sovereignty or Myth of Alternative Consumer Sovereignty?*, in GLOBALIZATION AND FOOD SOVEREIGNTY 111, 118 (Peter Andree et al. eds., 2014).

³ Ursula Ramsey, *Seed Libraries and Food Justice: Cultivating an Effective Legal and Policy Environment*, 25 GEO. J. ON POVERTY L. & POL’Y 193, 209 (2018).

⁴ *Id.*

⁵ *Id.* at 210.

⁶ *Id.*

influences the way we eat because “what is deemed culturally appropriate” affects “why people eat what they do.”⁷

Food distribution cannot just be backward-looking. In other words, we cannot look at how it has been done in the past, attempt to do it differently, and believe that our issues will be solved. To create a truly better system, we must do so with the future in mind. We have already seen the effects of climate change all around us, especially in agriculture. These effects will only continue to worsen as our world leaders fail to make impactful changes that slow the rate of climate change.⁸ For example, here in Oregon, we see annual wildfires and are constantly reminded about the potential “big earthquake.” Government agencies, such as the United States Department of Agriculture (USDA) are implementing strategies of adaptation—“the process of adjusting to avoid the expected or actual consequences of climate change.”⁹ But is this enough? Food distribution will undeniably be affected by these natural disasters and therefore, our systems must be adaptable. However, adaptation is not enough. Agencies like the USDA and others should implement strategies to combat further acceleration of climate change. Part of this requires minimizing corporate control over food production. This must be nonnegotiable.

Shifts in how we access food will only continue, especially in regard to climate change, the economy, and global interactions. For example, as recently as January 2024, the Willamette Valley experienced an unexpected ice storm. Due to street closures, distributors could not get food to storefronts. Grocery and convenience store shelves, dimly lit by generators, it empty. The empty shelves echoed back to the height of the COVID pandemic where shelves it consistently short of stock. For most, the repercussions of the ice storm did not last more than one week, and shelves were quickly restocked as soon as the streets thawed. However, events like this are becoming more common and might not always be resolved as soon as a week.

A recent study found that between 2000 and 2023, nearly 70% of money spent at grocery stores has gone to just four top parent companies with Walmart capturing the highest percentage overall.¹⁰

⁷ *Id.*

⁸ See *Climate Change Adaptation*, U.S. DEP’T OF AGRIC., <https://www.usda.gov/oce/energy-and-environment/climate/adaptation> [<https://perma.cc/MV5N-6YKK>] (last visited Jan. 21, 2025).

⁹ *Id.*

¹⁰ *Introducing: The Grocery Gap Atlas*, RAFI (Sept. 16, 2024), <https://www.rafiusa.org/blog/grocery-gap-atlas/> [<https://perma.cc/9PMY-FYUY>].

The project resulted in the Grocery Gap Atlas, which shows that corporations like Albertsons, Kroger, and Walmart do not ensure equitable access to all communities.¹¹ For example, in Oklahoma, “Walmart captures 50.6% of cash flow to grocery stores in the state,”¹² and in Oregon in 2023, Albertsons collected 23.6% of the state’s total grocery store profits.¹³ The project contends that this is not just a problem for consumers but for producers as well—“the runaway consolidation of the grocery sector . . . especially in rural areas, has drastically reduced these producers’ ability to access markets for their products.”¹⁴

Should Kroger have complete discretion in deciding where to build their stores? Should Dollar General stores be allowed to plant themselves in small communities where grocery stores are absent, providing only overly processed foods to those with no alternatives? I argue no. Local governments must assure their communities that food will be accessible regardless of where one lives. This should not just be an assurance of access to food generally, however, but access to healthy and affordable options. Governments should not sacrifice ease for health and should guarantee food accessibility for all communities. Furthermore, our country, and Oregon specifically, should not defer to supermarket chains as to where to place their stores, but rather ensure access regardless of where one lives. Governments, both locally and federally, should work alongside social movements, citizens, and small farmers to have a direct hand in providing food to its citizens, rather than give corporations the green light to use money as the sole driving force for their expansion.

I

HISTORY OF FOOD DISTRIBUTION

Food is a necessity and thus, the need to obtain reliable sources of food began long ago and still dominates our lives today. Archaeologists have found homo sapiens remains as old as 200,000 years in Ethiopia

¹¹ *Grocery Gap Atlas*, <https://grocerygapatlas.rafiusa.org> [https://perma.cc/E5R6-NHWE] (last visited Oct. 3, 2024).

¹² Melanie Canales & Aaron Johnson, *Mapping the Corporate Hold on U.S. Grocery Markets*, GROCERY GAP ATLAS (Aug. 7, 2024), <https://grocerygapatlas.rafiusa.org/posts/market-dominance> [https://perma.cc/EP2H-8GSQ] (interactive chart showing corporate dominance state by state and community typology).

¹³ To view Oregon’s data, scroll to the bottom of the webpage to the Estimated Market Dominance table. Within the table, scroll down to OR, then scroll sideways to view data on the various grocery chains. *Id.*

¹⁴ RAFI, *supra* note 10.

and 300,000 years in Morocco.¹⁵ *Homo sapiens* began cultivating crops in a transition to agriculture and away from a hunter-gatherer lifestyle around 11,000 BCE.¹⁶ By 5,000 BCE, agriculture was practiced on nearly every continent, and one thousand years before that, many of our common farm animals today had already been domesticated.¹⁷ Agriculture likely required more work on a day-to-day basis than hunting and gathering, but it allowed for more caloric intake, which subsequently supported a larger population.¹⁸

The dawn of agriculture brought with it a new way of life. Agriculture allowed civilizations to rise and thrive but also contributed to their downfall. “Throughout history, increases in agricultural productivity competed against population growth, resource degradation, droughts, changing climates, and other forces that periodically crippled food supplies, with the poor bearing the brunt of famine.”¹⁹ In past centuries, extreme population growth was sometimes seen as the ultimate threat that would outgrow food production.²⁰ However, as will be described in detail below, population growth was not always the real threat. Rather, distribution was.

Over the last century, how societies approached food continued to change drastically because of major developments in food production, distribution, and accessibility.²¹ For example, the production of food within the agriculture industry saw a massive boom in the early 1900s, which is largely attributed to the development of synthetic fertilizers.²² Additionally, the agriculture industry increasingly relied on antibiotics for livestock and chemical pesticides, which further sacrificed soil and ecological health.²³ Subsequently, the federal government pushed for the consolidation of farms, resulting in fewer farms overall while

¹⁵ Nicola Jones, *Oldest-Known Homo Sapiens Fossils Found*, SAPIENS (June 17, 2017), <https://www.sapiens.org/biology/oldest-homo-sapiens-fossils/> [https://perma.cc/3BGS-MMR9].

¹⁶ JOHNS HOPKINS CTR. FOR A LIVABLE FUTURE, *History of Agriculture*, <https://foodsystemprimer.org/production/history-of-agriculture> [https://perma.cc/47NK-N65Q] (last visited Jan. 21, 2025).

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ *Id.*

²¹ HUESTON & MCLEOD, *supra* note 1, at 190–91.

²² JOHNS HOPKINS CTR. FOR A LIVABLE FUTURE, *Industrialization of Agriculture*, <https://foodsystemprimer.org/production/industrialization-of-agriculture> [https://perma.cc/X52S-V9H7] (last visited Jan. 21, 2025).

²³ *Id.*

encouraging larger ones with higher productivity rates.²⁴ As such, the agriculture industry, driven in part by the federal government and corporations, have focused on increasing productivity rather than sustainability.

