

INTRODUCTION & KEY CONCEPTS

# Justice on the Menu

*Legal & Policy Strategies to Address Structural Discrimination  
in the US Food System*



ChangeLab Solutions

# Introduction

Food is a basic human necessity, and access to safe and nutritious foods is essential to health and well-being.<sup>1,2</sup> But racial injustice embedded in the US food system causes social, economic, and environmental harm for countless Americans who rely on it to survive – from farmers and producers to distributors, restaurant workers, food retailers, and eaters.

Racism and oppression have been woven into the US food system since the country's founding, with roots in colonization and slavery.<sup>3</sup> Today, racism is evident across many dimensions of the US food system, from low pay and poor working conditions for farm and food workers – many of whom are Black, Indigenous, and other people of color (BIPOC)<sup>4,5,6,7</sup> – to unjust racial and ethnic disparities in rates of hunger, food insecurity, and diet-related diseases.<sup>8,9,10,11</sup> Movements for food justice respond to these historical and ongoing conditions by acknowledging structural racism and honoring the power of BIPOC communities to develop and implement strategies to support a healthy and thriving food system.



Informed by and in support of food justice movements, this resource offers the following information and tools:

- **Background & Key Concepts.** This section defines *structural racism* and describes how it has appeared and currently appears in the US food system, with historical and present-day examples. Looking to the future, it explores the intersection of food justice, health justice, and racial justice movements as a promising nexus for changemaking. It also champions *racism-conscious* policies as key to advancing food justice, health justice, and racial justice.
- **Policy Menus.** The policy menus provide options for changemakers who wish to address structural racism in the US food system. The options were identified via a policy scan process – which included conversations with food justice advocates, scholars, and others – in addition to legal and policy research to assess how various approaches can promote food justice and racial justice. Because every community has unique assets and priorities that must be at the foundation of any movement for a racially just food system, the menus do not prescribe solutions but instead seek to inspire and build collective understanding and dialogue about pathways toward food justice by highlighting what others have done.
- **Community Spotlights.** Law and policy can feel overwhelming when viewed in the abstract. These stories describe real-world experiences of communities in implementing some of the proposed policy options and offer key takeaways for people seeking to make changes in their own communities. The spotlights focus on advancing tribal food sovereignty, ensuring BIPOC representation in food system governance, achieving justice for Black farmers, and securing labor protections for farmworkers.
- **Practical & Legal Considerations for Policymaking to Promote Food Justice, Health Justice & Racial Justice.** This section outlines important considerations for changemakers pursuing policy as an avenue to advance food justice, health justice, and racial justice. These include general principles to inform strategy, community organizing, and advocacy, as well as limitations that may be posed by various legal landscapes.

Every community has unique assets and priorities that must be at the foundation of any movement for a racially just food system.<sup>12</sup> Thus, while this resource highlights policy options and considerations that can serve as a starting place for research, planning, and advocacy, it does not make specific policy recommendations. The path forward should be defined by BIPOC communities that have been historically excluded from food system governance and policymaking, despite being closest to the issues that many state and local food policies seek to address.

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## WHAT IS A FOOD SYSTEM?

Scholars have defined a *food system*<sup>i</sup> as “the set of operations and processes involved in transforming raw materials into foods and transforming nutrients into health outcomes, all of which functions as a system within biophysical and sociocultural contexts.”<sup>13</sup> In other words, a food system encompasses the entire food supply chain, including environmental inputs, production, processing, distribution, consumption, reuse or redistribution, and disposal, as well as organizations, institutions, regulations, policies, resources, and people that drive those activities.<sup>14</sup>

A systems-level approach offers a more holistic, structural view of how food affects all people and how food issues affect health, the environment, labor, economic development, and other policy areas. Food serves as a bridge across these disciplines and provides fertile ground for the types of partnerships and collaboration that are critical to driving social change.<sup>15</sup>

See [Appendix A](#) for definitions of other terms used in this resource.

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<sup>i</sup> For conciseness and alignment with non-academic vernacular, we use the term *food system* rather than *food and nutrition system* throughout this resource.

