

**FOR A NEW ECONOMY, PUERTO RICO NEEDS A SHARING
MINDSET**

ARTICLE

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“[W]hat is . . . most exciting about Collaborative Consumption is that it fulfills the hardened expectations on both sides of the socialist and capitalist ideological spectrum without being an ideology in itself. It demands no rigid dogma.”¹

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¹ RACHEL BOTSMAN & ROO ROGERS, WHAT’S MINE IS YOURS: THE RISE OF COLLABORATIVE CONSUMPTION xxii (2010).

INTRODUCTION

IT IS WELL KNOWN THAT, SINCE 2006, PUERTO RICO HAS FACED AN unprecedented economic crisis. Some of Puerto Rico's economists argue that, because the crisis is structural in nature, traditional economics solutions do not pose plausible answers.² In addition, last September 20, 2017, Hurricane Maria wreaked havoc on Puerto Rico. After that, among other initiatives, governor Ricardo A. Roselló Nevares presented to the U.S. Congress an aid plan called "Build Back Puerto Rico" where it states that the Commonwealth's estimated damages, as result of the climate event, were \$94,400 million.³ The cherry on top of the sundae are both the P.R.O.M.E.S.A. legislation,⁴ and the recent federal tax reform proposed and enacted by President Trump's administration that will treat Puerto Rico as a foreign country.⁵ Needless to say, Puerto Rico faces an uphill battle and no one seems to come to our rescue.

Some economic and political thinkers would argue that Puerto Rico needs an economic growth based on "secure property rights, encouragement of private enterprise, and openness to international trade, stimulation of education, limited and sensible regulations, and reasonably honest government."⁶ Under this recipe, Puerto Rico's future could turn even worse, in part, because: (1) the land is limited; (2) labor has suffered because of systematic massive migration; and (3) capital is concentrated in either limited or foreign hands. For that same reason, in the face of our new rebuilding reality, Puerto Rico needs to move past the economic structures and policies that limits its potential for good. We need a new resourceful, reasonable and systemic paradigm based on both an entrepreneurial perspective and a sense of community initiative. Every day, under a stream of bad news, we can still hear and see young people and community movements that want to innovate and get our economy up and running.

² Luis Raúl Marín Aponte *et al.*, *Al rescate de los deudores hipotecarios*, 86 REV. JUR. UPR 71, 74-75 (2017) (citing ANNE O. KRUEGER *ET AL.*, PUERTO RICO – A WAY FORWARD 3 (2015)). See also Alfredo González Martínez & José I. Alameda Lozada, *El estancamiento económico, la desigualdad del ingreso y la financiarización en Puerto Rico*, in DESARROLLO ECONÓMICO DE PUERTO RICO: ENSAYOS PARA UNA NUEVA ECONOMÍA 37-45 (Ricardo R. Fuentes Ramírez ed., 2017).

³ Joanisabel González, *Informe revela el deplorable estado de la infraestructura de Puerto Rico*, EL NUEVO DÍA (November 22, 2017), <https://www.elnuevodia.com/noticias/locales/nota/informerevela-deplorableestadodelainfraestructuradepuertorico-2376280/>.

⁴ Puerto Rico Oversight, Management, and Economic Stability Act, 48 U.S.C. §§ 2101-2241 (2016).

⁵ Ike Brannon, *Exclude Puerto Rico from Tax Reform*, FORBES (December 13, 2017), <https://www.forbes.com/sites/ikebrannon/2017/12/13/exclude-puerto-rico-from-tax-reform/#4b1e6bec70cd/>.

⁶ Gary S. Becker & Richard A. Posner, *Microfinance and Development*, in UNCOMMON SENSE: ECONOMIC INSIGHTS, FROM MARRIAGE TO TERRORISM 347 (2009).

Projects like *Piloto 151*,⁷ *Parallel18*,⁸ *Colmena 66*,⁹ among others, are examples of a community of entrepreneurs that are developing in Puerto Rico. As we will discuss later in this article, cooperatives, non-profits, social enterprises, and small-medium enterprises are also sprouting throughout the Puerto Rico. Yet, these movements should not be emerging independently; there needs to be a collective and organized movement. It is imperative that the basic premises on which the new economy will be developed are laid out. Accordingly, the purpose and aspiration of this written work is to explore how the *sharing economy* paradigm offers the answers for a local sustainable economic development for Puerto Rico.¹⁰ The legal theory methodology used for this article is the *Functional Law and Economics*.¹¹ However, it is important to note what this article is and what this article is not.

This written work will not address issues related to the current political status of Puerto Rico and other related topics, such as the American cabotage law (also known as the “Jones Act”).¹² Also, this work does not propose a way for the local government to adopt an *I’m-not-responsible-for-energy,-water,-education,-health,-and-other-basic-human-rights* position. Rather, this article embraces a *notwithstanding position*. That is, *despite* our Government, *despite* the colonial status, *despite* P.R.O.M.E.S.A., the people of Puerto Rico need to believe that the power of change lies in cooperation and collaboration. Therefore, one of the hurdles that this article proposes to overcome is the fact that regardless of the colonial status Puerto Rico faces, the source of the power necessary to force a paradigm change is in the people.

In Part I, the article will discuss the economic analysis of law, also known as *Law and Economics*, and the three schools that conform it—positive, normative and functional—and their differences. This will allow the underlying theoretical

⁷ See Laura M. Quintero, *Piloto 151: Abre la nueva oficina compartida para mentes creativas*, NOTICEL (September 15, 2013), http://www.noticel.com/economia/piloto-151-abre-la-nueva-oficina-compartida-para-mentes-creativas-galera_20170822084241609/608835178, for more information about *Piloto 151*.

⁸ María Granara Quintos, *Parallel 18 aceleradora de Puerto Rico que quiere contribuir al crecimiento del ecosistema del país*, TIMOV (2016), <http://www.timov.la/article/parallel-18-aceleradora-de-puerto-rico-que-quiere-contribuir-al-crecimiento-del-ecosistema-del-pais>, for more information about *Parallel 18*.

⁹ See Sharon Minelli Pérez, *Colmena66 se valida como red empresarial*, EL NUEVO DÍA (December 22, 2017), <https://www.elnuevodia.com/negocios/empresas/nota/colmena66sevalidacomoredempresarial-2384330>, for more information about *Colmena 66*.

¹⁰ See Bernard Marr, *The Sharing Economy – What It Is, Examples and How Big Data, Platforms and Algorithms Fuel It*, FORBES (October 21, 2016), <https://www.forbes.com/sites/bernard-marr/2016/10/21/the-sharing-economy-what-it-is-examples-and-how-big-data-platforms-and-algorithms-fuel/#60bb41e97c5a>, for more information of the *Sharing Economy* concept.

¹¹ Francesco Parisi & Jonathan Klick, *Functional Law and Economics: The Search for Value-Neutral Principles of Lawmaking*, 79 CHI.-KENT L. REV. 431, 448 (2004), <https://www.law.upenn.edu/fac/jklick/79ChicagoKentLR431.pdf>, for more information of the *Functional Law and Economics* methodology.

¹² 46 U.S.C. § 55102 (2012).

premises of the article to be revealed from the get-go. Likewise, this article will explain the sharing economy movement, the way it works and the platforms for this new economy. Part II, will lay out the recipe local economists have recommended for the current economic crisis, three reasons why the sharing economy is the solution for Puerto Rico, and how the legal sphere is necessary in order to advance this paradigm shift. Finally, the conclusion will address other topics students, professors, and professionals alike, could further study regarding the advancement of the sharing economy movement and its convergence with other fields of knowledge and reality.

I. BACKGROUND

A. *Economic Analysis of Law*

i. Economics Premises in a Nutshell¹³

To best understand the economic analysis of law, also known as *Law and Economics*, it is necessary to incorporate the basic premises that underlie the economics field. Economists, through “mathematically precise theories (price theory and game theory) and empirically sound methods (statistics and econometrics)” typically provide behavioral theory to predict how people react to laws.¹⁴ For example, *scarcity* and *choice* are the two constants that economist have to base their analysis on.¹⁵ Options are restricted because there are limited goods and services; therefore, people must choose. Once individuals decide between what they will have and what they are willing to forego, the *opportunity cost* is born.

Opportunity cost is the sacrifice an individual, or group of individuals, incur when, at the cost of *X* thing, they select *Y*. This is not a random selection process. In Campbell R. McConnell’s words, “[e]conomics assumes that human behavior reflects ‘rational self-interest.’ Individuals look for and pursue opportunities to increase their *utility* [or wealth] –the pleasure, happiness, or satisfaction obtained from consuming a good or service.”¹⁶ This *purposeful behavior*, as opposed to a *random* one, does not assume that the decision maker won’t make a bad decision because of faulty logic;¹⁷ nor that people won’t evaluate their context when it’s time to make a decision. Instead, this *self-interested behavior* simply means that

¹³ This section is based on MCCONNELL ET AL., *ECONOMICS: PRINCIPLES, PROBLEMS, AND POLICIES* 4-6 (8th ed. 2009).

¹⁴ ROBERT COOTER & THOMAS ULEN, *LAW AND ECONOMICS* 3 (6th ed. 2016) (“Prof. Bruce Ackerman of the Yale Law School described the economic approach to law as ‘the most important development in legal scholarship of the twentieth century.’” *Id.* at 2.).

¹⁵ MCCONNELL, *supra* note 13, at 4.

¹⁶ *Id.*

¹⁷ *Id.*

people make decisions with some desired outcome in mind, while at the same time increasing personal satisfaction.¹⁸

McConnell also says that “[t]he economic perspective focuses largely on *marginal analysis*—comparisons of marginal benefits and marginal costs, usually for decision making.”¹⁹ By “marginal”, what is meant is *extra* or *additional* as opposed to the existing state of things. Moreover, in a world of scarcity, marginal analysis is part of a daily decision-making process. It is necessary to emphasize that economic theories, while attempting to explain and predict individuals’ and institutions’ behavior, incur on *purposeful simplifications* because of the complexity of the economic reality in itself. Thus, economic principles tend to: (1) generalize; (2) use the *ceteris paribus* or other-things-equal assumption; and (3) graphical expressions for economic models.²⁰

ii. Chicago and Yale Schools of Thought

Law and economics has emerged as a leading methodology across the legal system.²¹ Even though there are three distinct schools of thought, Chicago and Yale both of which were developed almost simultaneously, are the most famous.²² The Chicago school—or *positive school*—attempts to explain legal rules and outcomes as they *are* rather than as they *ought to be*.²³ The positive school, for example, “restricts itself to the descriptive study of the incentives produced by the legal system largely because its adherents believe that efficient legal rules evolve naturally.”²⁴ The Chicago school believes in the *efficiency of the common law hypothesis*; that is, “common law rules attempt to allocate resources in either a Pareto or Kaldor-Hicks efficient manner,”²⁵ which will be discussed later.

On the other hand, the Yale school of thought,—or *normative school*—, “sees the law as a tool for remedying ‘failures’ that arise in the market.”²⁶ The Yale school is concerned with distributional legal intervention. By attempting to correct market failures, the “overall philosophy of this group is often presented as a more value-tainted and more prone policy intervention.”²⁷ However, there is a third school of the economic analysis of law; the *functional school of law and economics*, also known as the Virginia School.

¹⁸ *Id.* at 5.

¹⁹ *Id.*

²⁰ *Id.* at 6.

²¹ RICHARD A. POSNER, *ECONOMIC ANALYSIS OF LAW* 29 (8th ed. 2011).

²² Jonathan Klick & Francesco Parisi, *Wealth, Utility, and the Human Dimension*, 1 N.Y.U. J.L. & LIBERTY 590, 591 (2005); *see also* POSNER, *supra* note 21, at 31.

