

# Advancing Racial Equity in Rural Communities

Legal & policy strategies to support opportunity, health & justice



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# Introduction

Historic and ongoing discrimination based on place, race, and class is foundational to the inequities in rural communities. For decades, many public and private policies and practices, whether intentionally or not, have created barriers to building equitable, healthy rural communities and economies.<sup>1</sup> Federal policies and practices have at times exploited rather than enhanced rural resources, making it harder for rural places to access investment.<sup>2</sup> Similarly, state and local policies have excluded people and communities with marginalized identities.

The rural United States encompasses many racially diverse locales, so reframing assumptions about racial homogeneity is crucial to rural equity efforts. Although residents of rural places are stereotyped as white and working class, the population of Black, Indigenous, and other people of color (BIPOC) in the rural United States is significant. In 2020, nearly 14 million rural people identified as Black; Hispanic or Latino; Native; Asian; or multiracial.<sup>3</sup> Moreover, 86% of counties with high and persistent poverty are rural and are concentrated in historically poor areas of the Mississippi Delta, Appalachia, the Black Belt, and the southern border regions, as well as on Native American lands.<sup>4</sup>

With this context in mind, it is important to consider the fundamental intersectionality of place, race, and class as dimensions of discrimination when thinking about and developing solutions to address equity in rural communities. Although using an intersectional lens to analyze equity contexts in rural communities is complicated and challenging, it is essential. **The compounding effect of these dimensions is most acutely felt by BIPOC experiencing persistent poverty in rural communities.**

# About This Brief

This strategy brief is part of the Toward Better Rural Futures project, which seeks to address the systemic and structural barriers and chronic disinvestment that impede rural and tribal communities' health, well-being, and opportunity and that perpetuate deep-rooted inequities. Toward Better Rural Futures aims to foster greater collaboration and alignment across local, regional, and state levels of government, equipping leaders with the tools and knowledge to fundamentally shift power, opportunity, and resources in order to create healthy rural places where everyone can thrive.

At the outset of this project, a comprehensive policy scan was designed and conducted to identify state and local policies that can advance racial equity and equitable economic development in rural communities of BIPOC that are experiencing persistent poverty. Recognizing that increasing meaningful participation in decision making for BIPOC in rural places and decreasing place, race, and class divides are essential to achieving rural prosperity for all, we designed our policy assessment to identify which policies have the highest potential to drive these impacts.<sup>5</sup>

Deliberate intervention through the tools of law and policy to address the distribution of money, power, and resources can **undo fundamental drivers of inequity** and thereby increase equity.<sup>6</sup> Because the fundamental drivers of inequity were created by law and policy in the first place, it will take equitable law and policy changes to undo their harms and create healthier, more just communities.

This strategy brief is designed to...

1. Deepen understanding among state and local policymakers who are seeking to address the systemic and structural barriers that perpetuate inequities in rural communities; and
2. Provide legal and policy strategies that have the highest potential to meaningfully affect BIPOC experiencing persistent poverty in rural communities. To do so, it is necessary to rethink policymaking and implementation processes in the context of broader governance structures.

State and local decision makers and civic leaders can use the strategies offered in this brief to explore ways to advance equity, opportunity, and health among their constituents in rural settings. Equitable governance practices are also provided because they can support the facilitation of fair and impactful change throughout and beyond implementation of these and other specific policy interventions.

The following key concepts underpin our work throughout this document.

- **Structural discrimination:** interlocking systems of oppression – including public policies, institutional practices, and cultural norms – that shape individuals' experience across multiple dimensions of identity.
- **Structural racism:** “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>7</sup>

# Structural Discrimination in Rural Areas of the United States



Black residents and people of color have lived in rural places for generations, with histories dating back to colonization. Moreover, the majority of US states are historically and currently home to sovereign **American Indian tribal nations** with significant rural populations.

Today, residents who are Black, Indigenous, and people of color (BIPOC) strengthen community resilience and build cultural richness through investments like small business endeavors and shared community goals. Although rural places have social strengths that aren't always found in urban environments, erasure of BIPOC community members and a history of structural discrimination have caused inequities in access to health care and resources that contribute to complex and nuanced public health challenges. Rural localities face rising housing costs, lack of health care access, broadband deserts, and limited job opportunities; and these deepening health, social, and economic inequities have been exacerbated by the COVID-19 pandemic and resultant economic crisis on top of long-standing racial injustices.

## The Complexity of BIPOC Rural Geographies

Rural BIPOC are 21 times more likely than BIPOC living in metro areas to live in a county that is predominantly white.<sup>9</sup> This reality contributes to the invisibility of rural BIPOC communities in national, state, and local conversations about rural equity and policy. Unlike in urban and suburban BIPOC communities, where racial and ethnic diversity exists to the degree that no one group makes up a majority, racial and ethnic groups in rural communities are highly segregated at local and regional scales.<sup>9</sup> This segregation is a significant barrier to building and leveraging solidarity in political movements and advocacy.

Moreover, using diversity benchmarks to target funding can reinforce racial and economic inequities if these targets are based on national demographics and do not consider historic and regional trends. For example, because Black people in the United States are disproportionately imprisoned and because they are incarcerated in rural jails and prisons, outside of the rural South, where Black rural communities have historic roots, incarcerated people constitute 25% of the rural Black population – and nearly 40% of the rural Black population in the Northeast. If this context is not taken into account, funding aimed at alleviating rural racial and economic inequities could end up exacerbating the injustices it is meant to improve – for example, by subsidizing places that are not racially diverse but have a high prison population. Ensuring that these funds are used appropriately is critical when we also consider that 80% of rural counties with a BIPOC majority are also persistent-poverty counties.