## Whom This Resource Is for

Advancing and sustaining racial justice in the US food system requires collaboration across racial identities, age groups, sectors, and disciplines, and among people working on food system transformation and those involved in other social justice movements (e.g., economic rights, worker protections, civil rights and antidiscrimination, environmental justice, climate justice).<sup>16</sup> The information in this resource is for anyone seeking to center racial justice in food system research, policy, and action. Audiences may include a wide range of changemakers, including community members; advocates; researchers; funders; financiers; narrative change agents, like local journalists and storytellers; business and organizational leaders; and policymakers and other government officials.

## How Individuals Can Use This Resource

Changemakers can use this resource in various ways:

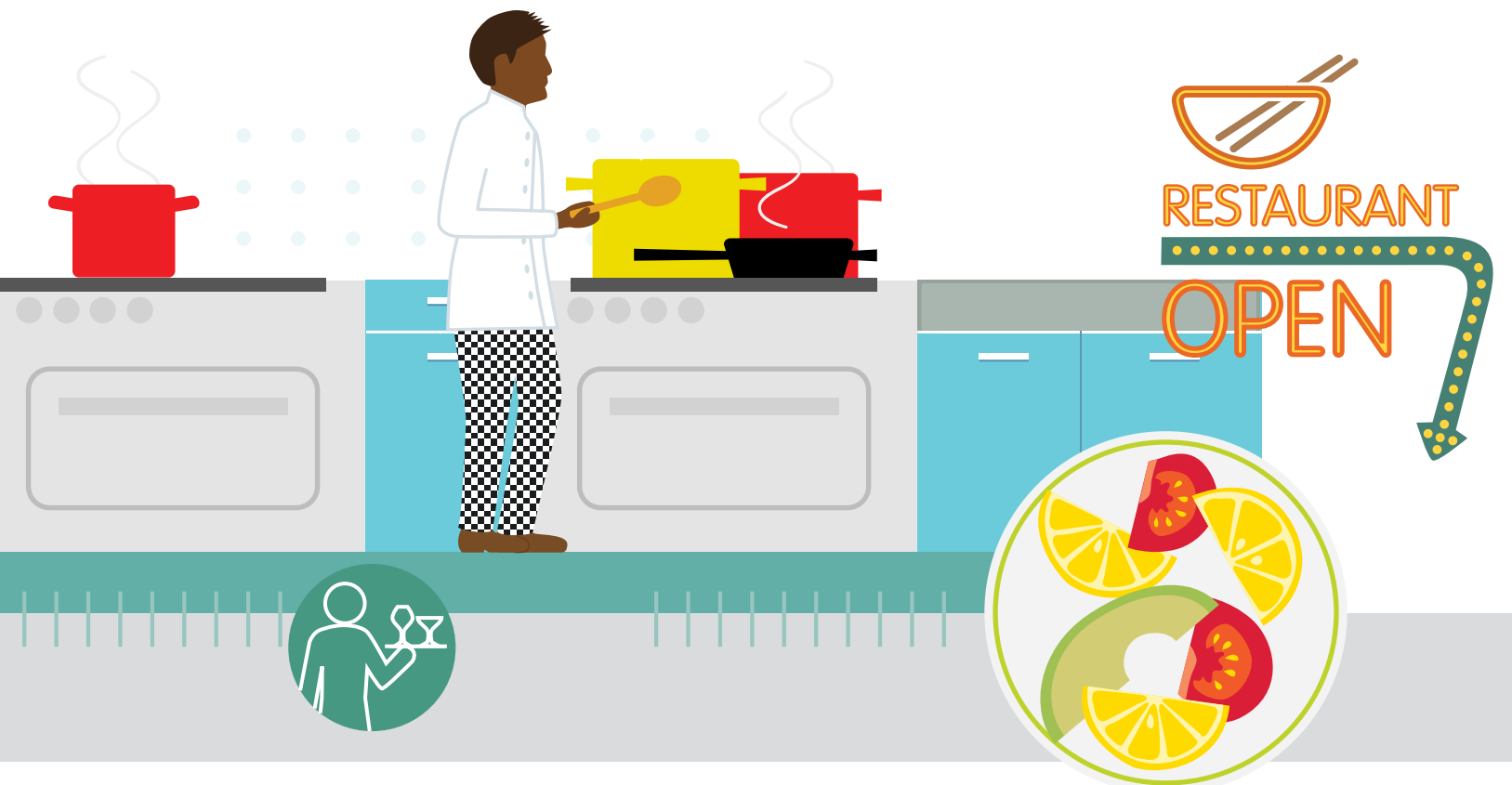
- **Advocates** and **policymakers** can reference the policy menus to jump-start conversations about options they may wish to pursue in their own jurisdictions.
- **Community leaders** and **government officials** can reference the [Practical & Legal Considerations for Policymaking to Promote Food Justice, Health Justice & Racial Justice](#) section to improve their partnerships and infuse racial justice into food system planning and policy development.
- **Researchers** can interrogate and build on learnings in this resource to produce new scholarship that explores the intersection of food justice, health justice, and racial justice or expands the evidence base to help make the case for policy changes or to defend policies in court.
- **Funders, financiers,** and **policy organizations** can use this resource to inform conversations with community partners about capacity building and resources needed to further the ongoing evolution of this work.