This focus on productivity over sustainability is evident through the agriculture industry's transition to synthetic fertilizers. Synthetic nitrogen fertilizers, introduced in the early 1900s along with chemical pesticides, dramatically increased yields and became "a hallmark of industrial crop production."²⁵ Synthetic fertilizers were created by manipulating chemicals that could transform nitrogen into ammonia, a solution that was then applied to crops.²⁶ Synthetic fertilizers revolutionized agriculture by "increas[ing] short-term crop yields," but were not without their issues.²⁷ For example, synthetic fertilizers led to an inescapable relationship with monoculture.²⁸ Monoculture, or monocropping, involves the practice of producing one or very few crops on the same plots of land year after year, and though some argue the practice increases profits, it can be extremely damaging to the environment.²⁹ This method of using the same plot of land for the same crops each year drastically decreases nutrients in the soil, leaving the soil incapable of supporting plant health.³⁰ This inevitably increases farmers' reliance on chemicals, including synthetic fertilizers, making it harder to return to more holistic growing methods.³¹ Synthetic fertilizers decrease microbial diversity in the soil, cause "soil acidification," and lead up to a buildup of salts and heavy metals in the soil.³² This result is known as soil depletion; as monocropping and synthetic fertilizers decrease organic life, soil health suffers.³³ Rather than farming a land that produced meat, dairy, and a diversity of crops, many farmers began growing only one crop, such as grain, corn, or

²⁴ *Id.*

²⁵ *Id.*

²⁶ JOHNS HOPKINS CTR. FOR A LIVABLE FUTURE, *supra* note 16.

²⁷ *Id.*

²⁸ Katie Garrity, *Here's Everything You Need to Know About Monocropping (And How It's Hurting the Environment)*, GREENMATTERS, <https://www.greenmatters.com/p/what-is-monocropping> [<https://perma.cc/T3MJ-5VWZ>] (last updated May 29, 2020).

²⁹ *Id.*

³⁰ *Id.*

³¹ *Id.*

³² FOODPRINT, *How Industrial Agriculture Affects Our Soil*, <https://foodprint.org/issues/how-industrial-agriculture-affects-our-soil/> [<https://perma.cc/6QMJ-J4Z7>] (last updated Feb. 28, 2024).

³³ *Id.*

soybeans.³⁴ Monoculture favors large farms with large capital, which inevitably leads to increased consolidation of smaller farms and corporate ownership.³⁵

Synthetic fertilizers are responsible for an epic boom in production, seemingly creating an ability to feed the world's population and then some. For example, in 2012, farmers produced enough food to feed the world's population, plus 1.6 billion more.³⁶ Our ability to overproduce crops yet still have hunger crises throughout much of the globe tells us that the problem lies not with production but with the distribution and accessibility of food. Further, production has increased "but not without health and ecological consequences."³⁷ Our conversation must focus on the permanence of food accessibility for all communities as well as ecological health.

Now, agriculture in the United States is dominated by a small number of corporations, controlling food production, processing, and distribution.³⁸ As this Comment is written, the courts face a new threat of corporations having overwhelming control over the food distribution system. Over the last year, attorneys have litigated in front of a judge in Portland, Oregon, regarding a proposed merger between Albertsons and Kroger.³⁹ In December 2024, Judge Nelson granted a preliminary injunction, stopping what would have resulted in the largest supermarket conglomerate in U.S. history.⁴⁰ Supermarket

³⁴ This has also skyrocketed with the implementation of the incentive structure within the Farm Bill. This will be explained in more detail below. See *Farm Bill Sows Dysfunction for American Agriculture*, CATO INST., <https://www.cato.org/policy-investigation/farm-bill-sows-dysfunction-american-agriculture#unbalanced-diets> [https://perma.cc/REQ7-BRDC] (last visited Aug. 3, 2024).

³⁵ Alison Hope Alkon & Julian Agyeman, *Introduction: The Food Movement as Polyculture*, in *CULTIVATING FOOD JUSTICE* 1, 1 (Alison Hope Alkon & Julian Agyeman eds., 2011).

³⁶ JOHNS HOPKINS CTR. FOR A LIVABLE FUTURE, *supra* note 16.

³⁷ JOHNS HOPKINS CTR. FOR A LIVABLE FUTURE, *supra* note 22.

³⁸ FARMAID, *Corporate Control in Agriculture*, <https://www.farmaid.org/issues/corporate-power/corporate-power-in-ag/> [https://perma.cc/A4T4-ZCW6] (last visited Nov. 27, 2024).

³⁹ In December 2024, Judge Nelson, of the Ninth Circuit Federal District Court, granted the preliminary injunction halting the Albertsons and Kroger merger. The next step is for an internal Federal Trade Commission judge to conduct administrative proceedings regarding the merger's implications. See *Fed. Trade Comm'n v. Kroger Co.*, No: 3:24-cv-00347-AN, 2024 WL 5053016, at *39 (9th Cir. Dec.10, 2024); Conrad Wilson, *Oregon Judge Blocks Merger of Kroger and Albertsons*, OPB, <https://www.opb.org/article/2024/12/10/proposed-merger-of-supermarket-giants-kroger-and-albertsons-is-halted-by-federal-state-judges/> [https://perma.cc/3J5J-8V7L] (last updated Dec. 11, 2024).

⁴⁰ Wilson, *supra* note 39; *Grocery Chains Are Bigger than Ever. See Who Runs the Stores Near You.*, WASH. POST (Sept. 24, 2024), <https://www.washingtonpost.com>

corporations’ “unbridled power grants them increasing political influence over the rules that govern our food system and allows them to manipulate the marketplace—pushing down the prices paid to family farmers and driving them out of business.”⁴¹

For the consumer, “unchecked corporate power” results in unaffordable options and fewer choices for places to shop.⁴² Corporate control affects not only consumers but the farmers themselves. Farmers have to buy supplies such as fertilizers and seeds for their production, the prices for which often becoming inflated due to corporate control on the agriculture industry.⁴³ The farmers then have to find buyers for their products in a market also manipulated by corporations’ control of the industry, thereby suppressing prices offered to the farmers.⁴⁴ These corporations influence both production and distribution, and thus can easily and severely limit farmers’ options.

Supermarket chains became more common after World War II and throughout the subsequent decades.⁴⁵ As seen in Oakland, California, these chains drove out independent sellers, “waging ‘price wars’ to secure turf.”⁴⁶ “By 1975 corporate food retailers controlled about two-thirds of the food retail market, draining capital from the local economy and funneling it off to corporate headquarters.”⁴⁷ Profit became the ultimate goal for corporations and the driving force in determining where grocery stores were built and even what foods were available within them. This left some people in less populated areas without easy access to grocery stores.⁴⁸ Today, those who cannot afford the food in their communities or who do not have access to well-rounded meals may turn to nonprofits, such as religious organizations or public schools. Importantly, public schools often provide food for low-income students.⁴⁹

/business/interactive/2024/grocery-store-owners-map-kroger-albertsons-merger/ (includes an interactive map showing what grocery stores are most common regionally).

⁴¹ FARMAID, *supra* note 38.

⁴² *Id.*

⁴³ *Id.*

⁴⁴ *Id.*

⁴⁵ Nathan McClintock, *From Industrial Garden to Food Desert: Demarcated Devaluation in the Flatlands of Oakland, California*, in *CULTIVATING FOOD JUSTICE* 89, 108 (Alison Hope Alkon & Julian Agyeman eds., 2011).

⁴⁶ *Id.*

⁴⁷ *Id.*

⁴⁸ *Id.*

⁴⁹ OR. DEP’T EDUC., *School Nutrition Programs*, <https://www.oregon.gov/ode/students-and-family/childnutrition/snp/pages/default.aspx> [<https://perma.cc/D8C3-WFLV>] (last visited Mar. 27, 2024).

Our current “food regime” is highly focused on the growth of corporations.⁵⁰ After the “U.S. farm crisis and the Third World debt crisis of the late 1970s . . . [t]he North set about privatizing state-owned enterprises and destroying supply-management and regulatory frameworks in the global South to make way for the capital expansion of transnational corporations.”⁵¹ The 1980s then saw an expansion of “corporate monopoly power” throughout the world.⁵² This is where our food distribution system currently stands—it is controlled by corporate monopolies steered by capitalism with little to no focus on sustainability.