²³ POSNER, *supra* note 21, at 31 (focusing on facts and cause-and-effect relationships).

²⁴ Klick & Parisi, *supra* note 22, at 591.

²⁵ *Id.* at 593.

²⁶ Klick & Parisi, *supra* note 22, at 591 (citation omitted).

²⁷ *Id.* at 594.

iii. Virginia School of Thought

The functional school “draws from public choice theory and the constitutional perspective of the Virginia school of economics to offer a third perspective that is neither fully positive nor fully normative.”²⁸ The functional law and economics (hereinafter, “F.L.E.”) recognizes “that there are structural forces that can often impede the development of efficient legal rules;” therefore, it “allows for the possibility of using insights from economics to remedy faulty legal rules at a meta level.”²⁹ The F.L.E. also acknowledges that “there are failures in the political market that make it unlikely that changes will be made on a principled basis” and that “it is difficult to identify all the ultimate consequences of corrective legal rules.”³⁰ As a result, the F.L.E. focuses “on using economic theory to design legal meta-rules that lead to [forecasted] efficiency.”³¹ To achieve this forecasted efficiency, “the design of legal institutions that induce individuals to internalize the effects of their private activities, as well as to induce them to reveal their true preferences in situations where collective decisions must be made”, is necessary.³² Hence, one of the most important premise of the F.L.E. is its dependence on methodological individualism; that is, only individuals may choose and act.³³

iv. Further Methodological Divides

Besides the discussed particularities of each school, there are methodological divides among them.³⁴ In general, the distinctions address the question on how to define efficiency on both the individual and aggregate level; specifically, how preference should be evaluated, and what exactly should be maximized to achieve an optimal legal system.³⁵ The more traditional law and economics maximum is efficiency, a comprehensive measure of public benefits.³⁶ In the book *Law and Economics* (written by Robert Cooter and Thomas Ulen), it is said that “economics conceives . . . laws as incentives for changing behavior (implicit prices) and as instruments for policy objectives (efficiency and distribution).”³⁷

On how to define efficiency, there are three possible models that have been subject of both acceptance and criticism: (1) the Pareto Criterion; (2) the Bentham

28 *Id.*

29 *Id.*

30 *Id.*

31 *Id.*

32 *Id.*

33 *Id.* at 595 n. 12.

34 *Id.* at 591.

35 *Id.*

36 COOTER & ULEN, *supra* note 14, at 4.

37 *Id.* at 9.

and Kaldor-Hicks Utilitarian Test; and (3) the Nash and Rawls Non-Linear Social Preferences.³⁸ First, regarding the Pareto approach to social welfare, “an optimal allocation is one that maximizes the well-being of one individual relative to the well-being of other individuals being constant.”³⁹ Second, according to the Bentham and Kaldor-Hicks’ approach, if policymakers want to further social welfare, they “have an obligation to select rules that give the greatest happiness to the greatest number.”⁴⁰ Third, in simple terms, the Nash and Rawls approach states that “the well-being of a society is judged according to the well-being of its weakest members.”⁴¹

The other question that must be considered is: what should the legal system try to maximize: aggregate wealth or aggregate utility?⁴² Because utility cannot be objectively measured, the increasing consensus among the three schools is to abide by the wealth maximization paradigm in order to comprehensively measure social welfare.⁴³ Richard Posner, former judge for the U.S. Appellate Court for the 7th Circuit, is the most notable champion of this standard where “a transaction is desirable if it increases the sum of wealth for the relevant parties.”⁴⁴ Additionally, some arguments in favor of the wealth maximization theory include: (1) wealth maximization “is dependent on productive effort;” (2) “wealth maximization seeks to maximize aggregate economic utility . . . called ‘wealth’,” which is more practical and measurable than happiness; and (3) “[b]y promoting the efficient use of resources, wealth maximization encourages traditional capacities, such as intelligence, and traditional virtues, such as honesty.”⁴⁵

v. Functional Law and Economics

In order to define efficiency under the F.L.E. methodology, we bypass the above mentioned wealth/utility divide and focus our analysis on the choice or revealed preference of individuals.⁴⁶ Most importantly, the F.L.E. formulates value-neutral principles of collective choice; namely, it does not weigh one preference

³⁸ Klick & Parisi, *supra* note 22, at 596-99.

³⁹ *Id.* at 596.

⁴⁰ *Id.* at 597 (“In practical terms . . . [a]s long as the gainers gain more than the losers lose, the move is deemed efficient.”).

⁴¹ *Id.* at 599 (in mathematical terms, “the entire social welfare of a group approaches zero as the utility of one of its members goes to zero.”)

⁴² *Id.* at 599-600.

⁴³ *Id.* at 600.

⁴⁴ *Id.* (“[W]here wealth is meant to include all tangible and intangible goods and services.”); *Id.* at 604 (“Posner . . . never suggested that wealth maximization should be the only social value or principle of justice.”)

⁴⁵ *Id.* at 602.

⁴⁶ Francesco Parisi & Jonathan Klick, *Functional Law and Economics: The Search for Value-Neutral Principles of Lawmaking*, 79 CHI.-KENT L. REV. 431, 448 (2004).

above the others.⁴⁷ In order to do so, the F.L.E. “relies on institutions that provide individuals with the opportunity to express their own values truthfully. These revealed preferences are then granted complete validity in normative terms, with law and policy makers taking them as a given.”⁴⁸ Under this functional analysis, courts and policy makers will “first inquire into the incentives underlying the legal or social structure that generated [a] legal rule, rather than directly attempting to weigh the costs and benefits of individual rules.”⁴⁹ In this way, Professors Francesco Parisi and Jonathan Klick point out that:

[T]he [F.L.E.] approach . . . can extend the domain of traditional law and economics inquiry to include both the study of the influence of market and non-market institutions (other than politics) on legal regimes, and the study of the comparative advantages of alternative sources of centralized or decentralized lawmaking in supplying efficient rules.⁵⁰

Moreover, as stated earlier, “by designing mechanisms through which parties are induced to reveal their subjective preferences, the [F.L.E.] obviates the need for third parties, such as judges or legislators, to decide between wealth and utility as the appropriate maximand.”⁵¹ For example, if people decide that collaboration is the appropriate benchmark for a certain legal rule, no further considerations are needed. The fostering of this favored standard would be in itself efficient. As a result, this “approach tends to align individual and social optimality.”⁵² However, given its normative individualism premises, the F.L.E. “suggests that institutions should provide incentives, such that individuals will naturally act in a desired way without any external monitoring or coercion.”⁵³ Parisi and Klick state that “[t]his necessarily requires that individuals have the ability and incentive to reveal their own subjective values and preferences, and that all costs and benefits generated by an individual’s actions accrue to that individual.”⁵⁴

The above implies “that individuals will only achieve socially optimal outcomes when they act for their own gain . . .”⁵⁵ While this notion is similar to what traditional economic knowledge proposes,⁵⁶ it is important to note that, as David C. Korten puts it: “[Adam] Smith did not advocate a market system based on unrestrained greed. He was talking about farmers and artisans trying to get the best

47 *Id.* at 449.

48 *Id.*

49 Klick & Parisi, *supra* note 22, 595 (namely because courts and policymakers lack the expertise and methods for evaluating the efficiency of alternative legal rules).

50 *Id.*

51 *Id.* at 604.

52 *Id.*

53 Francesco Parisi & Jonathan Klick, *supra* note 46, at 448.

54 *Id.* at 448-49.

55 *Id.* at 449.

56 Klick & Parisi, *supra* note 22, at 607.

price for their products [in order] to provide for themselves and their families. That is self-interest, but it is not greed.”⁵⁷ Professors Parisi and Klick point out that “[e]xamples of research in this area include the [F.L.E.] explanations for the cooperation that underlies much of human interaction. Cooperative behavior is an empirical regularity that proves puzzling from both the positive and normative perspectives.”⁵⁸ That is precisely the reason why this article is based on the F.L.E. methodology.

On one hand, the positive school’s efficiency maxima is based on the natural outcome of unbridled competition. On the other hand, the normative school prescribes external limits or alterations on the natural competition that arises among individuals. Therefore, cooperation does not easily fit within either of these two school’s perspectives.⁵⁹ Nevertheless, empirical studies show “how social norms evolve to solve various prisoner’s dilemma games by internalizing reciprocity constraints on individual action, improving the welfare of participants relative to the purely competitive outcome.”⁶⁰

As a matter of fact, Professors Parisi and Klick point out that the F.L.E.’s efficiency perspective is analogous to the human-centered functional perspective of the moral precepts of the Judeo-Christian ethics.⁶¹ They use as an example the Biblical Golden Rule of treating others the way you wish to be treated.⁶² Even though ethical values vary from one culture to another, “norms of reciprocity stand as universal principles in virtually every human society, both historical and contemporary.”⁶³ This reciprocity principle, “[i]n both its negative and positive version . . . embodies one of the fundamental precepts of the [F.L.E.] movement. That is, *ex ante* efficiency requires that an individual internalize the effects of his actions.”⁶⁴

⁵⁷ David C. Korten, *The Betrayal of Adam Smith*, in WHEN CORPORATIONS RULE THE WORLD (1995), available at https://jacobsn.com/deoxy/deoxy.org/korten_betrayal.htm.

⁵⁸ Parisi & Klick, *supra* note 46, at 449.

⁵⁹ *Id.*

⁶⁰ *Id.*; see also Vincy Fon & Francesco Parisi, *Reciprocity-Induced Cooperation*, 159 J. INSTITUTIONAL & THEORETICAL ECON. 76 (2003); Kevin A. McCabe *et al.*, *Positive Reciprocity and Intentions in Trust Games*, 52 J. ECON. BEHAV. & ORG. 267 (2003) (providing laboratory evidence of the internalization of reciprocity norms); see also Avinash Dixit and Barry Nalebuff, *Prisoners’ Dilemma*, THE CONCISE ENCYCLOPEDIA OF ECONOMICS, <http://www.econlib.org/library/Enc/PrisonersDilemma.html> (last visited June 16, 2018) (“The prisoners’ dilemma is the best-known game of strategy in social science. It helps us understand what governs the balance between cooperation and competition in business, in politics, and in social settings.”)

⁶¹ Klick & Parisi, *supra* note 22, at 605.

⁶² *Id.*

⁶³ *Id.*

⁶⁴ *Id.* at 606; see also Parisi & Klick, *supra* note 46, at 449 (this human-centered focus solves the information problem regarding subjective values from a utility maximization approach).

To sum up, the F.L.E. is able to reveal preferences by relying on institutions that provide individuals with the opportunity to express their own values truthfully once they have had the opportunity to internalize the effects of their actions. The result being, as previously mentioned, that these preferences “are . . . granted complete validity in normative terms, with law and policy makers taking them as a given.”⁶⁵ Now, using the F.L.E.’s framework, we will proceed to the next phase of our analysis of the sharing economy.

B. *The Sharing Economy*

i. What is the Sharing Economy?