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*Racial and ethnic groups in rural communities are highly segregated at local and regional scales. This segregation is a significant barrier to building and leveraging solidarity in political movements and advocacy.*

# Understanding the Experiences of Black, Indigenous & Other People of Color in Rural America

It is important for decision makers to be mindful of the long-standing structural discrimination in rural communities and to understand how these conditions came to be. This background is best understood through the history and the experiences of communities of color in rural America. These communities include Black people in the rural South, Indigenous people on tribal lands, Latinos and Hispanic people in the South and West, and Asian Americans and Pacific Islanders in Hawaii and Alaska. This is not an exhaustive list of all the communities of color and subcultures in the United States but attempts to focus on the groups that make up the BIPOC majority in rural counties experiencing persistent poverty.

BIPOC communities have existed, struggled, and thrived in rural America for decades and, in some cases, for centuries. Despite a long history of challenges with systemic racism and deliberate forms of oppression and disfranchisement, BIPOC have managed to establish communities with rich culture and an abundance of human capital and opportunities. For instance, many Black-owned businesses have flourished throughout the Mississippi Delta in communities such as Greenville and Clarksdale in Mississippi.<sup>10</sup> The Gros Ventre and Assiniboine Tribes' Island Mountain Development Group supports more than \$33 million in business sales in Blaine County, Montana.<sup>11</sup> However, many historic injustices continue to have lasting effects on these communities, and while some challenges are widely found across rural communities, others are unique to specific BIPOC communities.

## Rural Black Belt

Indigenous people throughout Alabama and Mississippi were forcefully displaced by white colonizers and slave owners in the 1800s to establish cotton plantations in areas of fertile black soil, which resulted in that geographic area being named the Black Belt. These plantations were worked by Black enslaved people, and the name Black Belt shifted so that now it refers to any region in the South that has a majority-Black population.

*"The Black Belt Region included roughly 623 rural counties from Alabama, Arkansas, Florida, Georgia, Louisiana and Mississippi to North Carolina, South Carolina, Tennessee, Texas and Virginia. Systematically underresourced and underserved, these counties have housed a large African-American population. According to a Population Reference Bureau report, the South also holds higher poverty rates than other U.S. regions. And the Black Belt South maintains the highest poverty rate."<sup>12</sup>*

In the present day, Black people in the rural South, even when employed, are more likely than white people to be employed in jobs and industries that are less secure. Data show that approximately a quarter of jobs (in manufacturing, retail, agriculture, and accommodation) in the Black rural South could be displaced by automation by 2030.<sup>13</sup> In general, populations with low educational attainment are more concentrated in industries prone to displacement, and 60% of Black people in the rural South have a high school diploma or less.<sup>14</sup>

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*Rural communities of color include Black people in the South, Indigenous people on tribal lands, Latinos and Hispanic people in the South and West, and Asian Americans and Pacific Islanders in Hawaii and Alaska.*



One of the biggest threats to health in the rural Black Belt continues to be lack of access to safe wastewater disposal, treatment, and sanitation. There are several compounding systemic inequities in the rural and persistently poor Black Belt. Eighty percent of rural Black Belt residents in Alabama live in housing that is not connected to municipal sewer lines.<sup>15</sup> Alabama requires residents whose housing is not connected to municipal sewer lines to install private septic systems that can cost more than \$20,000. Furthermore, in Alabama, not complying with mandated septic requirements is a criminal misdemeanor punishable by fines and jail time. In addition to being expensive, septic systems in this region often fail due to the dense nature of the soil. Across the Black Belt region of Alabama, approximately 8% of public water system samples and 20% of private well water samples tested positive for fecal coliform.<sup>16</sup>

## Indigenous Tribal Lands

Throughout the nineteenth century, millions of Native Americans were forcefully relocated to reservations in isolated locations with harsh conditions (extreme weather, poor soils) as part of the Indian Removal Act of 1830. Today, most Native Americans live in cities, but an estimated 1.2 million still live on 326 reservations or tribal lands. People living on tribal lands experience some of the most extreme forms of poverty and associated health and social ills. Like the Black Belt discussed in the preceding section, many tribal lands lack safe and healthy housing, electricity, wastewater treatment, and potable running water. Due to extreme poverty and lack of economic opportunity, many households are intergenerational and overcrowded.

The health and governance systems on tribal lands are so severely underfunded that only a small fraction of health care and law enforcement needs are met. Medicare, Medicaid, the Veterans Health Administration, and federal prisons receive two to three times as much funding per capita as the Indian Health Service (IHS).<sup>17</sup> IHS has a severe shortage of providers, has extremely limited hours of operation, and lacks essential equipment such as MRI machines, resulting in poor health outcomes and high substance use rates. Underfunded tribal law enforcement agencies experience immense challenges in overseeing large and remote geographical areas, resulting in high crime rates and high rates of unsolved violent crime, particularly against women.<sup>18</sup> According to the Centers for Disease Control and Prevention, the murder rate for women living on tribal lands is 10 times higher than the national average.<sup>19</sup>

## Hispanic & Latino People in the South & West

Historically, Hispanic and Latino communities have had a major presence throughout states along the southern border of the United States, such as Texas, New Mexico, Arizona, and California. In fact, many of these Hispanic communities existed prior to annexation of their lands by the United States. However, in the present day, most of the growth of Hispanic and Latino populations in rural America results from job migration fueled by industries such as meatpacking, agriculture, construction, oil, hospitality, and timber along the Pacific coast.<sup>20</sup> A large segment of rural Latinos are employed as seasonal farm workers, coming from other parts of the country or from other countries throughout Latin America.