II

THE U.S. SYSTEM

The United States Department of Agriculture (USDA) is often the first organization people think of when discussing food production and distribution. The USDA performs many tasks, some of which include “helping rural America to thrive . . . [and] promot[ing] agricultur[al] production that better nourishes Americans.”⁵³ To do this, it has agencies that perform regular inspections on crops and animals produced throughout the country to ensure safe consumption by U.S. citizens.⁵⁴ The inception of synthetic fertilizers, and the subsequent techniques that followed, increased concern over safe consumption and made inspections important processes.⁵⁵

The USDA was founded in 1862 and was soon after proclaimed “The People’s Department” by President Abraham Lincoln.⁵⁶ Unfortunately, the USDA does not control all aspects of food distribution, but it does study the repercussions of the system. For

⁵⁰ Eric Holt-Giménez, *Food Security, Food Justice, or Food Sovereignty?: Crises, Food Movements, and Regime Change*, in *CULTIVATING FOOD JUSTICE* 309, 314 (Alison Hope Alkon & Julian Agyeman eds., 2011).

⁵¹ *Id.*

⁵² *Id.*

⁵³ *About the U.S. Department of Agriculture*, USDA, <https://www.usda.gov/about-usda> [<https://perma.cc/5T7K-RMBB>] (last visited Dec. 30, 2024).

⁵⁴ *See Compliance and the Inspection Process*, USDA, <https://www.aphis.usda.gov/brs-compliance-inspection/process> [<https://perma.cc/Z52Z-7UQ5>] (last modified Feb. 22, 2024).

⁵⁵ *See supra* Part I (techniques such as chemical pesticides, antibiotics, and monocropping); JOHNS HOPKINS CTR. FOR A LIVABLE FUTURE, *supra* note 22.

⁵⁶ *USDA Celebrates 150 Years*, USDA, <https://www.usda.gov/our-agency/about-usda/history> [<https://perma.cc/E2SW-SUQD>] (last visited Dec. 30, 2024).

example, the USDA records the growth of “food deserts,”⁵⁷ which are defined as areas “with limited access to affordable and nutritious food, particularly . . . area[s] composed of predominately lower income neighborhoods and communities.”⁵⁸ Studies recognize that these areas may have stores, but they are generally small corner stores that do not have access to fresh, nutritious foods.⁵⁹ Rather, they are filled with only highly processed foods.⁶⁰ This is exemplified by the Dollar General stores that appear in smaller communities devoid of other options, which will be discussed in detail later.⁶¹

Between 1865 and 1920, “[t]he growth of national markets was the single most important structural development of the period.”⁶² These new markets were in some way brought on by the new administrative state of which the USDA was part.⁶³ Pressured by these new markets, commodity growing, or monoculture, expanded.⁶⁴ This new focus on administrative procedures was an attempt to regulate the agriculture market and to make it more predictable.⁶⁵ However, as Woeste points out, some groups saw this focus and the growth of corporations during this period as a way of “acquiescing in the maldistribution of economic power to the detriment of the individual producer.”⁶⁶ Though some challenged the new system by way of legal means, World War I spurred the administrative agriculture state.⁶⁷

⁵⁷ McClintock, *supra* note 45, at 89; The term “food desert” is problematic as it focuses on “proximity to food providers, rather than considering other factors such as racism, cost of living, people being time poor and cash poor, cultural appropriateness of available foods, [and] the ability of people to grow their owns [sic] foods.” *Food Deserts**, FOOD EMPOWERMENT PROJECT, <https://foodispower.org/access-health/food-deserts/> [https://perma.cc/AF8R-XF2L] (last visited Dec. 30, 2024). As the Food Empowerment Project explains, “terms like food apartheid and food oppression [are] more accurate.” *Id.* Though “food desert” is most commonly used, I will use the more accurate terms throughout this Comment.

⁵⁸ McClintock, *supra* note 45, at 89 (citing U.S. DEP’T OF AGRIC., REPORT TO CONGRESS: ACCESS TO AFFORDABLE AND NUTRITIOUS FOOD: MEASURING AND UNDERSTANDING FOOD DESERTS AND THEIR CONSEQUENCES (2009)).

⁵⁹ *Id.*

⁶⁰ *Id.*

⁶¹ See discussion *infra* Part III.

⁶² Victoria Saker Woeste, *Agriculture and the State, 1789-2000*, in 3 THE CAMBRIDGE HISTORY OF LAW IN AMERICA, VOLUME III: THE TWENTIETH CENTURY AND AFTER (1920–) 522, 560 (Michael Grossberg & Christopher Tomlins eds., 2008).

⁶³ *Id.*

⁶⁴ *Id.*

⁶⁵ *Id.*

⁶⁶ *Id.*

⁶⁷ *Id.* at 560–61.

The 1980s and 1990s saw an expansion of superstores taking over food retail, “spatially concentrating food access in locations often only accessible by car.”⁶⁸ This meant that nutritious and affordable options were restricted to big-box stores, leaving what became known as a “junk food jungle.”⁶⁹ This term encompasses areas where the easiest food options are high in sugar and highly processed, causing a dramatic increase in obesity and diabetes.⁷⁰

It may seem as if food superstores appear in areas with large population centers because that is where the most money lies. However, that is not always the case. In Oakland, California, for example, food retailers saw “an overall decrease from 36 to 5 stores per 10,000 residents” between 1935 and 1987 despite the area’s growing population.⁷¹ This decrease is credited to the rising prices of food and the lack of monetary resources citizens had.⁷² Although there was an expansion of supermarkets throughout the country, those stores were extremely concentrated in areas where residents held higher incomes, leaving primarily cheap, fast-food options in urban centers.⁷³ This type of diet led not only to an increase in obesity and heart-related diseases, but it also encouraged a growth in a “seemingly inexhaustible supply of tainted food products.”⁷⁴

Within the USDA is the Web Based Supply Chain Management system (WBSCM). The WBSCM is “an integrated, internet-based commodity ordering, acquisition, distribution, and tracking system. WBSCM supports domestic and international food aid and nutrition assistance programs, as well as marketing programs for American produced and processed commodities.”⁷⁵ Domestic programs within WBSCM “serve food to insecure groups such as senior citizen [sic], Native Americans, and low-income citizens.”⁷⁶ WBSCM helps over “280 million people in over 65 countries.”⁷⁷ Within the United States,

⁶⁸ McClintock, *supra* note 45, at 109.

⁶⁹ *Id.*

⁷⁰ *Id.*

⁷¹ *Id.*

⁷² *See id.* at 110.

⁷³ *Id.* at 109–10.

⁷⁴ Peter Andréé et al., *Introduction: Crises and Contention in the New Politics of Food*, in *GLOBALIZATION AND FOOD SOVEREIGNTY* 3, 8 (Peter Andréé et al. eds., 2014).

⁷⁵ *Web Based Supply Chain Management*, USDA, <https://www.usda.gov/topics/food-and-nutrition/web-based-supply-chain-management> [<https://perma.cc/TLV7-HGD7>] (last visited Dec. 30, 2024).

⁷⁶ *Id.*

⁷⁷ *Id.*

“USDA Foods account for nearly 20 percent of the value of school districts food purchases menus. On a yearly basis, WBSCM directly supports the order, procurement, and delivery of over 6.5 billion pounds of American farm food commodities with a value in excess of \$4 billion.”⁷⁸

The WBSCM is a pivotal source for many who do not have easy access to food. However, to actually use this source in the United States, an individual must be a member of an organization with access to WBSCM, such as the National School Lunch Program (NSLP), the Food Distribution Program on Indian Reservations (FDPIR), or the Commodity Supplemental Food Program (CSFP).⁷⁹ Though life-saving for many, the WBSCM does not work with individuals directly but rather, requires an organization to act on behalf of its community.⁸⁰ The WBSCM, though vital for many, is a Band-Aid on the distribution that instead of insuring access, requires individuals to navigate roundabout means to reliably obtain nutrition.