The sharing economy is not a utopia; it is real and it is growing exponentially. According to the market research company *Statista*, in 2016, there were 44.8 million adults using sharing economy services such as Airbnb and Uber in the United States. *Statista* further forecasted the number of users to increase to 86.5 million by 2021.⁶⁶ This new and developing post-industrial economy is one based on technology and information that has enabled a consumption culture revolution. Society is moving from the 20th century hyper consumption to the 21st century collaborative consumption.⁶⁷ This movement goes by many names: the “sharing economy,” “collaborative consumption,” the “grassroots economy,” the “hybrid economy,” the “new economy,” the “relationship economy,” the “gig economy,” the “co-operative economy,” and the “peer-to-peer economy.”⁶⁸

Some advocates of the sharing economy have defined it as “what happens when you love your neighbor as yourself.”⁶⁹ Others have materialized it as making money from the things you already have.⁷⁰ Professor Arun Sundararajan from New

⁶⁵ Klick & Parisi, *supra* note 22, at 607 (e.g., “mechanism design to induce incentive alignment, preference revelation mechanism for subjective value, and freedom of contract and parties’ autonomy in private contracting.” *Id.*; “[T]he [F.L.E.] approach respects individuals’ freedom of contract, taking the fact that individuals agree to an arrangement as evidence of the transaction’s intrinsic value for the parties.” *Id.* at 608).

⁶⁶ *The number of sharing economy users in the United States from 2016 to 2021 (in millions)*, STATISTA: THE STATISTICS PORTAL, <https://www.statista.com/statistics/289856/number-sharing-economy-users-us/> (last visited June 16, 2018).

⁶⁷ TED Talks, *Rachel Botsman: The Case for Collaborative Consumption*, YOUTUBE (December 17, 2010), <https://www.youtube.com/watch?v=AQa3kUJPEko>.

⁶⁸ Rachel Botsman, *Defining The Sharing Economy: What is Collaborative Consumption – And What Isn’t?*, FASTCOMPANY (May 27, 2015), <https://www.fastcompany.com/3046119/defining-the-sharing-economy-what-is-collaborative-consumption-and-what-isnt>, to see different names for the same movement.

⁶⁹ TEDx Talks, *M Andre Primus: What is the sharing economy and why does it matter?*, YOUTUBE (September 29, 2014), https://www.youtube.com/watch?v=wgLPZ_otAfc.

⁷⁰ TEDx Talks, *Emily Castor: Creating Opportunity Through the Sharing Economy*, YOUTUBE (November 26, 2014), https://www.youtube.com/watch?v=I_hzH5jimb_E.

York University's Stern School of Business explained in an interview that the sharing economy is really nascent economic system with the following five characteristics.⁷¹ First, the new economy is “market-based, meaning that there is some sort of digitally enabled market that [facilitates] the exchange of goods and the emergence of new services.”⁷² Second, in the “gig economy” the impact of capital increases, which means that “a range of things, from physical assets to people’s time [and] money, begin to get used at levels close to their full capacity.”⁷³

Third, the new economy is characterized by the emergence of “crowd-based networks that compete with centralized institutions.”⁷⁴ Professor Sundararajan points out that these networks thrive when the supply of capital, assets, and labor originates from dispersed crowds made up of individuals rather than from conglomerates assembled centrally by corporations or governments. The fourth characteristic is the blurring of lines between what used to be personal and what used to be professional. As Kane states, “[i]n scaling and commercializing peer-to-peer activities—giving someone a place to stay, lending someone money, giving someone a ride—many activities that used to be considered personal are now entering the commercial realm.”⁷⁵ Similarly, the fifth and final characteristic is the blurring of lines between a fully-employed workforce and casual labor. An example could be the case of a person that instead of being a full-time taxi driver may opt to be a part-time Uber driver while also doing other freelancing work, such as web developing, graphic designer, among others.

On the other hand, by focusing on the fruits of this grassroots economy, attorney Janelle Orsi, Founder and Executive Director of the Sustainable Economies Law Center, poses that “[a]lthough it is hard to encapsulate the qualities of this new economy, [the sharing economy] generally facilitates community ownership, localized production, sharing, cooperation, small-scale enterprise, and the regeneration of economic and natural abundance.”⁷⁶ Likewise, Rachel Botsman, founder of the Collaborative Lab, argues that the following four factors are fusing together and promoting this paradigm shift in our current economic system: (1) a renewed belief in the importance of community; (2) a torrent of peer-to-peer (hereinafter, “P2P”) social networks and real-time technologies; (3) pressing unresolved environmental concerns; and (4) a global recession that has fundamentally shocked

⁷¹ Gerald C. Kane, Interview with Arun Sundararajan - *Crowd-Based Capitalism? Empowering Entrepreneurs in the Sharing Economy*, MIT SLOAN MANAGEMENT REVIEW (March 8, 2016), <https://sloanreview.mit.edu/article/crowd-based-capitalism-empowering-entrepreneurs-in-the-sharing-economy/>. Please note that Prof. Sundararajan’s views may be subject to discussion for another article regarding whether his definition for sharing economy is the most appropriate and whether his premises defeat the underlying values this article favors.

⁷² *Id.*

⁷³ *Id.*

⁷⁴ *Id.*

⁷⁵ *Id.*

⁷⁶ JANELLE ORSI, PRACTICING LAW IN THE SHARING ECONOMY: HELPING PEOPLE BUILD COOPERATIVES, SOCIAL ENTERPRISE, AND LOCAL SUSTAINABLE ECONOMIES 2 (2012).

consumers' behavior.⁷⁷ Moreover, Botsman and Roo Rogers state that this movement revolves around three core values: (1) simplicity; (2) traceability and—the notion that “local is good”—; and (3) participation.⁷⁸

Botsman also defines this so-called collaborative consumption as “a social and economic system driven by network technologies that enable the sharing and exchange of assets from spaces to skills to cars in ways and on a scale never possible before.”⁷⁹ Botsman further states that trust has gone from being institutional based (opaque, closed, centralized, vertical, licensed, and top-down)—such as big corporations and governments—to distributed based (transparent, inclusive, decentralized, horizontal, accountable and bottom-up) —like peers and even strangers.⁸⁰ She also contends that there needs to be a transition from institutional and centralized power to a more distributed and democratized power.⁸¹ Accordingly, Botsman argues that trust is not only the secret to building a sharing economy but its main currency.⁸²

Other economists, such as Shane Hughes, state that this lack of institutional trust phenomenon is partly because of individual's growing skepticism regarding the current centralized-ownership-hierarchical-buying economic model.⁸³ This hierarchical economic system has both widened the gap between the rich and the poor and it is the main reason for our current economic problems. These problems include, for example, environmental issues, wherein as Orsi states, “[t]he reality is that we have already used the planet's resources faster than they can be replenished.”⁸⁴ Orsi's position is an accurate as to when it says that, in order to address this problem, the new economy should aspire to not only further sustainable economic development, but also to regenerate the economic and ecological abundance necessary for everyone to thrive.⁸⁵ Accordingly, the promise of an “economic and social mechanism that starts to balance individual needs with those of

⁷⁷ TED Talks, *Rachel Botsman*, *supra* note 67.

⁷⁸ BOTSMAN & ROGERS, *supra* note 1, at 51.

⁷⁹ TED Talks, *Rachel Botsman: The Currency of the New Economy is Trust*, YOUTUBE (September 24, 2012), <https://www.youtube.com/watch?v=kTqgiF4HmgQ>.

⁸⁰ TED Talks, *Rachel Botsman: We've stopped trusting institutions and started trusting strangers*, YOUTUBE (November 7, 2016), <https://www.youtube.com/watch?v=GqGksNRYu8s>.

⁸¹ Ouishare TV, *Rachel Botsman: Connected Communities: The Institution of the 21st Century?* YOUTUBE (May 28, 2014), <https://www.youtube.com/watch?v=K6FXZJU2-w8> (explaining that some areas ripe for disruption are: (1) complex experiences (insurances); (2) broken trust (banking); (3) redundant intermediates (layer of middleman or processes, like publishing and advertising); and (4) limited access (health and education)).

⁸² TED Talks, *Rachel Botsman*, *supra* note 79.

⁸³ TEDx Talks, *Shane Hughes: The Unstoppable Rise of a Collaborative Economy*, YOUTUBE (February 6, 2013), <https://www.youtube.com/watch?v=ya6zndBObHY> (explaining that the sharing economy looks for access, networks, and sharing).

⁸⁴ ORSI, *supra* note 76, at 3.

⁸⁵ *Id.* at 4.

[the] communities and [the] planet [is] what [Botsman and Rogers call the] Collaborative Consumption.”⁸⁶

ii. How does the Sharing Economy work?

Orsi explains the way the sharing economy works by looking at the following three components separately: (1) consumption; (2) production; and (3) exchange.⁸⁷ First, in the current economic structure, the way society participates in *consumption* is by attempting to *buy* and *own* everything they supposedly need. As an alternative, the sharing economy proposes that having *access* to many things in order to meet our needs is a better and more sustainable measure in the long run. Orsi points out as well that this is particularly true in the relationship that society shares with a “commodity” like land.⁸⁸ She argues that living in an access economy has the potential to both, lower individuals’ pay for housing and land, and create more sustainable structures for managing the land, such as land trusts and others. However, we note that it is possible to problematize the concept of land commodity, and argue that the sharing economy would benefit more from the Biblical concept of stewardship.⁸⁹

Second, society participates in *production* through capital. The sharing economy proposes that people invest to support local projects that benefit both individuals and their communities, as opposed to investing in Wall Street. By doing so, new local enterprises will blossom and the community will be able to combine individual endeavors with cooperative enterprises—this being any productive activity that could derive sustenance. Orsi explains that some enterprises that may emerge in the sharing economy ecosystem are: (1) sharing enterprise;⁹⁰ (2) nano-

⁸⁶ BOTSMAN & ROGERS, *supra* note 1, at 63.

⁸⁷ This section is based on ORSI, *supra* note 76, at 4-10, and BOTSMAN & ROGERS, *supra* note 1, at 71-74.

⁸⁸ ORSI, *supra* note 76, at 5.

⁸⁹ See *Stewardship*, LAND TRUST ALLIANCE, <https://www.landtrustalliance.org/topics/stewardship> (last visited on June 16, 2018). This particular topic is outside the scope of this article, for more information on the concept of Biblical stewardship, see E. Calvin Beisner, et al., *A Biblical Perspective on Environmental Stewardship*, ACTION INSTITUTE, <https://acton.org/public-policy/environmental-stewardship/theology-e/biblical-perspective-environmental-stewardship> (last visited June 16, 2018); see also Eugene Loh, *A Biblical Perspective on Land Stewardship*, LANDWATCH (December 1997), <http://www.landwatch.org/pages/perspectives/christiansteward.htm>.

⁹⁰ ORSI, *supra* note 76, at 7 (“[A]imed at sharing and offsetting the cost of ownership and maintenance of an item; it is not aimed at making a profit.”)

enterprise;⁹¹ (3) producer cooperative enterprise;⁹² (4) worker cooperative enterprise;⁹³ (5) consumer cooperative enterprise;⁹⁴ (6) social enterprise;⁹⁵ (7) community-supported enterprise;⁹⁶ and (8) community owned enterprise.⁹⁷ Nonetheless, what makes all of these enterprises work is the relationships and agreements that people in a given community have made with each other.

Third, “[t]he sharing economy opens the doors to a wide variety of *exchange mechanisms*,”⁹⁸ such as time banks, local currency systems, casually created currencies like an “I’ll-wash-your-car-certificate,” online barter networks, and a general culture of giving, sharing, swapping, and bartering.⁹⁹ While dollars are scarce, particularly in Puerto Rico, our communities have resources such as people, skills, and tangible items, which could prove to be resourceful as an incentive system. Similarly, and in many ways overlapping with the above-mentioned components of consumption, production and exchange, Botsman explains that the sharing economy is composed of three systems: (1) product service system (PSS); (2) redistribution markets; and (3) collaborative lifestyles.¹⁰⁰

First, the PSS is based on a shift by an increasing number of consumers, from an “owning mind-set” to a “usage mind-set.”¹⁰¹ This means that people prefer to pay for the benefit of a product—what it does for them—rather than owning the product (e.g., *transportation* versus owning a *car*; *hole in the wall* versus owning a *drill*, etc.). This first system enables multiple products owned by a company to be shared, or products that are privately owned to be shared or rented on a P2P basis. This PSS can extend the life of a product and have environmental advantages, like

91 *Id.* (“[I]t’s a]nything we do for others . . . if the result is that the activity ends up providing for us in some way.”) (For example, a person allows his neighbor to use his guitar in exchange for washing his or her car, or any other exchange).