*We hope that the ideas, options, stories, and guidance in this resource will foster new conversations, advocacy efforts, partnerships, and research to advance food justice, health justice, and racial justice.*

# Background & Key Concepts

## Structural Racism in the US Food System

The history of the US food system is deeply rooted in racism and oppression, beginning with the stealing of land from Indigenous people for farming and the enslavement of Black and Indigenous people to work on those farms.<sup>17,18</sup> People's need for food was also exploited to facilitate colonization and enslavement through forced starvation, rationing, deliberate construction of unhealthy diets, and destruction and erasure of traditional foodways for both Indigenous and enslaved populations.<sup>19</sup> Centuries of racial segregation and discrimination within the food system have allowed racial and economic inequities to endure and affect people across generations.<sup>20,21</sup>



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## TALKING ABOUT STRUCTURAL RACISM

Structural racism can be a sensitive topic. For some, reading these facts about the history of the United States may be difficult, while others may feel that acknowledging structural racism in the US food system is long overdue. Many have noted that confronting truths about how racial hierarchies have shaped us as individuals, as well as our communities and institutions, is a fundamental part of healing and moving toward a society in which people from all racial and ethnic groups experience equitable opportunities for health and well-being.<sup>22,23,24,25</sup>

To establish a starting place for conversations on these topics, it is helpful to have a baseline understanding of key terms.

**Structural discrimination** entails interlocking systems of oppression, such as public policies, institutional practices, and cultural norms, that shape individuals' experiences across multiple dimensions of identity.<sup>26</sup>

**Structural racism**, as defined by the Aspen Institute, is "a system in which public policies, institutional practices, cultural representations, and other norms work in various, often reinforcing ways to perpetuate racial group inequity. It identifies dimensions of our history and culture that have allowed privileges associated with 'whiteness' and disadvantages associated with 'color' to endure and adapt over time. Structural racism is not something that a few people or institutions choose to practice. Instead it has been a feature of the social, economic and political systems in which we all exist."<sup>27</sup>

Note that structural discrimination and racism cannot be reduced to discrete acts of interpersonal bias. Rather, they are embedded in institutions and policies or practices that may appear neutral but lead to inclusion and exclusion.

The following resources further unpack these terms and related concepts:

- [What Is Racial Equity?](#) (Race Forward)
- [Four Levels of Racism](#) (Race Forward)
- [11 Terms You Should Know to Better Understand Structural Racism](#) (Aspen Institute)
- [Truth, Racial Healing, and Transformation Implementation Guidebook](#) (W.K. Kellogg Foundation; see glossary)

Additionally, the resources below provide guidance on how to discuss structural racism with various audiences:

- [Structural Racism and Health: Messages to Inspire Broader Understanding and Action](#) (Robert Wood Johnson Foundation)
- [Racial Justice](#) (FrameWorks Institute)
- [Talking to Your Family and Friends About Settler Colonialism](#) (Showing Up for Racial Justice Albuquerque)

The following are some specific examples of structural racism in the US food system throughout history:

- **Mass slaughter of North American bison for profit by European settlers throughout the nineteenth century.** Endorsed by government leaders as a means of forced assimilation and control, the slaughter of bison eliminated a major source of sustenance and spiritual and cultural practices for Indigenous people.<sup>28,29</sup>
- **Exclusion of agricultural workers from basic protections in the National Labor Relations Act of 1935 and the Fair Labor Standards Act of 1938.** This exclusion was meant to appease Jim Crow-era Southern Democrats who were interested in maintaining a political and economic culture dependent on the exploitation of Black agricultural labor.<sup>30,31,32</sup> Today, these unjust exemptions disproportionately harm Latine farmworkers, who make up more than two-thirds of the US agricultural workforce.<sup>33,34</sup>