The USDA does address the issue of food access. Unfortunately, one way it does this is by placing the responsibility of accessing food on the consumers by suggesting families or individuals grow their own food.⁸¹ Though a great alternative for some, most people cannot afford to grow their own food, either economically or temporally. The USDA insists, in fact, that Supplemental Nutrition Assistance Program (SNAP) benefits can be used to purchase not only food but seeds as well.⁸² This suggestion ignores the issue that is at the forefront of access and distribution—because families must work to put food on their tables, they often lack the time necessary for food preparation, let alone to grow their own food.

The Farm Bill is a huge piece of legislation that is reviewed and passed roughly every five years and affects crop insurance for farmers, food accessibility for low-income families, market pricing of food nationwide, and much more.⁸³ In essence, “the farm bill sets the stage for our food and farm systems.”⁸⁴ Despite many U.S. citizens not

⁷⁸ *Id.*

⁷⁹ *Id.*

⁸⁰ *See id.*

⁸¹ *Food Access, Food Waste*, USDA, <https://www.usda.gov/peoples-garden/food-access-food-waste> [<https://perma.cc/3D3C-DQJG>] (last visited Jan. 22, 2025).

⁸² *Id.*

⁸³ *What Is the Farm Bill?*, NAT'L SUSTAINABLE AGRIC. COAL., <https://sustainableagriculture.net/our-work/campaigns/fbcampaign/what-is-the-farm-bill/> [<https://perma.cc/A45E-6H3G>] (last visited Jan. 24, 2025).

⁸⁴ *Id.*

knowing about the Farm Bill's extreme reach, the Farm Bill "continues to be the single most important piece of legislation to address agriculture and food policy at the national level."⁸⁵ The original Farm Bill was enacted as part of President Roosevelt's New Deal legislation⁸⁶ and was known as the Agricultural Adjustment Act of 1933.⁸⁷ Its goal was "to keep food prices fair for farmers and consumers, ensure an adequate food supply, and protect and sustain the country's vital natural resources."⁸⁸ The Farm Bill indirectly assists with food distribution, but its primary focus is on the production of food in our country.⁸⁹ For example, throughout its fifteen reauthorizations since its inception in 1933, the Farm Bill's policy goals have fluctuated drastically, but "federal support has remained constant for the production of commodity crops including wheat, rice, and corn."⁹⁰ Unfortunately, the Farm Bill's isolated focus on commodity crops has led to "environmental degradation, the nation's obesity crisis, and the loss of the family farm."⁹¹

The Farm Bill is a piecemeal collection of legislation passed roughly every five years.⁹² Leading up to its expiration, each Farm Bill "goes through an extensive process where it is proposed, debated, and passed by Congress and is then signed into law by the President."⁹³ The current bill, signed into law by former President Trump in December 2018, is called the Agriculture Improvement Act of 2018.⁹⁴ It was set to expire in 2023, but President Biden signed the Further Continuing Appropriations and Other Extensions Act, which extended the 2018 Farm Bill through September 30, 2024.⁹⁵ Though the Farm Bill expired after the passing of that date, funding for some programs continued through the end of 2024.⁹⁶

⁸⁵ Sarah J. Morath, *The Farm Bill: A Wicked Problem Seeking a Systematic Solution*, 25 DUKE ENV'T L. & POL'Y F. 389, 392 (2015).

⁸⁶ *What Is the Farm Bill?*, *supra* note 83.

⁸⁷ Morath, *supra* note 85, at 394.

⁸⁸ *What Is the Farm Bill?*, *supra* note 83.

⁸⁹ *Id.*

⁹⁰ Morath, *supra* note 85, at 395.

⁹¹ *Id.*

⁹² *What Is the Farm Bill?*, *supra* note 83.

⁹³ *Id.*

⁹⁴ *Id.*

⁹⁵ *Farm Bill Home*, USDA FARM SERV. AGENCY, <https://www.fsa.usda.gov/tools/informational/farm-bill> [<https://perma.cc/E5US-ERLF>] (last visited Jan. 22, 2025).

⁹⁶ See JIM MONKE ET AL., CONG. RSCH. SERV., R47659, EXPIRATION OF THE 2018 FARM BILL AND EXTENSION FOR 2024 1 (2024), <https://crsreports.congress.gov/product/pdf/R/R47659> [<https://perma.cc/572D-LBBK>].

As one scholar points out, the Farm Bill's successes have often been in contradiction to its goals.⁹⁷ For example, even though a goal of the Farm Bill is to reform our reliance on corn syrup and megamonocultures, the reality of the Farm Bill has been to "favor industrial farming practices."⁹⁸ The Farm Bill's focus on commodities lead to factory farms and reliance on processed foods.⁹⁹ Therefore, the issues we see today—lack of access to healthy options or accessible grocery stores—may be a direct consequence of the Farm Bill.

The Farm Bill, like most legislation, is full of compromises.¹⁰⁰ Advocates lament the bill's failure to provide assistance to some programs, like SNAP, while praising the bill for helping other programs.¹⁰¹ For example, the 2014 Farm Bill, signed into law by former President Obama, has been described as benefitting agribusiness rather than small farms, but advocates still gave the bill credit for the "little tokens scattered throughout" that helped low-income families access healthier options.¹⁰² The 2008 Farm Bill reflected an advocacy of change and began implementing provisions to encourage the growth of organic and specialty foods.¹⁰³ Because the passage of each farm bill is dependent upon which party controls the presidency and legislature, the future of food production and distribution is constantly in flux.

The Farm Bill incentivizes farmers to grow large amounts of few crops, keeping farmers stuck in a perpetual state of monocropping and soil depletion.¹⁰⁴ The bill and subsidy programs, such as the Agriculture Risk Coverage and Price Loss Coverage, distribute payments to farmers "based on fluctuations in crop yields and prices."¹⁰⁵ In fact, this structure has created a system where "[eighty] percent of all premium subsidies flow[] to four staple crops: corn, soybeans, wheat, and cotton," with corn being the most planted crop in the country.¹⁰⁶ Subsidies and crop insurance remain pivotal for farm

⁹⁷ Morath, *supra* note 85, at 392.

⁹⁸ *Id.*

⁹⁹ *Id.* at 395.

¹⁰⁰ *See id.* at 401; *What Is the Farm Bill?*, *supra* note 83.

¹⁰¹ Morath, *supra* note 85, at 400.

¹⁰² *Id.*

¹⁰³ *Id.* at 396.

¹⁰⁴ Paul Best, *Farm Bill Sows Dysfunction for American Agriculture*, CATO INST. (Jan. 10, 2024), <https://www.cato.org/policy-investigation/farm-bill-sows-dysfunction-american-agriculture#unbalanced-diets> [<https://perma.cc/REQ7-BRDC>].

¹⁰⁵ *Id.*

¹⁰⁶ *Id.*

production thanks to the Farm Bill, but these subsidies are not without their consequences, which farmers are now fighting against.