92 *Id.* (“Producer cooperatives can harness the nano-entrepreneur in all of us by aggregating and marketing the products of multiple small producers.”)

93 *Id.* at 8 (It is focused on “businesses owned and governed by their workers.”)

94 *Id.* (An example could be when a “group of friends’ pool money to buy pet food in bulk.”)

95 *Id.* (“[A]ctivity aimed at creating a social or environmental good and, in doing so, also generates income or sustenance for those engaged in the activity.”)

96 *Id.* (“[W]ell established in the realm of agriculture [, this system enables] a farmer and a group of customers form a relationship and agree to share a handful of things . . . in exchange [of] a share of the harvest [which depends on the harvest year].”)

97 *Id.* at 9 (explaining that a community-owned entrepreneur would have a “diversified investment portfolio” if he or she would own shares in various local businesses).

98 *Id.*

99 See generally *What is Cryptocurrency: Everything you Need to Know [Ultimate Guide]*, BLOCKGEEKS (2016), <https://blockgeeks.com/guides/what-is-cryptocurrency/>, for more information on one of the most famous alternatives to money exchange today: cryptocurrencies. However, it is important to evaluate if cryptocurrencies’ current form truly possess the underlying values of the grassroots economy movement discussed in this article.

100 BOTSMAN & ROGERS, *supra* note 1, at 71.

101 *Id.*

replacing the current individuals' owned products which carry a limited usage, with a shared service that maximizes the utility of said product. As a result, Botsman reasons that users derive two main benefits from PSS: (1) people are removed from the burdens of ownership, such as maintenance, repair and insurance; and (2) options to satisfy our needs, as a direct result of the removing the burden of ownership, change and increase.¹⁰² The second system, redistribution markets, enable used or pre-owned goods to be redistributed from places where they may not be needed to somewhere or someone who does have a need for that product. This system therefore encourages reusing and reselling old items rather than throwing them out, and also "significantly reduces waste and resources that go along with new production."¹⁰³

Botsman as well points out, in regards to redistribution markets, that the fifth "R" in the "reduce, recycle, reuse, repair, and redistribute" cycle is increasingly considered a "sustainable form of commerce."¹⁰⁴ She also poses that because sustainability and community are an inherent, inseparable part of the Collaborative Consumption and not an afterthought or add-on, regardless of the driving motivation of an individual to participate in the new economy, businesses will become "green."¹⁰⁵ Finally, the third and final system is collaborative lifestyle. Similar to Orsi's third component of exchange, Botsman states that people can share, swap and barter more than physical goods.¹⁰⁶

Botsman also states that "[p]eople with similar interests are . . . shar[ing] and exchang[ing] less tangible assets such as time, space, skills, and money."¹⁰⁷ She further contends that:

Collaborative Consumption has the benefit of being in the user's self-interest, not emphasizing guilt or personal sacrifice [and] habit changes have to be easy and desirable for the average person, while creating value for business and society. [Thus], when a new behavior yields strong rewards, it is more likely to stick.¹⁰⁸

This statement is intimately related to the F.L.E.'s normative individualism premises that suggest that institutions should provide incentives, such that individuals will naturally act in a desired way without any external monitoring or coercion.

¹⁰² *Id.* at 72.

¹⁰³ *Id.* at 72-73.

¹⁰⁴ *Id.* at 73.

¹⁰⁵ *Id.* at 73-74.

¹⁰⁶ *Id.* at 73.

¹⁰⁷ *Id.*

¹⁰⁸ *Id.* at 74.

i. Four Platforms for the New Economy

Orsi argues that there are four activities that must take place simultaneously in order to build a solid basis for the sharing economy.¹⁰⁹ The first level is building *relationships for casual, spontaneous, and one-time transactions*. The sharing economy aims on doing relatively simple activities involving other people, like running an errand for someone, or borrowing a *machete* from someone. This is how you first start building trust with other people. Even here in Puerto Rico, we have heard stories of how neighbors who did not know each other began to share and build trust after Hurricane Maria through this process. We could build on this trust and take this as an opportunity to build communities in ways that will catalyze transactions following the sharing economy model, which would hopefully expand the way people share, borrow, and lend in the Island.

The second level is building *agreements for sharing and transacting*. Agreements create relationships that people rely on and furthers trust among them. For example, rather than borrowing your neighbor's car, you and your neighbor might agree to regularly share a car. Other examples are agreements to share office space, exchange pets' care, or agreements to barter for goods or services.¹¹⁰ The third level is building *organizations*. In Orsi's words, "[b]uilding organizations is a key component to the sharing economy because [entities] generally endure even when individuals come and go from them."¹¹¹ In a world where people are highly mobile, creating lasting institutions in our communities helps create resilient local economies. Some examples are co-housing communities, food cooperatives, and tool lending libraries, among others.¹¹²

The fourth and final level is to "build platforms for the sharing economy into the *infrastructure* of our cities, towns, and regions, which usually involves cooperation of multiple stakeholders and leadership by our local governments."¹¹³ Orsi explains that to achieve this we might require that "all new neighborhoods be physically designed to facilitate interaction among residents, by ensuring walkability or creating central gathering spaces."¹¹⁴ Other examples include community-wide bike or car sharing programs, city or state-owned banks, among others.

109 Orsi, *supra* note 76, at 10.

110 *Id.* at 11.

111 *Id.* (emphasis added).

112 *Id.*

113 *Id.* at 12.

114 *Id.*

II. ANALYSIS

A. *Not Growth but Development*

Social and economic theorist Jeremy Rifkin points out that the global economic crisis of exponential exhaustion of natural resources, declining productivity, slow growth, rising unemployment, and steep inequality has forced the rethinking of current economic models.¹¹⁵ Although there is much debate about which road to follow, Rifkin, just as Botsman and Orsi, believes that the answer lies in what he calls the third industrial revolution: a radical new sharing economy. Rifkin says that, in order to enter this new paradigm that alters the way we perceive power and economic life, a political will and profound ideological shift is needed. Puerto Rico's crisis and social effervescence makes it poised for this revolution; needless to say, the Island's economic situation of stagnation and deterioration in the quality of life is disturbing.¹¹⁶

According to the Economist Intelligence Unit, as of 2018, Puerto Rico (-8.0%) is the second worst-performing economy in the world, only behind Venezuela (-11.9). Compare that with traditional negative biased public opinion countries like North Korea (-1.0%) and the world average (2.7%).¹¹⁷ Local economists like Doctors Jose I. Alameda-Lozada and Ivonne del C. Díaz-Rodríguez have stated numerous times that the current crisis is a structural and systematic one and that it requires a true revolutionary paradigm change in order to get out of it.¹¹⁸ In a broad sense, when an economy faces a structural crisis, as opposed to a cyclical recession or even depression, it means that mere passing of time won't solve the problems.¹¹⁹ Furthermore, traditional so-called "solutions" such as austerity not only will not work, but will instead worsen the situation.¹²⁰

Moreover, some local economists have stated that Puerto Rico's current situation is based on the failure of an *outward-oriented* strategy aligned to attract and

¹¹⁵ Vice, *The Third Industrial Revolution: A Radical New Sharing Economy*, YOUTUBE (February 13, 2018), <https://www.youtube.com/watch?v=QX3M8KagvUA&t=2075s>.

¹¹⁶ EDWIN IRIZARRY MORA, *ECONOMÍA DE PUERTO RICO* 288 (2011).

¹¹⁷ The Data Team, *The fastest-growing and shrinking economies in 2018*, THE ECONOMIST (January 5, 2018), <https://www.economist.com/blogs/graphicdetail/2018/01/daily-chart-3>.

¹¹⁸ See JOSÉ ISREAL ALAMEDA-LOZADA & IVONNE DEL C. DÍAZ-RODRÍGUEZ, *INDEX OF SUSTAINABLE ECONOMIC WELFARE FOR PUERTO RICO* vii (2009), https://estadisticas.pr/files/BibliotecaVirtual/estadisticas/biblioteca/UPR/Alameda_Diaz_2009_Index_of_Sustainable_Economic_Welfare_for_PR.pdf; See also Marín Aponte *et al.*, *supra* note 2, at 74.

¹¹⁹ Marín Aponte *et al.*, *supra* note 2, at 74-75 (addressing ANNE O. KRUEGER *ET AL.*, *PUERTO RICO – A WAY FORWARD* 3 (2015)).

¹²⁰ Joseph Stiglitz, *The Nobel Laureate, on Saving Puerto Rico*, NEW YORK TIMES (February 27, 2017) <https://www.nytimes.com/2017/02/27/opinion/joseph-stiglitz-the-nobel-laureate-on-saving-puerto-rico.html>.

retain foreign investment through different incentives.¹²¹ As Puerto Ricans, we are familiar with these “attract and retain” policies.¹²² Economist and attorney Michael H. Shuman argues that there are at least three deep problems with these so-called solutions.¹²³ The first, and inherently most important problem relevant to this written work, is that “incentives focus . . . on nonlocal businesses, which are the ones least likely to deliver real benefits to a community.”¹²⁴ Shuman points out that, when the incentives run out, these multinational companies “will happily move elsewhere, because they have no roots in the community.”¹²⁵ Does it ring a bell? Let us look at the empirical data.

According to *YourEconomy.org* (YE), in 2008, when the financial crisis exploded in the United States, Puerto Rico had 105,560 businesses with a \$146B in sales, while in 2016 that same number lowered to 77,404 businesses with a \$88B in sales.¹²⁶ Note that from the same database the employment scenario changed as follows: (a) in 2008, 57.9% of total establishments had 2-9 employees, that same number rose in 2016 to 71.9%; (b) in 2008 only 0.1% were self-employed, that same number rose in 2016 to 0.9%; (c) in 2008, 31.3% had 10-99 employees, in 2016, only 22.8%; and (d) in 2008, 10.6% had 100-499 employees, in 2016 it went down to 3.2%.¹²⁷ From this data, it is possible to conclude that large companies are either

¹²¹ Edwin Irizarry Mora & Ricardo R. Fuentes Ramírez, *Introducción: Breve historia económica de Puerto Rico*, in *DESARROLLO ECONÓMICO DE PUERTO RICO: ENSAYOS PARA UNA NUEVA ECONOMÍA* 32 (Ricardo R. Fuentes Ramírez ed., 2017); see also Carlos M. García, *Perspectiva de la Junta: Restaurando el crecimiento económico*, *EL NUEVO DÍA* (March 29, 2017), <https://www.elnuevodia.com/opinion/columnas/restaurandoelcrecimientoeconomico-columna-2305233/>, (wherein García identifies that in the past, Puerto Rico depended on foreign investment. Therefore, he argues that a new economy should not be based on incentives or rewards for more outside capital.); see also, John W. Schoen, *Here's how an obscure tax change sank Puerto Rico's economy*, *CNBC* (September 26, 2017), <https://www.cnbc.com/2017/09/26/heres-how-an-obscure-tax-change-sank-puerto-ricos-economy.html>, for information on Section 936.