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*Like the Black Belt, many tribal lands lack safe and healthy housing, electricity, wastewater treatment, and potable running water.*

## Asian Americans & Pacific Islanders

Large populations of Asian Americans live throughout the Hawaiian Islands both in cities and in more rural and isolated areas. Chinese and Japanese immigrants first came to Hawaii in the mid-nineteenth century to work on the sugar and pineapple plantations. Filipino workers arrived later, in the early twentieth century, and eventually surpassed both the Chinese and the Japanese as the largest BIPOC group. Many Asian immigrants chose to settle and raise families in Hawaii after their contractual labor obligations were met. Alaska experienced similar patterns of immigration by the same groups (Chinese, Japanese, and Filipino) from the late nineteenth century to the early twentieth century. In Alaska, many immigrants worked in the fishing and canning industries.

Asian Americans have frequently faced discrimination, which has affected their ability to access certain types of employment and housing. The influx of workers from Asia in the late nineteenth century resulted in resentment by some groups that viewed Asian people as competitors for a limited number of jobs. The first manifestation of systemic anti-Asian discrimination was the Chinese Exclusion Act of 1882, which instituted a 10-year ban on Chinese immigrants to the United States. Later, during World War II, Japanese Americans were imprisoned in internment camps from 1942 to 1945. Today, there has been an uptick in hate crimes against Asian Americans due to sentiments that blame them for the COVID-19 pandemic.

Solutions to improve life in rural communities often fail to address the deep-rooted and unjust laws, policies, and practices that have shaped the physical, economic, and social conditions of rural populations over many generations. Reframing assumptions about racial homogeneity is crucial to rural equity work. And given the unique diversity and strengths of each rural community, policy solutions need to be tailored to the lived experiences of people in those diverse communities.



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# Law & Policy: Essential Tools to Address Structural Discrimination



Now that we've described the nuanced relationship between structural discrimination and rural equity and opportunity, we shift our attention to the tools required to apply structural solutions: law and policy. In particular, we look at existing civil rights legal doctrine to identify its limitations as well as opportunities relevant to creating legal and policy strategies that specifically benefit rural communities.

Laws and policies have perpetuated the legacy of racism, discrimination, and segregation throughout our nation's history – and they are essential to undoing harm. New laws and policies are needed to remove barriers to opportunity for those with the fewest resources and the greatest need. Laws and policies to redress the racist legacy are purposefully designed to accomplish the following:

- Focus attention on structural problems, not individuals
- Influence the distribution and use of money, opportunity, and power
- Undo historical policy-driven harms
- Initiate widespread change
- Sustain change over the long term

## Understanding Civil Rights Protection, Gaps & Opportunities

Affirmatively advancing civil rights is a central aspect of the government's work to deliver more equitable outcomes for underserved communities. Present-day racial and structural disparities are the result of long-term government-sponsored or government-tolerated violence and failures to protect all citizens.<sup>21</sup> While civil rights protections have been promised in the US Constitution, historical advancements of civil rights have been met with legislative and judicial backlash.<sup>22</sup>

An early example of structural discrimination occurred at the end of the Civil War, when the Reconstruction amendments to the US Constitution were ratified:

- The Thirteenth Amendment (1865) abolished slavery and involuntary servitude except for those convicted of a crime.
- The Fourteenth Amendment (1868) declared that no state may deprive any person of life, liberty, or property without due process of law nor deny any person the equal protection of the laws.
- The Fifteenth Amendment (1870) forbade any state to deny a male citizen his vote because of race, color, or previous condition of servitude.

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However, as soon as these amendments became law, states and localities passed Jim Crow laws, curtailing voting rights for African Americans; requiring segregated housing, schools, and public places; allowing broad and purposeful discrimination in all aspects of life, including segregation of restaurants, theaters, and hospitals; prohibiting interracial marriage; and even forbidding citizens to write or publish articles extolling equality between the races.<sup>23</sup> This pattern of civil rights advancements coupled with legislative backlash to limit the advancements is common throughout US history.<sup>24</sup> The violence that ensued was devastating for Black communities, whose suffering was not met with accountability for the perpetrators of said violence.<sup>25</sup> This dearth of accountability was due in part to lack of enforcement; state and federal governments were unwilling to provide *all* citizens equal protection under the law.<sup>26</sup>

The Fourteenth Amendment is famously known for its Equal Protection Clause: the idea that a governmental body may not deny people equal protection of its governing laws, or put another way, the governing body must treat an individual in the same manner as others in similar conditions and circumstances.<sup>27</sup> However, a lack of political will to fulfill the Equal Protection Clause's promises resulted in (1) lack of enforcement of laws written to protect racial minorities and promote equal treatment, and (2) narrow readings of existing laws – most notably by the Supreme Court – that limited the ability to use those laws to protect racial minorities.<sup>28</sup>

In an effort to address racial injustices, reduce health disparities, and fill in the gaps left by the Fourteenth Amendment, Title VI of the Civil Rights Act of 1964 was passed.<sup>29</sup> Title VI “prohibits discrimination on the basis of race, color, or national origin by both public and private entities that receive federal financial assistance.”<sup>30</sup> While Title VI has had some impact on reducing health disparities, its effectiveness has been limited by a lack of enforcement and narrow judicial interpretations.<sup>31</sup>

Both the Fourteenth Amendment and Title VI of the Civil Rights Act are examples of efforts to use the law to achieve more equitable outcomes and experiences among US citizens.<sup>32</sup> However, to eliminate current disparities and achieve equity, further government action is required to address historical harms and to undo and prevent structural discrimination.<sup>33</sup> Fulfilling the promises of Title VI and the Equal Protection Clause will require better enforcement of existing laws and advancement of new laws and policies that lead to equity.<sup>34</sup> Creating new laws and policies that aim to fill the gaps left in our civil rights laws will entail navigating the challenges that have been detailed in this section.