Crop insurance in general can be an important risk management tool for the agricultural industry, but a growing cadre of farmers are pointing to the deleterious effects of subsidizing the insurance, because it can drive up land prices, stifle innovation, harm the environment, squander taxpayer resources, and distort agriculture markets in ways that have serious implications for our food system.¹⁰⁷

The SNAP program, though not a distribution program on its face, helps provide food to struggling families through monetary support.¹⁰⁸ Because the Farm Bill determines SNAP's funding and structure, SNAP strictly relies upon each bill.¹⁰⁹ Within the Farm Bill, "more than 80 percent of spending is earmarked for nutrition programs like SNAP."¹¹⁰ Unfortunately, a study performed by the Urban Institute found that SNAP was unable to provide enough funds to families who needed help affording the rising prices of food.¹¹¹ Though SNAP's funding relies on the Farm Bill, which gets reviewed by the U.S. government every five years, the USDA assesses SNAP benefits on a yearly basis depending on a cost-of-living adjustment (COLA).¹¹² Regardless of this annual assessment, inflation can make closing "the gap between the maximum SNAP benefit and the cost of a moderately priced meal" more difficult.¹¹³ For example, in 2023, food prices rose by 5.8%, which was less than the dramatic 9.9% rise seen in 2022.¹¹⁴

SNAP benefits, though not always fully guaranteed, are threatened further by discussions over renewing the Farm Bill in Congress. Some policymakers have expressed a desire to decrease SNAP's funding,

¹⁰⁷ *Id.*

¹⁰⁸ See *Why Lawmakers Must Improve SNAP*, FEEDING AM., <https://www.feedingamerica.org/take-action/advocate/snap> [<https://perma.cc/2WMQ-W95Y>] (last visited Nov. 2, 2024).

¹⁰⁹ *Id.*

¹¹⁰ Elaine Waxman & Poonam Gupta, *SNAP Fell Short in Helping Families Afford Rising Food Prices in 2022*, URB. INST. (July 2023), <https://www.urban.org/sites/default/files/2023-07/SNAP%20Fell%20Short%20in%20Helping%20Families%20Afford%20Rising%20Food%20Prices%20in%202022.pdf> [<https://perma.cc/AKU4-7G5G>].

¹¹¹ *Id.*

¹¹² *Id.*

¹¹³ *Id.*

¹¹⁴ *Summary Findings*, USDA ECON. RSCH. SERV., <https://www.ers.usda.gov/data-products/food-price-outlook/summary-findings/> [<https://perma.cc/44WM-4R9S>] (last updated Oct. 25, 2024) (noting the growth of food prices is expected to continue slowing with a projected increase of 1.6% in in 2025).

which would inevitably put low-income households in further danger of food insecurity.¹¹⁵ Some say the solutions are straightforward: “Congress could remove strict time limits on SNAP benefits, allow for two COLAs per year when inflation is high, and ensure SNAP benefits cover the cost of a modestly priced meal.”¹¹⁶ So, why isn’t this done?

Perhaps the fact that a small number of corporations control distribution is a reason. These companies are responsible for getting food to grocery stores, restaurants, caterers, institutions, and more.¹¹⁷ In the case of Amazon Fresh, food, including fresh fruits and vegetables, is shipped directly to consumers’ front steps. This seems like a great alternative for those who do not have easy access to a physical store. In fact, there are many similar companies offering the same service, such as Imperfect Foods and Hungry Harvest, just to name a few. However, these companies send fresh produce, requiring the consumers to still prepare and cook meals despite their busy schedules. Though this may be appealing to many, it does not solve the problem that many struggle to find time to cook their own meals. Moreover, the prices of these services are still unattainable for many and undeniably put more money in the hands of these corporations.¹¹⁸

Alternatively, there are companies such as Blue Apron and HelloFresh that deliver premade meals directly to consumers’ doors, but not without issues. For example, as reported in 2022, HelloFresh suffered from a public health notice issued by the USDA regarding some of its packaged beef.¹¹⁹ Additionally, the USDA accused HelloFresh of dishonesty surrounding its auto-renewal practices.¹²⁰

Food distribution, and more specifically, food access, is widely addressed by charitable organizations or public services, such as schools. Frustratingly, this puts the failure of our political and social

¹¹⁵ Waxman & Gupta, *supra* note 110.

¹¹⁶ *Id.*; see discussion *infra* Part III.

¹¹⁷ Jason Feemster, *List of the Top 12 Wholesale Food Distributors in the USA*, POS USA (Dec. 24, 2024), <https://www.posusa.com/food-distributors/> [<https://perma.cc/8GYR-4KUV>].

¹¹⁸ Many rely on Amazon’s “Prime at Whole Foods Market” for groceries, rather than visit the farm stand. Despite Amazon’s higher prices, the ease of the service triumphs, putting money directly into Amazon’s pockets and away from local farmers. *Prime at Whole Foods Market*, AMAZON, <https://www.amazon.com/fmc/m/30000404/?almBrandId=VUZHIFdob2x1IEZvb2Rz> [<https://perma.cc/288S-VMVX>] (last visited Aug. 3, 2024).

¹¹⁹ Abraham Jewet, *HelloFresh Faces Multiple Class Action Lawsuit Claims, Beef Public Health Alert*, TOP CLASS ACTIONS (Oct. 3, 2022), <https://topclassactions.com/lawsuit-settlements/consumer-products/subscriptions/hellofresh-faces-multiple-class-action-lawsuit-claims-beef-public-health-alert/>.

¹²⁰ *Id.*

systems on the backs of those without the proper means. The National School Lunch Program (NSLP) is a federally run program providing low- or no-cost meals to students in the public school system.¹²¹ This program is often the main source of food for many low-income children and, therefore, is imperative. Society's reliance on NSLP, SNAP, and charitable organizations illustrates the government's failure to provide for its citizens and its refusal to reform the system.

III OREGON

Food accessibility in this country has mirrored that of agricultural production over the last century. In Oregon, World War II spurred a focus on preservation and quick food options to maximize the crops produced to be sent to the battlefield.¹²² Nowadays, however, when one performs a simple Google search about the state of food distribution in Oregon, the first result that appears is the food bank system, which suggests that the primary source of food for low-income communities is provided by a nonprofit organization.¹²³ In other words, our own state government does not guarantee food access.

As of May 2024, the Oregon Food Bank expects to see a drastic increase in food insecurity within the state.¹²⁴ Because of the rising cost of food and housing, in 2023, the Oregon Food Bank “saw 1.9 million visits to food assistance sites . . . a 14% increase from the previous year.”¹²⁵ It is important to note that not everyone visits food banks because they do not have access to grocery stores. Rather they do so because they cannot afford the prices within those grocery stores.¹²⁶ This is a problem of accessibility within the system of distribution.

¹²¹ *School Nutrition Programs*, OR. DEP'T. OF EDUC., <https://www.oregon.gov/ode/students-and-family/childnutrition/snp/pages/default.aspx> [https://perma.cc/NUH6-BRUC] (last visited Mar. 27, 2024).

¹²² See *Food Is a Weapon: Nutrition Programs Fight for Victory*, OR. SEC'Y OF STATE, <http://sos.oregon.gov/archives/exhibits/ww2/Pages/services-nutrition.aspx> (last visited Mar. 27, 2024).

¹²³ See OR. FOOD BANK, <https://www.oregonfoodbank.org> [https://perma.cc/567T-5ZYH] (last visited Mar. 27, 2024).

¹²⁴ See *Oregon Hunger Facts*, OR. FOOD BANK (May 23, 2024), <https://www.oregonfoodbank.org/posts/oregon-hunger-facts> [https://perma.cc/EX7M-JPNL].

¹²⁵ *Id.*

¹²⁶ See *id.*

Feeding America, a network that handles food banks throughout the country, was formed in the 1960s as a nonprofit.¹²⁷ The initial idea was to provide a place where people could pick up food that would otherwise have been thrown away due to a lack of equitable distribution.¹²⁸ Today, Feeding America’s mission is to assist “the tens of millions of people who experience food insecurity and work[] together to help the communities most impacted by hunger get the food and resources they need to thrive.”¹²⁹ Feeding America “advocate[s] for policies that address the root causes of hunger and continue[s] to innovate solutions that increase equitable access to nutritious food.”¹³⁰ Without organizations like Feeding America, many more would struggle with food insecurity. However, it is unfortunate that such an organization is required to step in when the government and corporations fail to simply provide equitable access. Food banks are also starting new roles in specific locales, encouraging and working with local farms or community gardens to provide local, healthy options.¹³¹ Food banks try to promote food security by encouraging urban farming and providing indigent people with the tools to grow and cook their own foods.¹³² Though appealing, this again is not the solution for people with busy lives with barely enough time to pick up food from the store or for those who live paycheck to paycheck.