¹²² See *Ley de incentivos económicos para el desarrollo de Puerto Rico*, *Ley Núm. 73 de 28 de mayo de 2008*, 13 LPRÁ § 10641 (2012 & Supl. 2017), offering an attractive tax proposal to attract direct foreign investment; see also, *Ley para incentivar el traslado de individuos inversionistas a Puerto Rico*, *Ley Núm. 22 de 17 de enero de 2012*, 13 LPRÁ § 10851 (2012 & Supl. 2017), offering tax credit for the investment income earned by individuals who become residents of Puerto Rico.

¹²³ MICHAEL H. SHUMAN, *THE LOCAL ECONOMY SOLUTION: HOW INNOVATIVE, SELF-FINANCING “POLLINATOR” ENTERPRISES CAN GROW JOBS AND PROSPERITY* 7 (2015) (Shuman identifies the two other problems as: (1) “the clear and present danger of corruption”; and (2) “that those committed to promoting free-market entrepreneurship are among the least entrepreneurial members of society”. However, in this article we will only address the problem of incentives focusing only on nonlocal businesses.).

¹²⁴ *Id.* at 8.

¹²⁵ *Id.* at 12.

¹²⁶ *Puerto Rico Comparing 2008 and 2016*, *YOUR ECONOMY* 2017, <http://youreconomy.org/profile/index.ye?year1=2008&year2=2016&state=PR&msa=&county=&custom=undefined&key=all-businesses> (last visited June 16, 2018) (“YE defines a business ([or] establishment) as an economic unit that produces goods or services at a single physical location that is verified as ‘in-business’ and does not include ‘legal entity’ businesses that likely will never have a ‘doing business a’ (DBA) presence.”).

¹²⁷ *Id.*

already out, or on their way out. Thus, we must turn to the remaining small and medium local businesses and start considering them as the real economic motor of Puerto Rico.¹²⁸

Economist Doctor Edwin Irizarry-Mora further argues that “[t]he fact that during the past six decades the economy of Puerto Rico has not altered the foundations of its initial development strategy, should, in itself, be enough reason to evaluate other alternatives or paradigms.”¹²⁹ In regards to the environment for business development and employment growth in Puerto Rico, Irizarry-Mora asserts that some of the key factors that explain the current situation are:

[(1) T]ax laws [that] benefit the interests of certain companies at the expense of the common welfare [; (2)] the regulatory environment [that] prevents the entry of companies, stagnates the creation of new jobs and deteriorates competitive pressures [; and (3)] the process of “permits” [, that] causes serious problems, which raises the cost of doing business, stops the process of job growth, and slows down the development of the economy.¹³⁰

As we will discuss later on, this does not mean that a solution can be proposed in this article by addressing each of these elements individually and out of context. Still, not even for Irizarry-Mora, everything is lost. Doctor Irizarry-Mora states that among the positive elements that the Island has to restart its economy are: (1) public and private physical infrastructure; (2) “technological knowledge acquired through manufacturing production, together with the entrepreneurial capacity and high level of training of the work force;” (3) “accumulated knowledge in educational centers;” (4) “geographical centrality;” (5) “possession of land suitable for the cultivation of various agricultural products;” (6) the existence of an experienced financial sector; (7) the existence of a cooperative sector in growth, and the potential creation of production and consumption cooperatives; and finally, (8) the potential production of goods and services from low and moderate income urban and rural communities.¹³¹

Likewise, by incorporating the above mentioned elements, Puerto Rico needs to focus on local and sustainable economic development. It is imperative to harmonize economic growth with the responsible management of natural resources, while also promoting a human-centered development vision in order to preserve

¹²⁸ *Las pequeñas y medianas empresas son el motor económico de Puerto Rico*, ECONOMIAPR, <http://economyapr.com/2017/02/27/las-pequenas-y-medianas-empresas-son-el-motor-economico-de-puerto-rico/> (last visited June 16, 2018); see also, José Carmona, *Resalta importancia de las Pymes en primera visita a la Isla*, EL VOCERO (July 2, 2017), https://www.elvocero.com/economia/resalta-importancia-de-las-pymes-en-primera-visita-a-la/article_7ac9f352-5b81-11e7-ab09-1f4f221e7758.html.

¹²⁹ IRIZARRY MORA, *supra* note 116, at 293 (translation by author).

¹³⁰ *Id.* at 296 (quoting Steven J. Davis & Luis A. Rivera-Batiz, *The Climate for Business Development and Employment Growth*, in *THE ECONOMY OF PUERTO RICO: RESTORING GROWTH* 255-318 (2006)).

¹³¹ IRIZARRY MORA, *supra* note 116, at 294 (translation by author).

ecological balance.¹³² Furthermore, in addition to preserving this ecological balance, economist Doctor Ricardo Fuentes-Ramírez, argues that three core factors have to be part of any development strategy for Puerto Rico: (1) the protection of native ventures or businesses; (2) the reduction of the already very high inequality levels; and (3) emphasizing education, particularly public education, at all levels.¹³³

On the other hand, agricultural economists Doctors Alexandra Gregory and Gladys M. González, discuss that Puerto Rico needs to perceive agriculture as a primary and fundamental activity that has the capacity to promote economic growth.¹³⁴ Among the reasons why agriculture is an essential activity are the following: (1) it addresses the problem of food shortages; (2) “it is a source of raw material for many industries;” (3) “its link with other economic sectors;” and (4) “its capacity to perpetuate itself as a production activity.”¹³⁵ These previously mentioned elements go hand-in-hand with the fostering of a more sustainable economic development. As we will see, several local economists agree with Doctors Gregory and González.

A recently conducted survey showed that 75% of the Puerto Rico Economists Association (“AEPR” for its Spanish acronym) believe that creating work cooperatives is important and that both the agriculture industry and the agro-tourism or ecotourism industry must be incentivized.¹³⁶ By incorporating the work cooperatives and incentivizing agriculture and ecotourism, it is possible to promote the primary goal of economic development. Namely, there could be an increase in the standard of living and the availability of goods for sustenance, as well as an expansion of the economic and social options.¹³⁷

Furthermore, according to economist and certified planner, Doctor Carlos del Valle-González, the basic objectives of economic development are the “increase in life expectancy, guarantee of access to a minimum acceptable human, social and cultural of food, services, health care, access to education, clothing, mobility and access through the territory, social life, and happiness and self-realization.”¹³⁸ In particular, a series of goals associated with the planning of economic development

¹³² *Id.* at 293.

¹³³ Ricardo R. Fuentes Ramírez, *¿Qué hacer?: Fundamentos para una estrategia de desarrollo necesaria*, in *DESARROLLO ECONÓMICO DE PUERTO RICO: ENSAYOS PARA UNA NUEVA ECONOMÍA* 47 (Ricardo R. Fuentes Ramírez ed., 2017).

¹³⁴ Alexandra Gregory Crespo & Gladys M. González Martínez, *El sector de la agricultura en Puerto Rico: Importancia económica y estrategias para su sustentabilidad y desarrollo*, in *DESARROLLO ECONÓMICO DE PUERTO RICO: ENSAYOS PARA UNA NUEVA ECONOMÍA* 100- 01 (Ricardo R. Fuentes Ramírez ed., 2017).

¹³⁵ *Id.* at 106 (translation by author).

¹³⁶ *Economistas desaprueban gestión administrativa de Roselló*, *CB EN ESPAÑOL* (February 23, 2018), <http://cb.pr/economistas-desaprueban-gestion-administrativa-de-rossello/>.

¹³⁷ Carlos Antonio del Valle González, *De Aspiraciones, Reformas y Realidades: Una visión integral del desarrollo de Puerto Rico*, in *DESARROLLO ECONÓMICO DE PUERTO RICO: ENSAYOS PARA UNA NUEVA ECONOMÍA* 119 (Ricardo R. Fuentes Ramírez ed., 2017) (translation by author).

¹³⁸ *Id.* (translation by author).

at the local level are: (1) the “creation and retention of employment; (2) creation of a contributory base increase in the value of property, retention of wealth, reduction of poverty, economic stability, economic auto-sustainability and complementarity.”¹³⁹

Doctor Irizarry-Mora also points out that among the tested alternatives that incorporate said elements in Europe, the United States, and other countries are: cooperatives, communal enterprises, collaborative projects between the public and private sectors, and businessmen and worker co-managed enterprises.¹⁴⁰ More than a few local economists agree that the cooperative movement should be encouraged in their different manifestations.¹⁴¹ Also, as discussed previously, there is a general consensus that, in order to boost the economy, it is necessary to urge and incentivize individual and community self-management, as well as encourage small-medium endeavors.¹⁴² As Shuman points out, “[l]ocally owned businesses are by far the most significant contributors to a community’s jobs, social equality, sustainability, and a dozen other important indicators of success.”¹⁴³

B. Three Reason why the Sharing Economy is the Solution for Puerto Rico

i. A Local Sustainable Economic Development Paradigm

Recently, while on a brief two-week law school break, I was with my wife at my *Alma Mater*, the University of Puerto Rico at Mayagüez (UPRM), reliving and chatting about my undergraduate days in *El Colegio*.¹⁴⁴ While walking by the student center building, we couldn’t help but notice a bicycle maintenance and repair tool kit sharing station. As a result, we started talking about the many ways these kinds of projects were both environmentally and economically sound for the Campus and its members. This sharing station is the embodiment of a *Colegiales* community based movement.¹⁴⁵ In F.L.E. terms, this tool sharing station is an institutionalized manifestation of certain revealed values or principles the *Colegiales*

¹³⁹ *Id.* at 119-20 (translation by author).

¹⁴⁰ IRIZARRY MORA, *supra* note 116, at 293.

¹⁴¹ *Id.* at 307-08; Del Valle González, *supra* note 137, at 129. See also *Cooperativismo: alternativa real de desarrollo económico*, UNIVERSIA (February 24, 2010), <http://noticias.universia.pr/vida-universitaria/noticia/2010/02/24/172978/cooperativismo-alternativa-real-desarrollo-economico.html>, where renowned professor in the cooperative sector, Dr. Estela M. Pérez Riestra, states that cooperatives are successful models of economic development and community solidarity.

¹⁴² See Fuentes Ramírez, *supra* note 133, at 51; Del Valle González, *supra* note 137, at 129.

¹⁴³ SHUMAN, *supra* note 123, at 8.

¹⁴⁴ Locals refer to the UPRM as *El Colegio* and its students as *Colegiales*. This reference is based on the history of the Campus. Before the year 1966, the UPRM was known as the College of Agriculture and Mechanic Arts.

¹⁴⁵ *La asociación, sus propuestas, proyectos, colaboraciones y actividades*, BUENA ALTERNATIVA LA BICICLETA, bike.uprm.edu/Ride_a_Bike/Proyecto.html (last visited June 16, 2018).

share. As examined in the *Functional Law and Economics* section, if university policy makers grant complete validity to these collaborative values, what once was seen as an innovative mindset, could now become mainstream. This is a mini example of what Puerto Rico could do to achieve an integral local and sustainable economic development strategy.

In order to achieve this comprehensive development strategy, by merging the examined aspects on the *Not Growth but Development* subsection, we can identify the following components several local economists consider to be necessary: (1) protection of native businesses; (2) reduction of inequality levels; (3) emphasis on education; (4) environmental consciousness; (5) all forms of cooperatives; (6) communal enterprises; (7) collaborative projects; (8) businesspeople and worker co-managed enterprises; (9) individual and community self-management; (10) small and medium entrepreneurship; and (11) the encouragement, support and incentivizing of the agriculture industry and agro-tourism or ecotourism. In addition, by making reference to the *What is the Sharing Economy?* Subsection, it is possible to determine that the sharing economy incorporates the previously identified components of a comprehensive economic development strategy. Also, in that same subsection we are able to identify that the sharing economy is characteristically based on the values of community, sustainability—both economic and environmental—and horizontal institutions. Thus, it is possible to argue that the sharing economy paradigm is the solution for Puerto Rico because it fosters local economic development.