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Photo: Michael Hicks/Flickr (CC BY 2.0)

# Exploring the Gaps in Civil Rights Legal Doctrine to Eliminate Structural Discrimination

Several obstacles stand in the way of civil rights advancements today, including the precedents attached to civil rights laws, as mentioned earlier, and Americans' general understanding of discrimination. People tend to think of discrimination as being intent-based and individualized, which, while very real, "is not the only or even the most insidious form of discrimination."<sup>35</sup> For example, the tension between individual liberty and actions to promote public health has been made obvious by the COVID-19 pandemic. Attempts to implement mitigation measures have faced political, practical, and ethical challenges, regardless of their legal validity.<sup>36</sup> While questioning authority is a hallmark of US ideals, subordination is more likely to be the result of structural discrimination than of attacks on individual freedoms.<sup>37</sup>

Structural discrimination cannot be reduced to discrete acts of interpersonal bias.<sup>38</sup> Rather, it is embedded in institutions and policies or practices that may appear neutral but lead to inclusion and exclusion.<sup>39</sup> Consider the history of redlining and residential segregation in the housing market. Structural discrimination in this context has origins in interpersonal racism, with white homeowners refusing to have Black neighbors, but it became institutionally embedded when racial segregation influenced official government policy on eligibility for mortgage loans.<sup>40</sup> Redlining is an example of structural discrimination because although courts have deemed it illegal, its effects endure today, whether through disparities in property values, public-school resources, and access to opportunities or through gaps in generational wealth.<sup>41</sup>

## Realizing the Full Potential of Using Civil Rights Laws to Eliminate Structural Discrimination

A successful legal approach to dismantling structural discrimination involves finding opportunities within the limitations of our current reality. Since the limitations on using civil rights laws to advance equity hinge largely on judicial interpretations, a deeper look at these interpretations can shed light on where opportunities may lie.

The courts have narrowed the Equal Protection Clause's prohibition on discrimination to limit "state and local governments' abilities to confer benefits or impose burdens based on race"<sup>42</sup> and other "suspect classifications." The language of "benefits" and "burdens" means that this prohibition applies not only to discrimination *against* certain groups but to affirmative action or discrimination *in favor of* certain groups. The courts apply different standards of judicial review based on the "suspect classification":

- **Strict scrutiny** applies to policies that make explicit racial distinctions, also known as *race-conscious policies*. Policies will be upheld only if the government provides substantial evidence that such policies advance a compelling government interest and are narrowly tailored to serve that interest.<sup>43, i</sup>

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*Since the limitations on using civil rights laws to advance equity hinge largely on judicial interpretations, a deeper look at these interpretations can shed light on where opportunities may lie.*

i While the term *race* and its derivations are used throughout this brief, these considerations apply to other categories, such as ethnicity and national origin.

- **Intermediate scrutiny** applies to policies that make explicit distinctions based on gender. Policies will be upheld only if the government shows that they serve an important government interest and that the gender classification is substantially related to the governmental interest.<sup>44</sup>
- **Rational basis scrutiny** applies to policies that make distinctions based on non-suspect categories (e.g., income, veteran status, or disability). Policies will be upheld if the government can show that they are rationally related to a legitimate government interest. This is the easiest standard to meet.<sup>45</sup>

## Race-Conscious & Race-Neutral Policies

Courts have read the Equal Protection Clause as not only permitting but in some instances compelling the use of race-based classifications to protect populations from intentional discrimination by the government or to remedy instances of past discrimination.<sup>46</sup> Race-conscious policies have therefore been used to implement remedies for past discrimination, which have been interpreted as a compelling government interest. However, this area of law is in flux in light of the recent Supreme Court opinion striking down affirmative action policies in higher education,<sup>47</sup> and any use of race-conscious policymaking will require close coordination with legal counsel.

There may be some room for legal innovation in using race-neutral policies to target structural discrimination and advance equity. Appropriately crafted race-neutral policies can produce equitable results while being legally defensible. However, selecting race-neutral categories requires intimate knowledge of the context and existing data to ensure that those most in need will receive the benefits of the policy. Here are some examples of effective race-neutral categories:

- Geographic location (e.g., zip code, census tract, or neighborhood) combined with health, economic, or other data
  - Neighborhoods with higher numbers of renters than the citywide average
  - A higher number of housing-related health conditions compared with the citywide average, such as emergency department utilization rates for asthma or elevated blood-lead levels
  - High unemployment rates
- Socioeconomic status
  - Federal poverty level based on household income
  - Percentage of Area Median Income

In summary, race-conscious policies can be used in some instances to implement a remedy for past discrimination, which is a compelling government interest. Race-neutral policies that can be used to remedy past discrimination are subject to rational basis review and likely permissible.

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# Legal & Policy Strategies for Rural Communities





Even within the confines of current legal limitations, there are several ways to identify, design, and implement policies and programs that target structural discrimination and are legally defensible.

As previously mentioned, Toward Better Rural Futures conducted a policy scan that aimed to assess and identify policies with high potential to increase meaningful participation in decision making among BIPOC in rural places and decrease place, race, and class divides.<sup>48</sup> To determine which policies could potentially drive such impacts, we analyzed several factors that together measured a policy's potential magnitude of impact on rural inequality – such as feasibility, impact, inclusion of equitable policy elements, and probability of state-level preemption.<sup>49</sup> This targeted and layered approach to identifying policies defines impact in a way that recognizes the fundamental intersectionality of multiple dimensions of discrimination and exclusion.<sup>50</sup>

## Involving Rural BIPOC Communities in Decision Making

Identifying policies with potential to advance racial and economic justice in rural places is just one element of creating meaningful change. Due to the many historical, regional, and cultural differences among BIPOC rural communities, community members and leaders need to be the ones who identify priorities for action. The details of how policy is framed, discussed, designed, and implemented will influence which ideas become law and whether they make a noticeable difference in prosperity for all or unintentionally exacerbate existing injustices. It is imperative that BIPOC community members and others who've experienced marginalization have a seat at the policymaking table.