As discussed in the previous section, the SNAP program has failed to provide enough benefits for families struggling with food insecurity. The 2014 Farm Bill, signed into law by former President Obama, included deep financial cuts to the SNAP program.¹³³ Despite each iteration of the Farm Bill, the USDA adjusts SNAP benefits each fiscal year in response to inflation, but these adjustments are still not enough.¹³⁴ For example, in Douglas County, Oregon, between October and December 2023, a moderately priced meal cost \$3.44 while the average SNAP benefit was \$2.83 per meal, resulting in a 22% gap.¹³⁵

¹²⁷ *About Us*, Section *Our History*, FEEDING AM., <https://www.feedingamerica.org/about-us/our-history> [<https://perma.cc/3236-VUGG>] (last visited Nov. 2, 2024).

¹²⁸ *Id.*

¹²⁹ *Id.*

¹³⁰ *Id.*

¹³¹ Ramsey, *supra* note 3, at 211.

¹³² *Id.*

¹³³ Morath, *supra* note 85, at 400.

¹³⁴ *Does SNAP Cover the Cost of a Meal in Your County?*, URB. INST. (July 13, 2023), <https://www.urban.org/data-tools/does-snap-cover-cost-meal-your-county-2022>.

¹³⁵ *Id.* (click on the county on the interactive map or search it in the bar above the map).

During the same period in Lane County, the gap was as large as 31%, with the average meal costing \$3.71 and SNAP benefits being \$2.83.¹³⁶

In small communities throughout Oregon, where both large and small grocery stores are struggling, Dollar General stores are popping up. Dollar General sells food, but the food available is limited, highly processed, and does not contribute to a healthy diet. Their food selection serves only one purpose—to provide an easy, quick source of food.

The first Dollar General opened in Springfield, Kentucky, in 1955 with the goal of not selling anything costing over one dollar.¹³⁷ Today, Dollar General's business is skyrocketing compared to that of their competition, Family Dollar and Dollar Tree.¹³⁸ Whereas nearly one thousand Family Dollar and Dollar Tree stores are expected to close this year, Dollar General plans to open eight hundred of their own throughout the country, and recently opened their twenty thousandth location in the United States.¹³⁹ In Oregon alone, there are eighty-seven stores.¹⁴⁰ The differences between the brands, as reported in this NPR interview, are internal issues “from poor management to health concerns, which—not to say that Dollar General doesn't also have those issues, but it seems to be much worse at Family Dollar.”¹⁴¹

Dollar General is also better at picking real estate than the other brands.¹⁴² Its drastic expansion is focused on rural, low-income areas.¹⁴³ Dollar General provides access to foods where no other source exists or where only unaffordable sources exist. This type of access and distribution of food is important to address as it undoubtedly provides access to many in rural communities who would otherwise have to travel far out of their way to stock their own kitchens. Dollar General stores, however, do not provide local foods, let alone most kinds of

¹³⁶ *Id.*

¹³⁷ *DG History*, DOLLAR GEN., <https://newscenter.dollargeneral.com/company-facts/dg-history/> [https://perma.cc/FD3A-3PRN] (last visited Mar. 27, 2024).

¹³⁸ *Dollar General and Dollar Tree Inc. Have Different Outlooks on the Economy*, NPR (Mar. 15, 2024), <https://www.npr.org/2024/03/15/1238741395/dollar-general-and-dollar-tree-inc-have-different-outlooks-on-the-economy> [https://perma.cc/3B7D-LU42].

¹³⁹ *Id.*

¹⁴⁰ *See Dollar General Locations in Oregon*, DOLLAR GEN., <https://www.dollargeneral.com/store-directory/or> [https://perma.cc/A6J8-DD5Y] (last visited Jan. 23, 2025).

¹⁴¹ NPR, *supra* note 138.

¹⁴² *Id.*

¹⁴³ Sarah Nassauer, *How Dollar General Became Rural America's Store of Choice*, WALL ST. J., <https://www.trekg.com/in-the-press/how-dollar-general-became-rural-americas-store-of-choice/> [https://perma.cc/WR9S-YRRT] (last visited Mar. 27, 2025).

produce. Rather, Dollar General is an ideal representation of our capitalist culture. By opening a storefront in an affordable real estate area and using the lack of other food sources as an incentive to sell hundreds of brands of processed foods, Dollar General is creating a reliance on its easy, cheap methods. All the while, Dollar General holds ultimate control of access to food. It is in Dollar General's hands to close the stores when it wants, to carry the brands that will make the most money, and to cut corners in many ways it claims are needed. Therefore, access to food is not guaranteed or controlled by consumers themselves.

Corporations, regardless of size, including the large conglomerate Kroger, control where they place their stores. As mentioned earlier, the proposed acquisition of Albertsons by Kroger, the would-be largest merger in American history at \$24.6 billion,¹⁴⁴ would have had substantial effects on consumers. The Federal Trade Commission (FTC) alleged that the merger would “eliminate fierce competition . . . leading to higher prices for groceries.”¹⁴⁵ Oregon Senator Ron Wyden felt similarly, as he shared in an episode of Oregon Public Broadcasting's *Think Out Loud*.¹⁴⁶ Senator Wyden stated that he and fellow Oregonians worried this merger would create higher prices while lowering wages and potentially closing stores, especially in rural areas where stores are already lacking.¹⁴⁷ Though Judge Nelson blocked the merger, granting the preliminary injunction,¹⁴⁸ Kroger's attempt to acquire Albertsons indicates substantial power corporations have over our distribution system.

In our current distribution system, people are no longer the focus; rather, corporate profits are.¹⁴⁹ Corporate profit-seeking doesn't just start and end with where the stores are built; it continues with what food is available within the stores. Corporations pay little to no attention to

¹⁴⁴ *FTC Challenges Kroger's Acquisition of Albertsons*, FED. TRADE COMM'N (Feb. 26, 2024), <https://www.ftc.gov/news-events/news/press-releases/2024/02/ftc-challenges-krogers-acquisition-albertsons> [<https://perma.cc/SN27-8SQN>]; see *FTC v. Kroger Co.*, No. 3:24-cv-00347-AN, 2024 WL 3970549, at *1 (D. Or. Aug. 25, 2024) (preliminary injunction hearing was held on Aug. 26, 2024).

¹⁴⁵ *Id.*

¹⁴⁶ Sheraz Sadiq, *Think Out Loud*, OR. PUB. BROADCASTING (Aug. 26, 2024, 6:00 AM), <https://www.opb.org/article/2024/08/26/think-out-loud-ron-wyden-kroger-albertsons-merger/> [<https://perma.cc/8YVQ-WW6C>].

¹⁴⁷ *Id.*

¹⁴⁸ *Fed. Trade Comm'n v. Kroger Co.*, No. 3:24-cv-00347-AN, 2024 WL 5053016, at *39 (9th Cir. Dec. 10, 2024).

¹⁴⁹ See Sadiq, *supra* note 146.

sourcing the food. Rather than focusing on health, corporations emphasize access to quick, inexpensive options. Dollar General should be a warning of how our distribution system will go forward. With less time, more drive for profits, and little focus on health, corporations will only continue to seize control. We can begin to see the potential for a new system within other systems throughout the world and food movements that place power back into the hands of individuals.

IV

THE WIDER WORLD

Our global food system recognizes that every single food system in the world is tied to one another in some capacity.¹⁵⁰ For example, because of its war with Russia, Ukraine's grain production dropped 29% in 2022 and 2023.¹⁵¹ Due to its status as a major grain exporter, "[t]his [decrease] has resulted in major food security concerns for millions of people around the world."¹⁵² Currently, our corporate food regime is "based on fossil fuels and dominated by global monopolies" and is in part characterized by food retailers.¹⁵³

Virtually every food system in the world is tied to the global food system in one way or another, which is itself shaped by the corporate food regime. This regime is financially dominated by the monopolies of the industrial agrifoods complex and politically managed by the national governments and multilateral organizations that make . . . it possible to create and enforce a globalized food regime. This political-economic partnership is complemented by the myriad institutions, both public and private, that carry out supportive, mitigating, and adaptive functions within the regime.¹⁵⁴

The corporate food regime is aggressive, taking advantage of crises throughout the world to create monetary gain for the small number of

¹⁵⁰ Holt-Giménez, *supra* note 50, at 313.