Regarding the importance of local economy development, Shuman gives various reasons to advocate for this approach.¹⁴⁶ First, he emphasizes that local businesses are better at “promoting jobs, income growth, entrepreneurship, smart growth, environmental responsibility, charitable giving, and political engagement.”¹⁴⁷ Second, Shuman stresses that a factor that is more important than bringing new money into an economy is what economists call the *multiplier effect*, or in other words “how much of [an] additional dollar [that people earn or save] continues to circulate in the local economy.”¹⁴⁸ Shuman argues that more than two dozen studies over the past decade have compared the economic impact of locally-owned businesses with their nonlocal equivalents, and they consistently show that local businesses generate two to four times the multiplier benefit. Third, is what Shuman calls the “White Knight Myth”, where the only way to end poverty is through the aid of an outside company, often cited as a solution for Puerto Rico.¹⁴⁹ Moreover, studies such as the Harvard Business Review’s *More Small Firms Means More Jobs*, suggest that the best way economically challenged communities can

¹⁴⁶ SHUMAN, *supra* note 123, at 35.

¹⁴⁷ *Id.*

¹⁴⁸ *Id.*

¹⁴⁹ *Id.* at 36-37.

improve their overall economic situation is by embracing small local businesses.¹⁵⁰ In other words, regional economic growth is highly correlated with the presence of many small entrepreneurial employers.

Just as Puerto Rico's economists such as Irizarry-Mora and Del Valle González have suggested on numerous occasions, Shuman underlines that "[t]he goal should be to create an entrepreneurial ecosystem that benefits the entire local business community."¹⁵¹ Based on this notion, he argues that an economic development strategy should: (1) "[n]urture . . . start-up[s] and growth of locally owned businesses;" (2) "[m]aximize cost-effective self-reliance through import substitution, while expanding exports from local businesses;" (3) "[i]dentify, celebrate, and spread models of triple-bottom-line (people, planet, profit) success in local businesses;" and (4) "[a]ccomplish as many of these goals as possible through private investment."¹⁵²

The sharing economy paradigm has all of these components and would facilitate the development of the entrepreneurial ecosystem Puerto Rico needs, both on the short and long term. As Doctors Brigit Helms and Anabella Palacios stated: "[t]his new economy can increase sources of income quickly and effectively, promote the entrepreneurial spirit, and, at the same time, trigger a wave of innovations that are needed to address the problems of many cities in emerging economies."¹⁵³ For example, in cities like Rio de Janeiro, Brazil, the P2P "economy is growing steadily through local platforms, especially in areas of transportation, tourism, and crowdfunding."¹⁵⁴ With over 21,000 Airbnb properties, Rio ranks third in the world in overall number of Airbnb properties, only behind Paris and New York.¹⁵⁵

Other examples cited by Helms and Palacios are Buenos Aires, Argentina, Montevideo, Uruguay, and Santiago, Chile which "are already exploiting the potential of open data" and using tools that "are becoming a very powerful way to promote collaboration between people, inspire innovative ideas, and create smarter cities."¹⁵⁶ They conclude that "the sharing economy offers a new path full of opportunities to support entrepreneurship, to rethink the development of emerging regions . . . and to promote the role of cities as dynamic collaboration

¹⁵⁰ *Id.* at 37 (citing Edward L. Glaeser & William R. Kerr, *The Secret to Job Growth: Think Small*, HARVARD BUSINESS REVIEW (July - August 2010), <https://hbr.org/2010/07/the-secret-to-job-growth-think-small>).

¹⁵¹ *Id.* at 47.

¹⁵² *Id.*

¹⁵³ Brigit Helms & Anabella Palacios, *The Sharing Economy can Transform Economic Development*, HUFFPOST (June 1, 2016), https://www.huffingtonpost.com/fomin/the-sharing-economy-cant_b_10242948.html.

¹⁵⁴ *Id.*

¹⁵⁵ *Id.*

¹⁵⁶ *Id.*

platforms that give free rein to creativity and solve urban problems that all residents face.”¹⁵⁷ It is important to note that this article does not use models like Airbnb and Uber to say that they are the embodiment of the underlying values of the sharing economy.¹⁵⁸ Some articles have pointed out that Airbnb’s reality dictates far from the sharing economy.¹⁵⁹ However, it is likely that these business models are examples of an on-going transition from the 20th century hyper consumption to the 21st century collaborative consumption. For the purposes of this article, the importance of these models is the innovative ways entrepreneurs are creating a new economy.

Professor Per Bylund, in his research of the role of entrepreneurship in economic growth, has seen how the sharing economy has transformed, and will continue transforming, how people think about business creation.¹⁶⁰ He argues that there are three areas where the P2P economy changes the landscape for entrepreneurs: (1) distribution of production; (2) lower barriers to entry; and (3) less ownership, more maintenance.¹⁶¹ First, Bylund argues that the role of the entrepreneur in this new economy is “not to produce, but to coordinate production,” which he considers to be a more effective business method.¹⁶² Second, he posits that as more people “find opportunities to enter the market, competition increases while the power shifts from big corporations to innovative businesses.”¹⁶³ This means that “[a]s a result, what matters most will not be who owns resources but who makes the most out of them.”¹⁶⁴ Finally, he concludes that “[t]he sharing economy replaces passive ownership with active maintenance service,” namely, because the emphasis is on less objects being owned and multiple people sharing it.¹⁶⁵ Thus, in the hybrid economy increased competition is inevitable because a new type of entrepreneur must constantly be ready to take advantage of the opportunities said economy offers.

¹⁵⁷ *Id.*

¹⁵⁸ I’m currently working on another article that looks to define the sharing economy as a pool of values and principles.

¹⁵⁹ See David Dodwell, *Uber and Airbnb are not the real sharing economy – think MTR, recycling and generosity instead*, SOUTH CHINA MORNING POST (May 11, 2018), <http://www.scmp.com/comment/insight-opinion/article/2145653/uber-and-airbnb-are-not-real-sharing-economy-think-mtr>; Niall Fraser, *A real ‘sharing economy’ – not Airbnb and Uber – is the remedy for a city that has lost its way*, SOUTH CHINA MORNING POST (Sept. 19, 2017), <http://www.scmp.com/news/hong-kong/article/2111841/real-sharing-economy-not-airbnb-and-uber-remedy-city-has-lost-its-way>; Giorgos Kallis, *Airbnb is a rental economy, not a sharing economy*, THE PRESS PROJECT (Oct. 18, 2014), <https://www.thepressproject.gr/article/68073/AirBnb-is-a-rental-economy-not-a-sharing-economy>.

¹⁶⁰ Per Bylund, *3 Ways the Sharing Economy Changes Entrepreneurial Opportunity*, ENTREPRENEUR (Jan. 21, 2016), <https://www.entrepreneur.com/article/254725>.

¹⁶¹ *Id.*

¹⁶² *Id.*

¹⁶³ *Id.*

¹⁶⁴ *Id.*

¹⁶⁵ *Id.*

The P2P economy, as described above, is a global phenomenon that promotes competition and efficiency. Research suggests that the sharing economy could grow from \$14 billion in 2014 to \$335 billion by 2025, if the rapid growth of Uber and Airbnb are used as indicators.¹⁶⁶ The same report states that since the cost for costumers to switch to sharing economy services is quite low, it is difficult for any company to form a monopoly.¹⁶⁷ That is why the study asserts that the purpose of “regulations in the sharing economy should be to lower entry barriers for startup companies, which raises competition for incumbents.”¹⁶⁸ The same report states that since the “cost for customers to switch between sharing economy services is quite low,” it can be very difficult for one company to form a monopoly. This is beneficial inasmuch as monopolies are usually frowned upon, given the negative effect it has in lowering competition.¹⁶⁹

ii. An Empowering Movement for the People

People in Puerto Rico need to be aware of the power they have to change the economic reality since “[a] big part of the [current economic] problem is that . . . consumer behaviors have become so habitual that we are unaware of our impact.”¹⁷⁰ Several empirical studies have stressed the importance of local spending. For example, recently, economists José Caraballo Cueto, President of the AEPR, and José Alameda-Lozada held a conference in which they analyzed the retail industry in Puerto Rico. Both economists held that the exodus of big retailers in the aftermath of Maria presents a real opportunity for local commerce to expand.¹⁷¹ Their research suggests that when people spend in local commerce, forty-eight to seventy-one cents of every dollar stay in Puerto Rico, compared to the thirteen to thirty-five cents for every dollar when people spend in a multinational retailer.¹⁷² Likewise, a study elaborated by the research firm Civic Economics, found comparable results, concluding that when people spend money locally, it generates four

¹⁶⁶ NIAM YARAGHI & SHAMIKA RAVI, *THE CURRENT AND FUTURE STATE OF THE SHARING ECONOMY* 3 (March 2017), https://www.brookings.edu/wp-content/uploads/2016/12/sharingeconomy_032017final.pdf.

¹⁶⁷ *Id.*

¹⁶⁸ *Id.*

¹⁶⁹ Kimberly Amadeo, *Monopolies, Pros, Cons, and effect on Economies: Four Reasons They're bad – and One Time They're a Necessity*, THE BALANCE (May 5, 2018), <https://www.thebalance.com/monopoly-4-reasons-it-s-bad-and-its-history-3305945>.

¹⁷⁰ BOTSMAN & ROGERS, *supra* note 1, at 6.

¹⁷¹ Eric de León Soto, *Economistas mantienen megatienda son mejor cerradas que abiertas*, NOTICEL (February 14, 2018), <http://www.noticel.com/economia/economistas-mantienen-megatiendas-son-mejor-cerradas-que-abiertas/701079585>.

¹⁷² *Id.*

times more economic benefit than when spending on national chains.¹⁷³ Similarly, the London-based think-tank New Economics Foundation (hereinafter, “N.E.F.”), “compared what happens when people buy produce at a supermarket versus a local farmer’s market or community supported agriculture program.”¹⁷⁴ Consistent with what Puerto Rico’s economists have pointed out for years now, the N.E.F. found that when people spend on local businesses, the community keeps twice as much money.¹⁷⁵

Consistent with the Shuman’s multiplier effect, N.E.F. researcher David Boyle uses the following analogy when describing the sharing economy: “[m]oney is like blood. It needs to keep moving around to keep the economy going” and if money is spent on nonlocal businesses it ultimately “flows out, like a wound.”¹⁷⁶ Like any biological system, a wounded economic system will eventually die if the flow doesn’t stop. As a solution, instead of only stopping the blood flow with a band aid or surgical intervention, the new economy presents itself as the bone marrow that produces stem cells, “the building blocks the body uses to make the different blood cells.”¹⁷⁷ That is precisely the second reason why the sharing economy is the solution for Puerto Rico. Namely, because it is a transcendent, groundbreaking and empowering movement for the people, today. As Orsi articulates, the new economy:

[I]s not a top-down solution, meaning that it will not be imposed by a set of legislated policies. We also don’t need to wait for a large organization or company to offer the solution to us. The sharing economy is being built, from the ground up, by every individual and group that chooses to begin consuming, transacting, and/or making a livelihood in a new way.¹⁷⁸

In the book *What’s Mine Is Yours: The Rise of Collaborative Consumption*, the authors state that they “believe the transformation will start to come from consumers themselves.”¹⁷⁹ For the people who want to be part of the solution, they point out that there are two distinct ways to participate in the collaborative consumption movement: either by being a peer provider or a peer user.¹⁸⁰ While a peer provider offers assets to rent, borrow or share, a peer user solely consumes

¹⁷³ *New Study: Spending Locally Generates Four Times More Economic Benefit*, LOCAL FIRST ARIZONA (September 3, 2012), <https://www.localfirstaz.com/news/2012/09/03/new-study-spending-locally-generates-four-times-more-economic-benefit>.