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*It is imperative that BIPOC community members and others who've experienced marginalization have a seat at the policymaking table.*



Photo: California Department of Water Resources

# Policies with High Potential to Address Inequities

Our magnitude of impact measure highlighted several policies that have high potential to address multiple dimensions of oppression for BIPOC rural communities. Some of these policies, like funding for small-scale water systems, could improve conditions for a small number of people and still make a significant contribution to advancing rural equity because in the context of the historical harm that BIPOC rural communities have been experiencing, such targeted improvements help level unjust disparities. And some of these policies, like broadband expansion, are designed to benefit a specific group yet would also help all people thrive.

## Agricultural Workers Rights

Policies to strengthen agricultural workers rights would provide agricultural employees with a safe and healthy working environment. Agricultural workers rights policies establish specific safeguards and rights for agricultural workers, which may address working conditions, overtime pay, paid leave benefits, workers compensation, or housing. The Fair Labor Standards Act (FLSA) of 1938 established a federal minimum wage, outlawed child labor, established the 40-hour work week, and mandated the payment of overtime wages. Agricultural, domestic, and tipped workers were excluded from the protections of FLSA. These groups of workers, many of whom propel rural economies, were excluded from labor protections because they worked in industries that employed mostly people of color – specifically, Black people. The persistence of structural racism and othering throughout the legislative system has led to the continued exclusion of these classes of workers from FLSA protections.




### CASE EXAMPLE

#### Farmworker Protections: Colorado, New York State & Washington State

In 2021, the state of [Colorado](#) enacted a law providing farmworkers with a suite of labor protections. The law includes a minimum wage of \$12.32 per hour, overtime pay for work exceeding 12 hours a day or 40 hours a week, organizing rights, and enhanced safety protections during public health emergencies. [New York State](#) and [Washington State](#) also recently passed wage and labor protection laws for agricultural workers.

## Reparations

A legacy of systemic racism and discriminatory laws – including slavery, segregation, and systemic denial of fair housing, education, and employment opportunities – has caused trauma and gaps in access to resources for Black Americans. Reparations policies acknowledge histories of systemic racism and establish a process for repairing psychological and mental damage, creating generational wealth, and increasing economic mobility for descendants of people who suffered historic harms. This strategy has the potential to close the racial wealth divide between white and Black Americans and reduce health disparities by increasing access to quality housing, education, fair wages, safe work environments, clean air and water, healthy food, and other resources.



### CASE EXAMPLE

#### Reparations: State of Florida & Evanston, Illinois

Florida was the first state in the nation to pay reparations to survivors of racial violence. In 1994, legislators passed and Governor Lawton Chiles signed into law a measure to set aside \$2.1 million for 11 known survivors and descendants of the Rosewood massacre in 1923. Before the massacre, Rosewood, near the Gulf of Mexico, was a town of 100–200 people where some Black residents owned land and houses. The massacre was ignited by a false accusation from a white woman who lived in the nearby predominantly white town, who claimed she'd been beaten by a Black man. The bill provided \$150,000 to each survivor – a sum that was given to nine individuals – and established a state scholarship fund for descendants.<sup>51</sup> The Rosewood Family Scholarship has since benefited more than 290 recipients and currently pays a maximum of \$6,100 per academic year to direct descendants who apply and verify their family connection.<sup>52,53</sup>

Evanston, Illinois, was the first American city to approve a compensation program intended to address historical racism and discrimination.<sup>ii</sup> In 2002, the Evanston City Council adopted Resolution 43-R-02, “Slave Reparations,” which urges the US House of Representatives to pass HR-40, calling for a federal commission to study slavery and its vestiges and to make recommendations for reparations.<sup>54</sup> In 2017, the city council approved creation of the Equity and Empowerment Coordinator position in the FY 2017 budget to focus on strategies to help make the city equitable for all residents of Evanston. To further strengthen their commitment to equity, in 2018, the city council identified equity as a council goal, approved creation of the Equity & Empowerment Commission, supported citywide staff training in equity and diversity, and participated in diversity training as a council.

In June 2019, the city council adopted Resolution 58-R-19, “Commitment to End Structural Racism and Achieve Racial Equity,” recognizing that the community and government allowed and perpetuated racial disparities through many regulatory and policy-oriented tools.<sup>55</sup> In November 2019, the city council adopted Resolution 126-R-19, “Establishing a City of Evanston Funding Source Devoted to Local Reparations,” and then committed \$10 million of the city’s Municipal Cannabis Retailers’ Occupation Tax to fund local reparations for housing and economic development programs for Black residents.<sup>56</sup> Since the passage of Resolution 126-R-19, the city has formed their Reparations Committee and created their Restorative Housing Program.<sup>57</sup>

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ii Although Evanston is not a rural community, this case provides a concrete example of a reparations policy at the local level.