- **California's Alien Land Law of 1913.** This legislation prohibited Japanese immigrants from owning land or leasing land for more than three years, to protect white farmers from economic competition. The law was later expanded to include all Asian immigrants, their American-born children, and corporations run by Asian immigrants.<sup>35</sup>
- **Persistent discrimination against Black, Latine, and other farmers of color by the US Department of Agriculture.** The department's discriminatory administration of farm loan and other financial assistance programs since the twentieth century has contributed to a significant decrease in Black-owned farms – from 14 percent of all US farms in 1920 to less than 1 percent today – and has inhibited opportunities for self-determination and intergenerational wealth accumulation.<sup>36</sup>
- **Employment discrimination in the restaurant industry.** Data show that in fine dining establishments, white applicants are more likely to be interviewed and twice as likely to be hired as equally or better-qualified applicants of color. The highest rates of discrimination occur in service jobs that have substantial customer interaction and higher earnings, such as front-of-house server and bartender positions.<sup>37</sup>

While certainly not an exhaustive list, these examples illustrate how structural racism has touched and become engrained in various aspects of the US food system. Many present-day inequities in health and health-related social and economic outcomes can be traced to laws, policies, and practices like those listed,<sup>38,39,40,41</sup> and public health scholars and advocates increasingly acknowledge structural discrimination as the root cause of health inequities.<sup>42,43,44</sup> For example, the mass slaughter of bison had immediate deleterious health impacts for populations that relied on bison as a food source. These populations experienced significant declines in average height and increased rates of child mortality relative to non-bison-dependent populations. The slaughter also “permanently altered bison-reliant nations’ dynamic path of development and [helps] explain the relative poverty today of Indigenous nations in the interior of North America.”<sup>45</sup> As another example, farmworkers who work long hours without breaks because they are denied basic labor protections have an increased risk of developing acute kidney disease – sometimes after only one shift.<sup>46</sup>

## LEARN MORE

For additional examples and research, see [An Annotated Bibliography on Structural Racism Present in the US Food System, Tenth Edition](#) from the Michigan State University Center for Regional Food Systems.

That said, despite a long history of structural racism and deliberate forms of oppression and disfranchisement, many BIPOC individuals and families have established thriving farms, gardens, and food businesses in the United States and lead influential efforts for food system transformation. For example, the Coalition of Immokalee Workers' national Campaign for Fair Food has won Fair Food Agreements with multibillion-dollar food retailers such as Walmart, McDonald's, and Subway, which improve farm labor standards and establish fairer wages for farmworkers.<sup>47</sup> The success of the Black Panthers' Free Breakfast for School Children Program was a direct inspiration for the permanent authorization of the federal School Breakfast Program that today helps to feed over 14 million children before school.<sup>48</sup>

Transforming the US food system into one that is equitable and racially just requires rebalancing power in systems of food governance and redistributing resources based on values such as diversity, self-determination, equitable access and opportunity, worker safety, environmental protection, nutrition, food security, and economic security. Naming both the root causes of inequities and the values that should be reflected moving forward invites policy and systems change that can advance food justice, health justice, and racial justice.<sup>49,50,51</sup>

## Looking Ahead: Key Concepts

### Intersection of Food Justice, Health Justice & Racial Justice

This resource focuses on the intersection of food justice, health justice, and racial justice movements as a promising nexus for change. Thus, it is important to establish an understanding of these terms and how they overlap.

**Food justice.** There is no single definition of *food justice*, and movements for food justice can look different in practice, depending on community goals and priorities. Drawing on insights from partners, *food justice* is defined in this resource as the right and power of all people to grow, sell, or eat nourishing foods. Other organizations have further emphasized that food justice should promote food as a human right and that centering BIPOC leadership and mitigating structural discrimination and other inequities within the food system are also integral parts of food justice.<sup>52</sup> For example, the organization FoodPrint explains:

*Food justice is a holistic and structural view of the food system that sees healthy food as a human right and addresses structural barriers to that right. The movement draws in part on environmental justice, which...is a movement primarily led by the people most impacted by environmental problems, connecting environmental health and preservation with the health of vulnerable communities. Food justice efforts (which are generally led by indigenous peoples and people of color) work not only for access to healthy food, but for an end to the structural inequities that lead to unequal health outcomes....*