¹⁷⁴ Judith D. Schwartz, *Buying Local: How it Boosts the Economy*, TIME (June 11, 2009), <http://content.time.com/time/business/article/0,8599,1903632,00.html>.

¹⁷⁵ *Id.*

¹⁷⁶ *Id.*

¹⁷⁷ *How your body replaces blood*, GIVE BLOOD, <https://www.blood.co.uk/the-donation-process/after-your-donation/how-your-body-replaces-blood/> (last visited June 16, 2018).

¹⁷⁸ ORSI, *supra* note 76, at 3.

¹⁷⁹ BOTSMAN & ROGERS, *supra* note 1, at xix.

¹⁸⁰ *Id.* at 70.

available services or products. Furthermore, in the sharing economy, it does not matter whether people participate looking out for their personal or commercial best interests, or because they consider themselves forward thinkers and socially minded optimists. Rather, the fundamental result of this collaborative movement is the production of a unified social sphere.¹⁸¹ Just as we anticipated when we were discussing the different economic schools of thought, Botsman articulates in a remarkable way that: “Perhaps what is [the] most exciting [aspect] about Collaborative Consumption is that it fulfills the hardened expectations on both sides of the socialist and capitalist ideological spectrum without being an ideology in itself. It demands no rigid dogma.”¹⁸²

From a different perspective, professor Arun Sundararajan explains that one of the reasons he finds the P2P economy appealing is because he thinks it creates an “opportunity for people to be able to get stuff and experience stuff that they wouldn’t otherwise be able to afford.”¹⁸³ He further argues that, as part of the empowerment characteristics that this new economy enjoys, people can maximize their spare time and/or goods in order to become micro-entrepreneurs. That is, the people who participate in the gig economy can go from having a full-time job—and being, let’s say, an Airbnb host on the side—to running a small local business full-time.

All of this exploration is particularly relevant to Puerto Rico since our current economic system is no stranger to a very large number of people being laid off by their employers. The sharing economy has the potential to empower these people if they want to. Based on a Ted Talk by Muneeb Mushtaq, Co-Founder and C.E.O. of AskforTask, Ann Diab, former Managing Editor at Tech Co., explains the empowering elements of the P2P economy.¹⁸⁴ These include, for example, random talents, that may not find space in the current centralized economic structure, “such as musical expertise or a love for cooking, can become a marketable skill in the [P2P] economy.”¹⁸⁵ Citing Mushtaq, Diab points out that “[t]he main driver for the sharing economy is empowerment. When people are empowered to make their own decisions, to make their own time, to interact with new people within their community, it creates something that a regular corporation can’t compete with.”¹⁸⁶

¹⁸¹ *Id.* at 71.

¹⁸² *Id.* at xxii.

¹⁸³ Kane, *supra* note 71 (citing Emily Badger, *The real promise of the ‘sharing economy’ is what it could do for the poor*, THE WASHINGTON POST (March 16, 2015), https://www.washingtonpost.com/news/wonk/wp/2015/03/16/the-real-promise-of-the-sharing-economy-is-what-it-could-do-for-the-poor/?postshare=6651457377967767&utm_term=.a22de978b550).

¹⁸⁴ Ann Diab, *The Sharing Economy is Built on Trust and Provides Empowerment to Consumers*, TECH.CO (January 3, 2015), <https://tech.co/sharing-economy-muneeb-mushtaq-tedx-2015-01>.

¹⁸⁵ *Id.*

¹⁸⁶ *Id.* (citing TedTalks, *Muneeb Mushtaq: Collaborative consumption*, YOUTUBE (December 8, 2014), https://www.youtube.com/watch?v=6_dp7_ELWW4).

iii. It has Already Started

The third and final reason as to why the sharing economy movement is the solution for Puerto Rico is because, believe it or not, it has already started. Hurricane Maria left the island like an empty, barren field, and as time has passed, now more than ever we can see the grassroots economy sprouting like leaflets in all corners of this field, our beloved island. So much so that recently, on February 26, 2018, senator Zoé Laboy-Alvarado presented Bill 840 in order to establish a public policy in favor of the sharing economy in Puerto Rico.¹⁸⁷ The bill was written jointly with the Department of Commerce and Economic Development (“DDEC” for its Spanish acronym), and it aspires to set a regulatory framework for sharing economy enterprises. While I think this is a great initiative by the Senator, I believe this is a subject for another article.

However, what this article does is point out that the P2P economy is a grassroots movement, independent of government regulatory efforts. Let us see some examples of how this new economy is developing. First off, Puerto Rico has coworking spaces that are shaping the way people do business. For example, *Piloto 151* in Old San Juan, and currently expanding to the Santurce area, is one of the most famous.¹⁸⁸ By providing virtual and real office spaces, the overhead expenses drop while efficiency increases, allowing people to focus on their craft. Other coworking spaces include: *Engine-4*, *coSPAZIO*, *La Colmena*, *Spehce Exec*, *co.co.haus*, *Oceana*, *Colaboratorio by Foundation for Puerto Rico*, *Coespacios*, and *La Oficina*.¹⁸⁹

Furthermore, if we give our island a transversal look, not to the current Puerto Rico, but to a more ideal one with a systemic sharing economy structure, and with an emphasis of nurturing native enterprises, we would see, on a larger scale, business models that include the likes of: *Casa Pueblo* (a community self-management project committed to the appreciation and protection of natural, cultural and human resources), *Paralel8* (a startup accelerator), *Lote 23* (a food truck park), *Siembra Tres Vidas* (both an agro-tourism and agriculture enterprise), *Lunchera* (delivers food to your home), *Bien Cool* (smart post card designs), *Señor Paleta* (sorbet and gelato popsicles), *Spotin* (ecotourism online platform), *Textual Mind* (helps FDA-regulated companies deliver products to patients), *FreeBees* (online legal platform that provides law clerks on demand for attorneys), *BrainHi* (online customer service by medical offices powered by artificial intelligence), *Papio* (bar-

¹⁸⁷ P. del S. 840 of February 26, 2018, 3ra Ses. Ord., 18va Asam. Leg.; Antonio R. Gómez, *Cálida apertura gubernamental a la economía colaborativa*, EL NUEVO DÍA, February 28, 2018, at 37; Rut N. Tellado Domenech, *Vislumbran generar \$20 millones en Expo Puerto Rico*, EL NUEVO DÍA, February 22, 2018, at 35.

¹⁸⁸ See generally, PILOTO 151, <https://piloto151.com/> (last visited June 16, 2018).

¹⁸⁹ Dalissa Zeda Sánchez, *Puerto Rico gov't provides free work space to affected SME's after María*, CARIBBEAN BUSINESS (November 10, 2017), <http://caribbeanbusiness.com/puerto-rico-govt-provides-free-work-space-to-affected-smes-after-maria/>.

bers and customers matching on an online platform), *Entregameds* (delivers medications to patients at their homes), *Piso 13 Media* (mobile-first news organization aimed at Puerto Rican millennials), *INprende* (platform that furthers innovation among communities), *Colmena66* (connects entrepreneurs and business owners to partners who provide services to help businesses grow and prosper), *ConPR-metidos* (non-profit organization developing innovative public-private partnerships), *Codetrotters* (a coding school), *Bonjour! Ana* (a home and daily necessities personal assistant), *H3 Tech Conference* (a conference where tech-hackers, the early-stage startup scene and the creative economy meet), *IUPI Coop* (a student-led coffee cooperative), *Don Frappe* and *Don Maceta* (a town-like spot with different restaurants and attractions), *Grupo Guayacan* (a private sector driven non-profit organization), *PRoduce!* (an online platform that connects chefs and farmers), *Compra Fresca* (a home grocery delivery service) and *E-Farm* (which delivers produce from the farm directly to the people), among many others operating and emerging in the island.¹⁹⁰

Moreover, Puerto Rico would foster the presence of well-known collaborative consumption platforms like *Airbnb* (renting for travelers), *Uber* or *Lyft* (ride-sharing services), *DogVacay* (dog care), *RelayRides* (enables people to borrow cars from neighbors), *TaskRabbit* (hiring of people to do all types of jobs and tasks), *Getaround* or *Zipcar* (car-sharing); *Liquid* (bike sharing), *Lending Club* (cash lending); *Fon* (Wi-Fi sharing), *Poshmark* (clothes selling), *SharedEarth* (connects gardenless would-be growers with unused spare land),¹⁹¹ and also exchange methods like the famous cryptocurrency *Bitcoin* or even time banks.¹⁹² Moreover, since the importance is on cultivating the local entrepreneur and their small to medium businesses, *Pollinators* —experts whose business revolves around nurturing locally owned businesses—will help pave the way for more coffee shops, restaurants,

¹⁹⁰ See generally, CASA PUEBLO, <http://casapueblo.org/>; PARALLEL18, <https://paralle18.com/>; LOTE 23, <http://lote23.com/>; SIEMBRA TRES VIDAS, <https://www.siembratresvidas.com/>; LUNCHERA, <https://www.lunchera.co/>; BIEL COOL, <https://www.shopbiencool.com/>; SENOR PALETA, <http://www.srpaletapr.com/>; SPOTIN, <https://wordpress.uprm.edu/startuplab/startups/spotin/>; TEXTUAL MIND, <http://textualmind.com/>; FREEBEEES, <https://legalfreebees.com/>; BRAINHI, <https://brainhi.com/>; PAPIO, <https://papiroapp.com/>; ENTREGAMEDS, <https://entregameds.com/>; PISO 13 MEDIA, <https://www.piso13.co/letras/>; INPRENDE, <https://inprende.com/>; COLMENA66, <https://www.colmena66.com/>; CONPRMETIDOS, <https://www.conprmetidos.org/>; CODETROTTERS, <http://www.codetrotters.com/>; BONJOUR! ANA, <http://www.bonjourana.com/>; H3 TECH CONFERENCE, <https://h3conference.com/>; IUPI COOP, <https://www.facebook.com/cooperativamixtaiupicooppage/>; DON FRAPPE, <https://www.facebook.com/DonFrappePR/>; GRUPO GUAYACAN, <http://guayacan.org/>; PRODUCE!, <http://puertoricoproduce.com/>; COMPRA FRESCA, comprafrescapr.com/; E-FARM, <https://efarm-live.com/> (last visited June 16, 2018).

¹⁹¹ See generally, *Airbnb, Snapgoods and 12 More Pioneers of the 'Share Economy'*, FORBES, <https://www.forbes.com/pictures/eeji45emgkh/airbnb-snapgoods-and-12-more-pioneers-of-the-share-economy/#4fc434152cf6> (last visited June 16, 2018).