## Prohibition of Racial Profiling

Some localities ban discriminatory profiling by law enforcement on the basis of a person's actual or perceived race, ethnicity, national origin (and sometimes religion, gender, gender identity, or sexual orientation) without trustworthy information that is relevant to linking a person to a crime. Aggressive policing is experienced disproportionately in communities of color, especially Black communities. Aggressive policing can cause physical harm to individuals as well as long-lasting mental health and physiological consequences.<sup>58</sup>



### CASE EXAMPLE

## Prohibition of Racial Profiling: North Carolina

North Carolina is a state with both rural areas and medium-sized metropolitan cities. In 1999, North Carolina became the first state in the country to mandate the collection of data whenever a police officer stops a motorist. Since January 1, 2000, the North Carolina State Highway Patrol has been collecting these data. For years, Black drivers in North Carolina complained that they were routinely stopped on flimsy pretexts and were subsequently questioned and searched for drugs far more often than white drivers. In 1996, the *Raleigh News and Observer* reported that the highway patrol's drug interdiction team stopped and charged Black male drivers at nearly twice the rate of other troopers patrolling those same roads. Subsequently, the newspaper reported that according to 1998 statistics, Blacks and people of color were twice as likely as white drivers to have their cars searched by the drug unit. In 1999, state legislators worked with the local ACLU office to introduce a bill requiring state law enforcement entities to collect data on all routine traffic stops. The bill was enacted into law in April 1999.<sup>59</sup>

## Native Tourism Alliances

Native tourism alliances strive to improve economic, infrastructure, and investment benefits for tribal nations by increasing opportunities related to tourism. Native tourism alliances aim to boost local economies, support entrepreneurship, create new jobs, and enable Native American communities to be more active participants in their own narratives of both the past and the future.



### CASE EXAMPLE

## Native Tourism Alliance: South Dakota

The [South Dakota Native Tourism Alliance](#) is an ad hoc network of 60 representatives from the nine federally recognized tribal nations in South Dakota, industry leaders, and local, state, and federal partners, who are all working together to develop Native American tourism as a catalyst for economic growth. Their [development and management plan](#) includes steps for implementation.

## Housing Trust Funds

Affordable housing trust funds are dedicated, ongoing public funding sources established by city, county, or state governments to support the preservation (rehabilitation and repair) and production (construction) of affordable housing and increase opportunities for families and individuals to access safe, accessible, and affordable homes.

## Local & Targeted Hiring

Local or targeted hiring policies require real estate developers or businesses to reserve a certain number of jobs or a certain type of job for persons who reside in certain geographical areas or for persons from underserved communities. Local or targeted hiring is often stipulated when businesses or developers request flexibility or incentives from state or local governments.

## Support for Small Water Systems

These policies provide tools, funding sources, and regulatory authorities to ensure access to safe, affordable drinking water as well as develop and implement sustainable solutions for small systems with violations of drinking water standards.

## State Medicaid Expansion

State Medicaid expansion aims to reduce the number of people without health insurance. In addition, Medicaid expansion can lead to job creation and improvement of state economies. The American Rescue Plan financially incentivizes states to expand Medicaid eligibility for low-income adults and increases federal funding by paying 90% of the cost for newly eligible adults.



Photo: Preston Keres/U.S. Department of Agriculture



## Broadband Expansion

Broadband expansion policies aim to bring affordable high-speed internet to all areas within every municipality, community, and rural area. Wider broadband coverage can be achieved by increasing the number of broadband utility lines and extending existing ones to increase general availability of broadband services and technology. Broadband expansion ensures that everyone has equal access to the technology needed to connect, work, create, play, and learn.



### CASE EXAMPLE

#### Broadband Expansion: Wilson, North Carolina

Although many rural communities are experiencing broadband connection issues, some rural communities are showing that **fast and affordable internet is possible**. One example is Greenlight, North Carolina's first community-owned, symmetrical gigabit fiber-to-home network. Greenlight is a municipal network operated by the rural City of Wilson. To ensure equitable access to broadband, Greenlight provides 100 Mbps speeds to after-school programs, libraries, and community centers in public housing. In addition, Greenlight has expanded its broadband service into other rural communities, including Pinetops and Vick Family Farms. And to support economic development efforts in Wilson County, Greenlight offered a 10-week "Fiber Optics Basics" course, providing hands-on training to local residents in order to build a stronger and economically resilient workforce. Greenlight demonstrates how municipal networks can provide high-quality, reliable access to broadband, enhancing quality of life for residents and supporting a healthy local economy.

## Paid Family Leave & Paid Sick Leave

Paid family leave policies provide essential paid time away from work for employees to care for themselves and their loved ones. Paid family leave is distinct from leave offered by the federal Family and Medical Leave Act (FMLA), which provides unpaid job-protected leave for up to 12 weeks during a 12-month period for employees of companies with at least 50 employees.

Paid sick leave policies require employers to allow employees to take time off from work to address their health or a family member's health without affecting their pay. These policies empower workers to protect their health and the health of their loved ones.

Among US states in which more than 20 percent of the population lives in rural areas, none guarantee workers access to paid family and medical leave, and only two (Vermont and New Mexico) guarantee access to paid sick time.<sup>60</sup> Fewer than half of prime-age workers in rural communities are estimated to have unpaid job-protected leave through FMLA because rural businesses are more likely to be small and fall outside FMLA's coverage and because rural workers are more likely to work part-time and therefore not meet FMLA's requirements for hours worked.<sup>61</sup>

## Bail Reform

*Bail reform* refers to policies that would reform cash bail systems so that people who have not yet been convicted of a crime are not held in jail before trial due to their inability to pay bail.<sup>62</sup> Bail reform offers an opportunity to address pretrial systems, policies, and procedures. Many of the policies that shape bail practices are enacted at state and local levels. The bail system – specifically, the cash bail system – has disproportionately affected rural communities. Cash bail amounts often place an undue financial burden on defendants and their families. The practice of cash bail contributes to overcrowded state county jails and a system that disproportionately favors wealthy individuals and families.<sup>63</sup>