*A food justice lens examines questions of access to healthy, nutritious, culturally appropriate food, as well as: ownership and control of land, credit, knowledge, technology and other resources; the constituent labor of food production; what kind of food traditions are valued; how colonialism has affected the food system's development and more.*<sup>53</sup>

**Health justice.** Similarly, there is no single definition of *health justice*. However, most of its proponents assert that health justice centers subordination – valuing some people less than others based on race or other social characteristics – as a key driver of health disparities. Further, health justice focuses on law and policy as both drivers of inequities and key tools for reform. Like food justice, health justice emphasizes the importance of empowering frontline communities with lived experience of structural inequities to lead initiatives.<sup>54,55,56,57,58</sup> For example, the legal scholar Emily A. Benfer and her colleagues have written,

*Health justice is the eradication of social injustice and health inequity caused by discrimination and poverty.... The framework centers on engaging, elevating, and increasing the power of historically marginalized populations to address structural and systemic barriers to health, as well as to compel the adoption of rights, protections, and supports necessary to the achievement of health justice.*<sup>59</sup>

Angela P. Harris, a civil rights legal scholar, and Aysha Pamukcu, a public health advocate, have stated, “Health justice not only places subordination at the center of the problem of health disparities; it calls for subordinated communities to speak and advocate for themselves.”<sup>60</sup>

**Racial justice.** Racial justice is threaded through both food justice and health justice. As the Othering and Belonging Institute explains, “Because race and racialization are woven into all aspects of society, including housing, education, healthcare, and life outcomes in general, you will find race as a central consideration across every research project and program area.”<sup>61</sup> The organization Race Forward defines *racial justice* as “a vision and transformation of society to eliminate racial hierarchies and advance collective liberation, where Black, Indigenous, Latinx, Asian Americans, Native Hawaiians, and Pacific Islanders, in particular, have the dignity, resources, power, and self-determination to fully thrive.”<sup>62</sup>

While food justice, health justice, and racial justice are separate movements, they are all grounded in the same core principles, they and approach their goals with similar beliefs (see Figure 1). Exploring the relationships between them can reveal opportunities to advance all of them. For example, the policy menus in this resource encourage using the food system as a tool or pathway to advance racial and health justice.

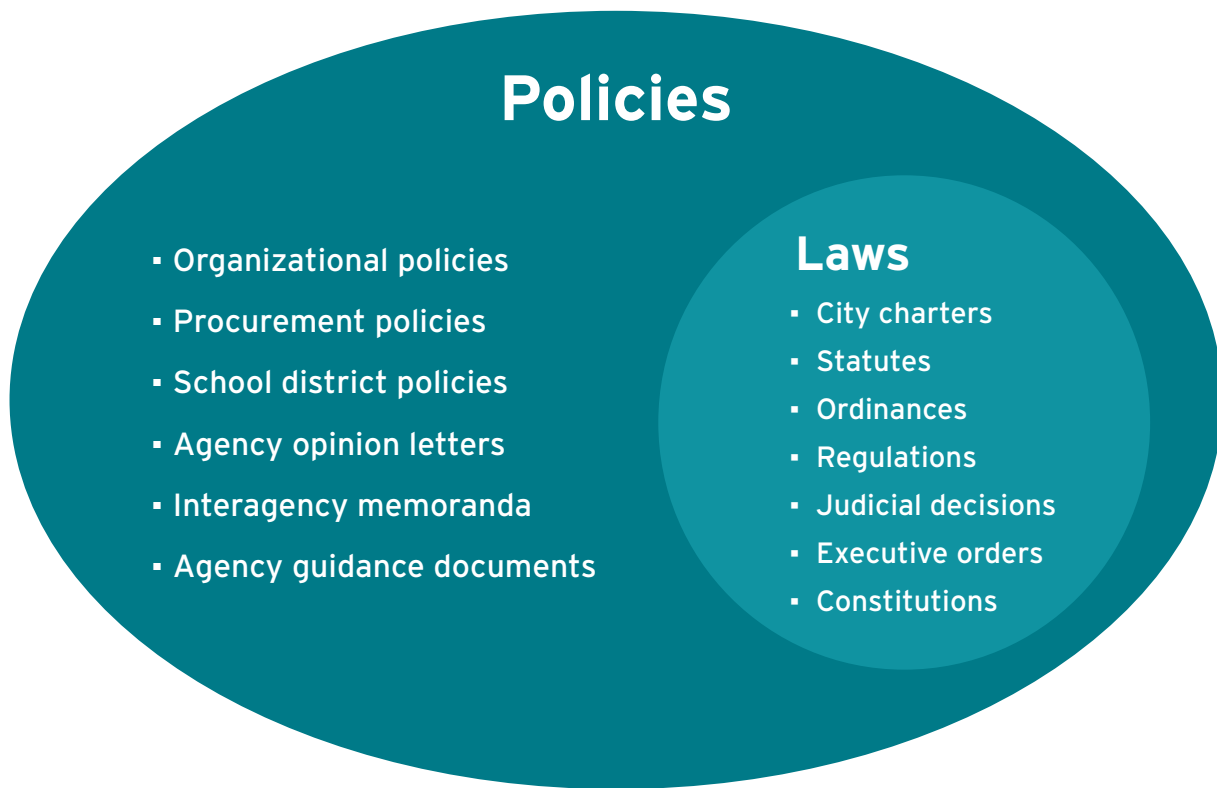
**Figure 1. Food justice, Health Justice, and Racial Justice**