¹⁵¹ *How the Russian Invasion of Ukraine Has Further Aggravated the Global Food Crisis*, EUR. COUNCIL, <https://www.consilium.europa.eu/en/infographics/how-the-russian-invasion-of-ukraine-has-further-aggravated-the-global-food-crisis/> (last visited Aug. 3, 2024).

¹⁵² *Id.*; see also Mohammed Hussein & Mohammed Haddad, *How Israel Destroyed Gaza's Ability to Feed Itself*, AL JAZEERA (July 2, 2024), <https://www.aljazeera.com/news/longform/2024/7/2/how-israel-destroyed-gazas-ability-to-feed-itself#> [https://perma.cc/JTE2-PL33] ("A UN report says 96 percent of Gaza's population is food insecure and one in five Palestinians . . . is facing starvation."); *Today's Armed Conflicts*, GENEVA ACAD., <https://geneva-academy.ch/galleries/today-s-armed-conflicts> [https://perma.cc/7GP6-7Q5B] (last visited Aug. 3, 2024) (list of current armed conflicts throughout the world).

¹⁵³ Holt-Giménez, *supra* note 50, at 313.

¹⁵⁴ *Id.* (citations omitted).

corporations that control it.¹⁵⁵ It is also subject to periods of “liberalization,” a way to control the capital nature of the regime so that it does not “eventually destroy both society and [its] own natural resource base.”¹⁵⁶ The regime is often a way to control relations with other countries, whether purposeful or not. “Food aid . . . has been used by donating countries to destroy foreign agriculture and break open markets for northern agribusiness’s surplus.”¹⁵⁷ For example, in the mid-1900s, the United States encouraged “state-led economic development in the global South” as a way to isolate the Soviet Union.¹⁵⁸

The United States is a major player in this global food regime. In the 1990s, it criticized Japan for its distribution system.¹⁵⁹ Japan’s focus on the consumers’ interest and an insistence on saving small mom-and-pop shops led to the Large-Scale Retail Store Law.¹⁶⁰ This law “restricted the growth of large stores such as supermarkets” by requiring them to pass through a regulatory scheme if the store was projected to exceed the size limit the government put in place.¹⁶¹ This included getting permission from other businesses that may be in competition with the store, “prefectural officials, consumers, and people of academic standing.”¹⁶² “Factors considered by these committees included the population and its characteristics in the area where the store was planned, the opportunity for small retailers to modernise their operations, and the business success of other large retailers in the area.”¹⁶³

This regulatory process sometimes took as long as ten years and contributed to Japan’s trend of products going through multiple distribution companies before making it to the retail shelves, which the United States criticized.¹⁶⁴ This, as the United States and European Union countries argued, raised consumer prices in contradiction to Japan’s goal.¹⁶⁵

¹⁵⁵ *Id.*

¹⁵⁶ *Id.* at 314.

¹⁵⁷ *Id.* at 313.

¹⁵⁸ *Id.* at 314.

¹⁵⁹ Paul Riethmuller, *Reform of the Japanese Food Distribution System: Implications for Consumers*, 19 J. CONSUMER POL’Y 69 (1996).

¹⁶⁰ *Id.* at 71.

¹⁶¹ *Id.* at 71–72.

¹⁶² *Id.* at 72.

¹⁶³ *Id.*

¹⁶⁴ *Id.* at 69.

¹⁶⁵ *Id.*

In the early 1990s, Japan began to change many of these regulatory requirements, shortening the period of time necessary to approve new supermarkets and increasing the minimum size of proposed stores subject to the approval process.¹⁶⁶ This, predictably, led to an increase in supermarkets, “particularly in the suburban areas,” and a decrease in small “mom-and-pop” stores.¹⁶⁷ One scholar predicted that these changes would lead to an increase in supermarket chains throughout the country spurred by foreign capital.¹⁶⁸ “There is also likely to be an increase in takeover and merger activity as medium and small sized outlets are acquired by large chains able to enlarge existing supermarkets.”¹⁶⁹

Japan’s transformation demonstrates the constant struggle between fair prices for consumers and saving small “mom-and-pop” shops. From this, the United States and Oregon can learn of the importance of maintaining a regulatory process before establishing a store in certain areas. For example, if a major retail outlet like Safeway or Dollar General wanted to build a storefront in a certain community, it would be important to assess the positive and negative impacts of doing so. This, however, would still not be enough. A thorough assessment of those communities who need access to not just food, but to healthy and affordable options, must be implemented. It is also imperative that community members are able to get directly involved with this process.

Our food regime is constantly reflecting political, environmental, and social changes throughout the world.¹⁷⁰ However, it is not so much reflective of the needs of individuals as it is to create corporate profit. “No obstacle, crisis, or disaster in the food system is too large or too small that it can’t be turned into *some* kind of opportunity for corporate profit.”¹⁷¹ For example, donating countries provide food aid with the goal of destroying foreign agricultural production.¹⁷² This can be seen in seed production, especially in the increased production and control of genetically modified seeds.¹⁷³ There is a constant battle between reigning in the corporate greed of agribusiness and social reforms;

¹⁶⁶ *Id.* at 73–74.

¹⁶⁷ *Id.* at 74.

¹⁶⁸ *Id.* at 75.

¹⁶⁹ *Id.* at 75–76.

¹⁷⁰ Holt-Giménez, *supra* note 50, at 313.

¹⁷¹ *Id.*

¹⁷² *Id.*

¹⁷³ *Id.*

however, “it is important to remember that some reforms serve to merely prop up the existing food regime.”¹⁷⁴

Starting in the 1960s and 1970s, the Green Revolution spread industrial agriculture to developing nations throughout the world.¹⁷⁵ This movement dramatically increased the production of food but did not help with its distribution.¹⁷⁶ Though the United States produced 1.5 times the amount needed for the global population, many could not afford to buy the food produced.¹⁷⁷ This led to “chronic overproduction and a steady decline in global food prices,” ultimately leading to the capitalist expansion described above.¹⁷⁸

The majority of the proponents of the Green Revolution were corporations who attempted to situate themselves as the saviors of world hunger.¹⁷⁹ However, for decades after the Green Revolution, developing nations consistently overproduced food with nowhere to sell it, maintaining their citizens’ drastic inability to afford their own food.¹⁸⁰

V

THE FOOD JUSTICE MOVEMENT

The food movement started out splintered, “interested in separate, but sometimes overlapping, objectives”¹⁸¹ but has been part of the American conversation for decades. There are various theories, such as food justice and food sovereignty, which began with a similar goal but with differing methods of how to get there. First, most food movements encompass the concept of food security. Originally, food security was concerned with “hunger, food, and political unrest often derived from Malthusian assumptions about populations outstripping the food supply.”¹⁸² This concern increased following World War II but primarily remained an administrative process rather than a social

¹⁷⁴ *Id.* at 314.

¹⁷⁵ *Id.*

¹⁷⁶ *Id.* at 314–15.

¹⁷⁷ *Id.* at 315.

¹⁷⁸ *Id.*

¹⁷⁹ *Id.*

¹⁸⁰ *Id.*

¹⁸¹ Morath, *supra* note 85, at 402.