### CASE EXAMPLE

#### Bail Reform: New Jersey

Although many people think of New Jersey as a densely populated state, one-third of New Jersey counties are designated rural. Effective on January 1, 2017, New Jersey's Criminal Justice Reform Act<sup>64</sup> precludes judges from imposing cash bail and entitles most defendants to pretrial release, unless they are charged with murder or a crime that exposes them to life imprisonment. Within 48 hours after initial charging, a judge must decide whether a defendant will be released or detained. Generally, for a defendant to be detained before trial, a risk assessment must determine that they are a flight risk or a danger to themselves or the public.<sup>65</sup>

To understand the impacts of the Criminal Justice Reform Act, reports were made that compared 2014 bail system data with 2017 data. Data from 2017 suggest that the number of new crimes committed by defendants who were released pretrial remained relatively the same pre-reform and post-reform.<sup>66</sup> In addition, in 2018, there was a small but not significant 3.3% decrease in the number of defendants who appeared in court.<sup>67</sup> The Criminal Justice Reform Act contributed to a decrease in the jail population, but the racial and ethnic makeup of the jail population did not change much (54% Black, 16% Latinx, and 30% white).<sup>68</sup>

New Jersey has leveraged data as a tool to help inform the design and implementation of the Criminal Justice Reform Act. Data were first used in initial findings from the Drug Policy Alliance in 2013<sup>69</sup> and have carried over into the 2018 and 2019 Criminal Justice Reform Reports to the Governor and Legislature.<sup>70</sup> In fact, New Jersey strengthened the role of data in the criminal justice system by passing a law requiring the attorney general to collect, record, and analyze demographic data for individuals in the state's jails and prisons.<sup>71</sup> This example shows why bail reform is much more than just a change to pretrial policies, systems, and procedures. Bail reform requires systems change that includes processes and accountability practices.

## Additional Policies to Consider

In subsequent discussions, stakeholders at state, local, and community levels shared additional policies that they believe hold strong potential to advance rural equity. These included extension and protection of voting rights, decriminalization of marijuana, support for local and regional food systems, policies that focus on building rural economies through capital infrastructure, and a more robust list of policies that would serve Native American communities.

# Governance Approaches for Consideration

In addition to specific policy interventions like those provided in the preceding sections, it's also necessary to rethink broad issues of governance in relation to structural discrimination. Systems and legal structures across many issue areas have structural discrimination embedded in them. These systems and structures, including enforcement and preemption, have an impact on what is legally possible in communities – specifically, how the law can be used and who has access to power. Serving all constituents equitably requires being conscious of the history of this country and the intent of existing civil rights laws in both development and implementation phases of policy change.

The next two sections discuss equitable enforcement and equity-first preemption – two examples of governance approaches that can advance health equity throughout and beyond the policy implementation process.

## Equitable Enforcement to Achieve Equity

Equity-informed enforcement of laws and policies can help break the cycles of injustice and address inequitable health outcomes experienced by rural communities. Public health laws and policies have catalyzed major health improvements for people living in the United States. But without enforcement – that is, a means of incentivizing compliance – these policies are less likely to produce their intended effects. **Equitable enforcement** is a process of ensuring compliance with law and policy that considers and minimizes harm to people affected by health inequities.<sup>72</sup>

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*Equitable enforcement is a process of ensuring compliance with law and policy that considers and minimizes harm to people affected by health inequities.*



Photo: David Wilson/Flickr (CC BY 2.0)



Enforcement actions taken in the name of public health can sometimes harm, discriminate against, or otherwise undermine the health of the very people whom the laws are meant to protect. In fact, enforcement that is carried out inequitably can create, maintain, or exacerbate health inequities. Race-neutral laws, in particular, have been enforced in ways that unequally burden BIPOC communities and communities with low income.<sup>73</sup> For example, some jurisdictions that implemented stop-and-frisk laws pointed to increased levels of violence as their reason.<sup>74</sup> While facially neutral in regard to race and class, stop-and-frisk policies were disproportionately used against BIPOC communities with low income.<sup>75</sup> Further, although these stops occurred in staggering numbers, there was little evidence that they led to reductions in the number of violent crimes; on the other hand, the stops took a substantial physical and emotional toll on young Black men through violence, trauma, anxiety, and depression.<sup>76</sup> This example shows the impacts of structural racism and demonstrates why community-centered policies that are grounded not only in legal precedent but also in the best scientific evidence are essential to advancing health equity through the law. Further, this example highlights the importance of equitable enforcement, which can hold wrongdoers accountable while also protecting the health and well-being of individuals and the wider community.

Policymakers can look to some of the policy strategies provided earlier in this brief to facilitate equitable enforcement in the context of rural communities. Bail reform and prohibition of racial profiling are examples of equitable law enforcement practices that, in combination with reallocation of resources from law enforcement to support housing, mental health, and other social services, can simultaneously reduce harm and ensure public safety. Smarter enforcement approaches can help avoid unintended negative consequences when enforcing violations of the law, as well as ensure that enforcement provisions are designed to avoid inequitable impacts and promote community health.

## Equity-First Preemption

**Preemption** is a legal doctrine whereby a higher level of government may limit or even eliminate the power of a lower level of government to regulate a certain issue. Preemption historically has been used as a legislative and judicial tool for resolving problems that arise when different levels of government adopt conflicting laws on the same subject. Preemption is neither inherently bad nor good; it is simply a legal concept, and its effects depend on how it is used. However, in recent years, preemption has increasingly been used to take power away from localities, often in ways that perpetuate structural discrimination and racism.