### Racism-Conscious Laws & Policies

As noted earlier, food justice, health justice, and racial justice movements all focus on both the necessity and insufficiency of law and policy to address structural discrimination. While the terms *law* and *policy* are often used interchangeably in the media, in this resource, *law* refers specifically to the codification and institutionalization of a policy by a government in the form of an ordinance, statute, or regulation. *Policy* refers to a written statement of a public agency or organization's position, decision, or course of action. Thus, all laws are policies, but not all policies are laws (see Figure 2).<sup>63</sup>

**Figure 2. Laws and Policies**



Because racism is embedded in and reinforced by many existing laws and policies, using laws and policies to dismantle structural racism in the food system can be fraught.<sup>64</sup> Laws and policies have created a system that has perpetuated racism, discrimination, and segregation throughout US history.<sup>65</sup> In this context, color-blind approaches to policymaking – those that deny the existence of structural racism – do little, if anything, to further racial justice.<sup>66,67</sup> For laws and policies to redress the racist legacy of the United States, they must be *racism-conscious*, purposefully considering race and focusing on mitigating the root causes of structural racism.<sup>68,69,70</sup>

Racism-conscious laws or policies vary. Some may make explicit classifications based on race, while others may be race-neutral but have a racial purpose or be pursued with awareness of racial effects.<sup>71</sup> For example, a food procurement policy that allocates a portion of government contracting funds to certified minority-owned businesses makes explicit race-based distinctions to benefit these businesses. However, if a government agency is legally prohibited from designing a policy in this way (which is generally true for state and local agencies), or if such an approach is politically infeasible given the priorities of the administration in power, the agency might consider a policy that gives preference to local food businesses, with the knowledge that many food businesses in the area are owned by people from minoritized racial and ethnic groups.<sup>72,73</sup> Both approaches could be considered racism-conscious.

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## A NOTE ON TERMINOLOGY

The terminology used to describe laws and policies that seek to eliminate structural racism is evolving in public discourse and in a growing body of academic literature.<sup>74,75,76,77</sup> Here, we define and distinguish the terms *racism-conscious*, *race-based*, and *race-neutral* as they are used in this resource.

**Racism-conscious policies.** Racism-conscious policies seek to eliminate structural racism. Scholars Shekinah Fashaw-Walters and Cydney McGuire explain that such policies “address racism by identifying, understanding, and responding to the structural barriers and inequities that give rise to and maintain the social, political, and economic limitations imposed on minoritized groups in the US.”<sup>78</sup> Racism-conscious approaches to eliminate racial discrimination can be race-based or race-neutral!