¹⁸² McMahon, *supra* note 2, at 122–23; *Malthusian*, MERRIAM WEBSTER, <https://www.merriam-webster.com/dictionary/Malthusian> [<https://perma.cc/JMJ4-9K9G>] (last visited Jan. 20, 2025) (“Malthusian” is defined as a “theory that population tends to increase at a faster rate than its means of subsistence and that unless it is checked by moral restraint or disaster . . . widespread poverty and degradation inevitably result.”).

justice agenda.¹⁸³ In other words, food security does not always address the social aspects that create our food distribution systems in the first place. The food sovereignty movement helps to pick up the slack.

The food sovereignty movement focuses on local food, both the production and control by those who produce it.¹⁸⁴ It “moves beyond the distribution of benefits and burdens to call for a greater distribution of power in the management of food and environmental systems.”¹⁸⁵ The idea of the food sovereignty movement is to be entirely transformational.

Food sovereignty looks beyond distributional understandings of food security and social justice to invoke far more radically democratic and ecological registers of food politics in which people’s material, symbolic, and ethical relationship with their natural worlds, their rights to control their food systems, concern for biodiversity, livelihood for rural dwellers, local sustainability, gendered equality, and resistance to neo-liberalization, for examples, are central.¹⁸⁶

Food sovereignty is sometimes viewed as a “radical trend” attempting to address the root causes of poverty and hunger.¹⁸⁷ It may be viewed as radical because its ultimate goal is to undermine corporations’ role in the current food regime and is “based on the notion of entitlement to food-producing resources and the redistribution of wealth.”¹⁸⁸ The food access movement maintains a focus on “the ability to produce and consume healthy food.”¹⁸⁹ It addresses the idea of food oppression, which is caused by “inadequate or nonexistent transportation and limited proximity to grocery stores.”¹⁹⁰

¹⁸³ McMahon, *supra* note 2, at 123.

¹⁸⁴ Jeffrey Ayres & Michael J. Bosia, *Food Sovereignty as Localized Resistance to Globalization in France and the United States*, in GLOBALIZATION AND FOOD SOVEREIGNTY 319, 323–24 (Peter André et al. eds., 2014) (“[F]ood sovereignty encapsulates the ‘right of peoples to define their own food and agriculture; to protect and regulate domestic agricultural production and trade in order to achieve sustainable development objectives; [and] to determine the extent to which they want to be self-reliant.’” (quoting Peter Rosset, *Food Sovereignty: Global Rallying Cry of Farmer Movements*, FOOD FIRST (Oct. 1, 2023), <https://archive.foodfirst.org/publication/food-sovereignty-global-rallying-cry-of-farmer-movements/> [<https://perma.cc/U2AF-FZDF>])).

¹⁸⁵ Alkon & Agyeman, *supra* note 35, at 8.

¹⁸⁶ McMahon, *supra* note 2, at 123.

¹⁸⁷ Holt-Giménez, *supra* note 50, at 324.

¹⁸⁸ *Id.*

¹⁸⁹ Alkon & Agyeman, *supra* note 35, at 8.

¹⁹⁰ Alfonso Morales, *Growing Food and Justice: Dismantling Racism Through Sustainable Food Systems*, in CULTIVATING FOOD JUSTICE, 149, 151 (Alison Hope Alkon & Julian Agyeman eds., 2011).

As discussed earlier, food oppression is widely attributed to the “pattern of capital flight and devaluation.”¹⁹¹ After World War II, corporate supermarkets became increasingly concentrated in suburban areas while driving out smaller retailers in urban areas.¹⁹² Eventually, “[b]y 1975 corporate food retailers controlled about two-thirds of the food retail market, draining capital from the local economy and funneling it off to corporate headquarters.”¹⁹³ This affected the price and proximity of access to food for individuals in areas where supermarkets decided to remove themselves due to a lack of monetary growth.

Because of extreme food injustice, too many people in the United States are food insecure.¹⁹⁴ The food justice movement is practiced with the intention of “citizen empowerment.”¹⁹⁵ Known as a progressive movement, it is derived from the environmental justice movement and focuses on how people of color and people of low-income communities are threatened, exempt, or underserved by the current food regime.¹⁹⁶ The food justice movement is focused on community involvement and encourages grassroots organizations, such as community-supported agriculture (CSA) and Food Policy Councils, to address how access to local, healthy food can be sustainable.¹⁹⁷

There are, of course, issues with these food movements. There is wide variation within each movement regarding positions on topics such as genetically modified organisms (GMOs), trade, and domestic hunger programs.¹⁹⁸ Alone, they will not solve the issues with accessibility we have here in Oregon and in many parts of the country. Most of these movements emphasize the importance of local food. However, even this is not accessible to everyone. “[F]ood movement adherents must be willing, and also able, to participate by purchasing.”¹⁹⁹ These movements create an aura of monoculture itself, often ignoring others’ capabilities to join in on these movements, along with their race and history. For example, as scholars, Alkon and Agyeman, point out, the famous food author Michael Pollan

¹⁹¹ McClintock, *supra* note 45, at 108.

¹⁹² *Id.*

¹⁹³ *Id.*

¹⁹⁴ Morales, *supra* note 190, at 149.

¹⁹⁵ Holt-Giménez, *supra* note 50, at 323.

¹⁹⁶ *Id.*

¹⁹⁷ *Id.* at 323–24.

¹⁹⁸ *Id.* at 325.

¹⁹⁹ Alkon & Agyeman, *supra* note 35, at 3.

encourages us all to join these food movements, but he ignores that we all come from differing backgrounds and belief systems.²⁰⁰ For many, joining these food movements is out of reach,²⁰¹ similar to the fact that visiting and purchasing from farmers' markets on a weekly basis is financially unattainable.

Though these movements are not perfect, we can pull factions from each to develop a new order of distribution that we so desperately need. “[T]he politics of alternative food need to be organized by relationships rather than geography, building a new form of agrarian citizenship that strengthens communities on the basis of solidarity and respect for nature’s own needs and cycles.”²⁰² This requires creating links between rural and urban farmers and citizens, rather than relying on the corporate institutional links that are causing food insecurity and injustice.²⁰³

VI THE GOAL

Ultimately, the goal of food distribution is in the name—to distribute food reliably, sustainably, and equitably. The issues of accessing food in low-income and rural areas is not a new problem. The lack of food accessibility derives from the quick expansion of supermarkets and corporations’ ability to establish new stores primarily in areas where they would make the most money, as well as the refusal to bring social movements into the conversation. To change this on a grand scale within Oregon, and ultimately throughout the country, requires a new mindset. By taking ideas from various food movements, current systems already in place, and techniques used in other countries, we can develop an ideal distribution system that will not leave people behind.

Unfortunately, there is not one clear answer. First, it is important to turn to and assess current distribution systems in other industries. This includes our municipal water supplies and electric grids. Though these systems are also often controlled by private industry, they are seemingly more regulated by our government than food distribution. Of course, there is no shortage of problems with these systems either, as we have seen an abundance of issues with our water supply in just

²⁰⁰ *Id.*

²⁰¹ *See id.*

²⁰² McMahon, *supra* note 2, at 127.

²⁰³ *Id.*

one U.S. city—Flint, Michigan. To model our food distribution systems on existing municipal water or electric grids would not be a faultless approach as those systems also need major improvements. But they can provide a jumping-off point in our switch from total corporate control to a food distribution system with more government regulations. Though this paper did not address these systems in depth, they may provide a ramp to a more sustainable system.

Ultimately, our food distribution system cannot continue the way it has for decades. We must use visions from the equitable food justice movements and other systems throughout the world to transform our highly irregular and unfair system. Programs like SNAP, charitable groups, climate change adaptation, and food banks are all attempts at closing gaps within our current system. Though these programs are necessary at this current time, they are unsustainable and do not ensure an equitable future.

The road will be long, but the first step is easy. What must first be addressed and admitted is that corporations have a strong grasp upon our food distribution. Food is a necessity. That is nonnegotiable. Therefore, it should not be controlled by entities whose sole purpose is money. And, of course, climate change will only continue. This problem must be addressed sooner rather than later. A more socially driven food distribution system is required.