An equity-first approach to preemption highlights the duality of preemption and its varying effects on health and equity.<sup>77</sup> Under existing frameworks, preemption laws are classified into three categories that are based on how they operate: ceiling, floor, and vacuum preemption. *Ceiling preemption* prevents lower levels of government from requiring anything more or different from what the higher-level law requires. In contrast, *floor preemption* occurs when the law of the higher level of government sets a minimum standard, but a lower level of government is permitted to add additional requirements. *Vacuum (or null) preemption* occurs when legislators choose not to enact regulations in a particular field but also actively forbid lower levels of governments from doing so, creating a regulatory void.<sup>78</sup> There has been a tendency to label preemption that takes power away from local governments as universally bad. Alternatively, an equity-first framework “would classify preemption based on its anticipated impact on health and health equity.”<sup>79</sup> This framework recognizes preemption as a “double-edged sword,”

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*Community-centered policies that are grounded not only in legal precedent but also in the best scientific evidence are essential to advancing health equity through the law.*

one that can support local governments' ability to innovate and respond to the needs and values of their communities but can also acknowledge when states and the federal government should step in to block local actions that are likely to cause harm and perpetuate inequities.<sup>80</sup>

Like equitable enforcement, an equity-first approach to preemption is an example of a legal innovation that uses the law's effect on equity as a guiding principle. Public health innovations often start at the local level, with cities and counties serving as "laboratories of democracy" where new and innovative policies can be tested for their potential to improve community health outcomes and reduce health inequities. For example, in states that use floor preemption to ensure minimum standards for workers rights, localities can implement additional paid leave protections to advance health equity for workers and their families.<sup>81</sup> Also, when used to prevent governments from enacting harmful policies, preemption has the potential to promote fairness and equity. For instance, in response to the housing crisis, some states have passed preemption laws that prevent local governments from obstructing construction of affordable housing.<sup>82</sup>

When misused, state preemption can stymie communities' pursuit of a healthier, more equitable future and undermine local efforts to protect public health. Recognizing preemption as both a cause of and a means to alleviate inequities can inform the frameworks that state and local leaders use to advance health justice.

Paid sick leave is an example of a workers rights policy that is frequently preempted at the state level. An equity-first preemption framework can be used to evaluate paid sick leave policies in order to advance health equity in rural cities and counties. States interested in using this framework can adopt paid sick leave policies, using floor preemption to establish minimum standards for all workers in the state while allowing localities to go above and beyond what the state provides. For example, a state could pass a law requiring employers statewide to provide paid sick leave, but a rural county, based on their cancer incidence rates, might want to raise the accrual rate or maximum amounts of paid time off so that workers can more easily travel longer distances to access care.<sup>83</sup> If the standards established by the state are equitable and supportive, localities may not feel the need to pass additional requirements, but leaving this option open gives municipal governments the ability to respond to local conditions and meet their residents' needs.<sup>84</sup>

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*Like equitable enforcement, an equity-first approach to preemption is an example of a legal innovation that uses the law's effect on equity as a guiding principle.*

# Conclusion



We have an opportunity to advance racial and economic equity in rural places. State and local decision makers and civic leaders can use the strategies offered in this brief to improve equity, opportunity, and health for their constituents in rural settings.

Increased awareness of structural racism, the impacts of climate change, and the growing wealth gap exacerbated by the COVID-19 pandemic are forcing many to reconsider what we need to advance equity. Many rural communities are at the forefront in addressing these issues. Especially when we think about impact in a way that recognizes the fundamental intersectionality of multiple dimensions of discrimination, these communities' work offers new narratives and models new possibilities for building broader, more inclusive movements for change.

This strategy brief belongs to [a suite of products on rural policymaking](#) to advance economic development and racial equity. The products include a strategy brief on advancing rural prosperity, a menu of promising rural policies, and case examples of state policies.

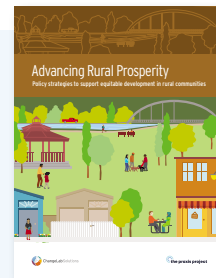


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# Acknowledgments

**Advancing Racial Equity in Rural Communities: Legal & Policy Strategies to Support Opportunity, Health & Justice** was developed by ChangeLab Solutions, in partnership with The Praxis Project.

Development of this strategy brief was overseen by Shauneequa Owusu, chief strategy officer, and Sarah de Guia, chief executive officer. It was written by Chassidy Coffin, senior policy analyst, and Shannon Rempe, attorney, with support from Cesar De La Vega, senior policy analyst; Edgar Camero, planner; Jessica Nguyen, senior planner; Tyra Satchell, policy analyst; and Tina Ansong, senior planner. Legal review was provided by Sabrina Adler, vice president of law; Alexis Etow, managing director; and Maya Hazarika Watts, managing director. Additional support was provided by Hollie Storie, senior policy analyst, and Kimberly Libman, vice president of policy. Editing and production management were provided by Carolyn Uno (Tigris), senior editor, and Kim Arroyo Williamson, chief communications officer. Thanks to all the staff at ChangeLab Solutions who contributed to the creation of this brief.



We'd like to thank **The Praxis Project** for their insights, contributions, and partnership.

This resource is connected to Thrive Rural, a small group of Robert Wood Johnson Foundation grantees that is working collaboratively toward a future in which communities and Native nations across the rural United States are places where each and every person belongs, lives with dignity, and thrives. This work is one piece of that effort. For more information, please visit [ThriveRural.org](https://ThriveRural.org).

Support for this brief was provided by the Robert Wood Johnson Foundation. The views expressed here do not necessarily reflect the views of the Foundation.

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Design & illustration: Karen Parry | Black Graphics