**Race-based policies.** Race-based policies make explicit racial distinctions, often using “race as a decision or selection criterion, generally at the individual level.”<sup>79</sup>

**Race-neutral policies.** *Race-neutral* is a legal term used to describe policies that are “facially neutral,” meaning that they do not make explicit racial distinctions.<sup>80,81</sup> Some scholars understand *race-neutral* to indicate color-blind policies that “attempt to improve quality and outcomes for everyone, regardless of race,” and that “do not consider the potential and inevitable role of racism, or even race, in policy outcomes.”<sup>82</sup> This resource uses *race-neutral* in the more narrow legal sense, in which race-neutral policies may still be racism-conscious. As stated by the Othering and Belonging Institute, “Many policies that are ostensibly race-neutral have disparate racial effects. Neutrality refers to the... design of the policy, and specifically that it does not use race as a decision or selection criterion.”<sup>83</sup>

Many of the options listed our policy menus are race-neutral but can nevertheless be considered racism-conscious, depending on their purpose or effects, and how they are implemented.

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<sup>i</sup> Some commentators understand a similar term – *race-conscious* – to have a meaning that is consistent with this definition, while others understand it to be limited to *race-based* policies, meaning those that make explicit distinctions based on race. Due to the lack of a clear and consistent definition, we avoid the term *race-conscious* in this resource and use *racism-conscious* instead. By Fashaw-Walters and McGuire’s definition, the term *racism-conscious* encompasses both race-based and race-neutral approaches and emphasizes that exposure to racism, not race itself, is the issue that a policy is focusing on.



No single policy pursued in isolation can dismantle structural racism or make transformational change in the food system. Changemakers who use this resource should consider individual policy options as “bricks in a brick wall” – meaning that over time, and when connected to broader social justice movements, they can be part of the pathway toward more transformational change. Deliberate, racism-conscious legal and policy interventions can help to codify and institutionalize ideas and values that emerge from these movements to drive long-term food justice and racial justice. Legal and policy strategies can address the distribution of money, power, opportunities, and resources and **undo fundamental drivers of inequity**, including structural discrimination, which is the preeminent driver of inequity. Efforts to address historical and ongoing harms and advance food justice, health justice, and racial justice would be incomplete without law and policy changes.<sup>84</sup>

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## EXAMINING THE ROLE OF THE US DEPARTMENT OF AGRICULTURE

Although this resource does not focus on the federal food policy landscape, we do note that the US Department of Agriculture (USDA) has played a major role in both creating and beginning to address structural racism within the US food system. For example, decades of discrimination by USDA against BIPOC and women farmers in the agency’s Farm Bill–authorized lending programs culminated in multiple lawsuits against the agency that resulted in settlement agreements providing monetary relief to claimants.<sup>i</sup> However, even when settlements were reached in cases challenging USDA’s discriminatory lending practices, issues with the administration of claims for settlement proceeds resulted in many farmers falling further into debt while awaiting payment. Ultimately, only a small percentage of claimants received financial relief.<sup>85,86</sup> The impact of these broken promises persists today,<sup>87</sup> as Black farmers have lost an estimated \$326 billion worth of farmland in the twentieth century<sup>88</sup> and constituted only 1.2 percent of US farmers as of 2022.<sup>89</sup>

In recent years, USDA has advanced initiatives to address its harmful practices. In 2021, USDA vowed to end all forms of discrimination in its programs and publicly acknowledged

the agency’s history of systemic discrimination.<sup>90</sup> In response to the Biden Administration’s ambitious national strategies to reduce hunger and diet-related diseases by 2030 and the Executive Orders on Advancing Racial Equity and Support for Underserved Communities Through the Federal Government, USDA developed equity action plans that are intended “to remove barriers to access to [USDA] programs and services for all Americans, including ensuring USDA resources reach underserved communities and those with the most need.”<sup>91,92,93,94</sup> As the agency tasked with administering programs to support the economic stability of farmers and nutrition assistance programs, USDA policies and programs have a wide reach and potential to help shape a racially just food system.

To learn more about lawsuits arising from USDA’s discrimination in its farm lending programs, see the [National Black Farmers Association website](#) and [this issue brief](#) from the Congressional Research Service.

To learn more about the Farm Bill, see the [many resources](#) available from the National Sustainable Agriculture Coalition, including their [2023 Farm Bill Platform: Advancing Racial Equity Across the Food System](#).

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<sup>i</sup> See *Pigford v. Glickman* (filed by Black farmers); *Keepseagle v. Vilsack* (filed by Native American farmers); *Love v. Vilsack* (filed by female farmers); and *Garcia v. Vilsack* (filed by Hispanic farmers).

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