¹⁹² See generally, BITCOINS, <https://bitcoin.org/en/>; TIMEBANKS, <https://timebanks.org/> (last visited June 16, 2018).

among others. In the end, the consumer will have more choices available to them.¹⁹³

Hence, there are other concepts that could prove to be plausible alternatives to the crisis Puerto Rico is currently experiencing. Models like community land trusts and housing cooperatives could present themselves as new tools people could use to deal with the ever-growing housing crisis in the island.¹⁹⁴ Expanding on these ideas, professors like doctor Érika Fontáñez-Torres, from the University of Puerto Rico School of Law, developed a mini-course for the 2018 spring semester, where she explored concepts such as community land banks and land trusts, and its applicability to Puerto Rico. Also, given the current situation after Hurricane Maria, Puerto Rico could overcome the energy crisis with models like renewable energy cooperatives and ecovillages (e.g. *Coalición por una Cooperativa Energética para Puerto Rico*).¹⁹⁵

C. A New Economy Needs New Legal Premises

As Botsman and Rogers explained, “[v]alue shifts have happened before . . . [however, f]or new habits, ideas, and visions to stick, they need a network and platform that transform principles into behaviors on a global scale.”¹⁹⁶ Accordingly, in order for the new economy to perform at its full potential, in Puerto Rico or elsewhere, the legal realm needs a paradigm shift that qualifies it as a transformative platform that incorporates and recognizes the sharing economy’s premises. In this section, we will discuss how the law can help transform the old economy into a new one, from a legal theory perspective and a more day-to-day practical approach. First, let’s explore the legal theory point of view and how everything we have examined comes together.

On the one hand, in *The Sharing Economy* subsection, we examined and identified the core values and principles that are built into the collaborative consumption movement. On the other hand, as discussed in the *Functional Law and Economics* subsection, the F.L.E. enables preferences to be revealed by relying on institutions that provide individuals with the opportunity to express their own values truthfully. This will result in preferences being granted complete validity in

¹⁹³ SHUMAN, *supra* note 123, at 16.

¹⁹⁴ *Community Land Trusts (CLTs)*, COMMUNITY-WEALTH.ORG, <https://community-wealth.org/strategies/panel/clts/index.html> (last visited June 16, 2018).

¹⁹⁵ See Tom Sanzillo & Cathy Kunkel, *Puerto Rico’s Solution — Microgrid System Supported by Solar Energy*, THE HILL (November 2, 2017), <http://thehill.com/opinion/energy-environment/358431-puerto-ricos-solution-microgrid-system-supported-by-solar-energy> (“Puerto Rico can break free . . . by investing in a comprehensive electricity-generation microgrid initiative supported by residential and commercial solar investments that will make oil and gas receding components of the island’s power generation.”); Laurie Guevara-Stone, *Solar Co-ops Bring Affordable Green Power to the People*, GREENBIZ (April 28, 2014), <https://www.greenbiz.com/blog/2014/04/28/solar-co-ops-bring-affordable-green-power-people> (“The growing number of solar cooperatives around the country are making solar more affordable and accessible.”).

¹⁹⁶ BOTSMAN & ROGERS, *supra* note 1, at 55.

normative terms while also becoming the new standard for efficiency. In practical terms, once the new economy core values and principles have been laid out, the new framework for judges and legislators will be one in which efficiency is a variable analyzed in function of the furtherance of sharing economy core values.¹⁹⁷

Consequently, pursuant to this new efficiency paradigm, institutions based on collaborative principles will be favored. Still, this is a step-by-step journey. As considered in the *Four Platforms for the New Economy* subsection, the new economy is built by turning *casual relationships* into *agreements for sharing and transacting*, which then become *organizations* that will ultimately shape a *larger-scale infrastructure*. In other words, if we want the sharing economy to become a reality, we should be aware of every transaction we choose to be a part of. The total sum of agreements based on the collaborative premises will ultimately become the aggregate preference of our society. It all starts with purposeful action, by you and me, by us, today.

Someone may ask how will lawyers help promote this new paradigm on a day-to-day basis. Well, Jenny Kassan and Janelle Orsi argue that “transactional lawyers are needed, *en masse*, to aid in an epic reinvention of our economic system.”¹⁹⁸ This is due to the fact that because transactional lawyers manage economic activity and relationships—by writing contracts, forming business entities, managing and allocating risks, structuring transactions, and maneuvering the tax, business regulation, land use, and labor law worlds—they are in a good position to work on this glorious reinvention.¹⁹⁹ Moreover, Kassan and Orsi discuss that what they call *sharing lawyers* is in essence transactional lawyers that decided to exploit the number of social enterprises, cooperatives, urban farms, cohousing communities, and the vast array of other unique organizations arising from this new economy.²⁰⁰

Now, it is important to note that this article does not suggest that the first steps towards this new collaborative economy, from a legal perspective, will be easy. Particularly because, as Kassan and Orsi note, our legal system rarely foresees collaborative relationships. Rather, our system comprises of relationships like: landlord/tenant, employer/employee, developer/homebuyer, business/investor, and producer/consumer, which are either polarized or exploitative.²⁰¹ On the contrary, “in the sharing economy, many . . . relationships overlap, are highly

¹⁹⁷ Some examples include: cooperation, sustainability, transparency, decentralization, reciprocity and accountability.

¹⁹⁸ Jenny Kassan & Janelle Orsi, *The LEGAL Landscape of the Sharing Economy*, 27 J. ENVTL. L. & LITIG. 1, 2 (2012) (emphasis added); see also, Susan R. Jones, *Small Business and Community Economic Development: Transactional Lawyering for Social Change and Economic Justice*, 4 CLINICAL L. REV. 195 (1997).

¹⁹⁹ Kassan & Orsi, *supra* note 198, at 2-3.

²⁰⁰ *Id.* at 3.

²⁰¹ *Id.* at 13-14.

collaborative, or involve actors with close and accountable relationships.”²⁰² Specifically, unlike the current legal structure, the new paradigm is horizontal in nature.²⁰³

Other topics sharing lawyers will have to be aware of are the multiple motivations underlying activities and enterprises. Kassan and Orsi explain that many activities in the new economy blur (1) the line between personal and commercial life, *e.g.*, a home gardener that sells backyard produce to neighbors; (2) the line between commercial and charitable, *e.g.*, a nonprofit educational farm that sells a large amount of produce; and (3) the line between charitable and personal, *e.g.*, a nonprofit farm that pays its volunteers with food.²⁰⁴ Although “[f]rom [a] social, environmental, economic, and practical perspective each of [these] three examples make. . . wonderful sense. From a legal perspective . . . there may be some difficult news to break” since they may possibly have legal consequences such as affecting zoning regulations, insurance, tax laws, and even labor laws.²⁰⁵

Thus, a new economy, indeed, longs for new legal premises. The role of law professors and law schools is vital, not only for defining new premises, but also for designing *curriculums* that enable relevant conversations in the midst of an ever-changing reality. Kassan and Orsi emphasize that sharing lawyers can start today by working on the following nine primary areas: (1) designing and drafting agreements; (2) choosing, forming, and structuring entities; (3) advising on the legalities and taxation of exchange; (4) navigating securities regulations; (5) navigating employment regulations; (6) navigating regulations on production and commerce; (7) managing relationships with, and the use of land; (8) managing Intellectual Property; and (9) managing risk.²⁰⁶ The question of whether attorneys in Puerto Rico, other than myself, are willing to practice as sharing lawyers is still to be answered.

CONCLUSION

Recently, I went to a Meetup (another P2P economy example) event, sponsored by *Piloto 151*, *Micro Juris* and the Representative of Precinct 1 in the House

²⁰² *Id.* at 14.

²⁰³ *Id.*

²⁰⁴ *Id.* at 14-15.

²⁰⁵ *Id.* at 15.; *see also* Inara Scott & Elizabeth Brown, *Redefining and Regulating the New Sharing Economy*, 19 U. PA. J. BUS. L 553 (2017) (discussing the appropriate regulatory taxonomy without quashing beneficial economic growth).

²⁰⁶ Kassan & Orsi, *supra* note 198, at 17-20; *see also*, ORSI, *supra* note 76, where each category is discussed thoroughly.

of Representatives, Eddie Charbonier-Chinea, regarding the blockchain technology.²⁰⁷ In the question and answers session, a gentleman who identified as an attorney—whose name I do not recall—roughly asked how the Government could explain the backing of a movement that empowers the people when the sole purpose of the government was to keep power. Several individuals tried to answer, even politicians, romantically trying to harmonize the idea of people now having more power without the Government actually losing power. I wonder if this is possible.

Why? Because the sharing economy is as much about economics as it is about political empowerment. This collaborative movement is about choice, participation, accountability, distribution and decentralization. The hybrid economy requires a paradigm shift, an exodus from an old, lapsed and incompetent structure to a fresh entrepreneurial ecosystem. The collaborative consumption movement is a revolution that starts today with every transaction we choose to be a part of. That is why, regardless the best intentions of Senator Laboy-Alvarado's bill to establish a public policy in favor of the sharing economy, the grassroots economy is not going to flourish when the current governmental structure is contemplating measures that go against it, like a solar energy tax.²⁰⁸

As true as it is that an apple tree can't give you oranges, the current structure system cannot stay the same if people aspire a true transformation. Hence, it is necessary that a coherent conversation combined with plausible and concrete alternatives begin in every field of knowledge. Nonetheless, I believe it to be imperative that students, professors and professionals alike talk about this new dynamic and develop proposals based on the collaborative economy paradigm.²⁰⁹ Namely because, as discussed earlier, the sharing economy movement presents itself as a solution for Puerto Rico given its inherent local economic development and sustainability focus. Therefore, further research can address topics such as: the role of our current bankrupt government, key industries or economic sectors that can be easily adapted, and the ones that could need more help; and identifying legislation or legal concepts that need to be adjusted to the sharing economy, among others.

Particularly from the legal perspective, I believe that other written works should not only address, but develop concrete proposals that deal with the hurdles

²⁰⁷ *Transmisión de hoy: Meetup del Government Blockchain Association desde Capitolio*, MICRO JURIS (February 28, 2018), <https://aldia.microjuris.com/2018/02/28/transmision-de-hoy-meetup-del-government-blockchain-association-desde-capitolio/>.

²⁰⁸ Eliván Martínez Mercado, *Rosselló considera poner un impuesto al sol*, METRO (Mar. 4, 2018), <https://www.metro.pr/pr/noticias/2018/03/04/rossello-considera-poner-impuesto-al-sol.html>.

²⁰⁹ I'm currently working on another article regarding the potential role trademark law, namely classification marks, could have on fostering the sharing economy values. *See generally, Why Regulation Is a Tricky Business in the Sharing Economy*, WHARTON UNIVERSITY OF PENNSYLVANIA (Mar. 16, 2018), <http://knowledge.wharton.upenn.edu/article/regulating-sharing-economy/> (there is still much debate regarding regulation and innovation); *see also*, Vanessa Katz, *Regulating the Sharing Economy*, 30 BERKELEY TECH. L.J. 1067 (2015).

entrepreneurs face once they decide to start their businesses.²¹⁰ It is even more imperative to attack the legal structures that contradict the formation of a new economy. For example, some topics that could be addressed in future written works are: (1) the role of permits and regulations; (2) the current tax system;²¹¹ (3) the distinction between the public and private realm; (4) employment laws, labor laws, and other ways of working; (5) the relationship between people and property in general—including the role of intellectual property in the sharing economy—; (6) alternatives for the current money exchange method; (7) the potential use of blockchain technology in the notary public practice;²¹² and (8) the role of attorneys in this new sharing economy. If Puerto Rico truly wants a local sustainable economic development, we need to have a sharing mindset.

210 See Rut N. Tellado Domenech, *Las Pymes exponen sus retos*, EL NUEVO DÍA (May 17, 2017), <https://www.elnuevodia.com/negocios/empresas/nota/laspymesexponensusretos-2321742/>.

211 Fuentes Ramírez, *supra* note 133, at 56.

212 *What is Blockchain Technology? A Step-by-Step Guide for Beginners*, BLOCKGEEKS, <https://block-geeks.com/guides/what-is-blockchain-technology/> (last visited June 16, 2018), for more information on the blockchain technology.