



MAJORITY STAFF REPORT

Something Must Change: Inequities in U.S. Policy and Society



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A NOTE ON TERMINOLOGY

The terminology used to describe marginalized groups in this Report is intended to be as inclusive as possible while recognizing there are differences in how individuals who are members of these groups may prefer to identify. This Report uses consistent terms throughout to help ensure clarity. However, we note that some terms may not reflect the preferences of all individuals who may be captured by these references.

Ways and Means Committee Democrats



Something Must Change: Inequities in U.S. Policy and Society

January 2021

“We have a mission and a mandate to be on the right side of history.”

Congressman John Lewis
1940-2020

INTRODUCTION

For too long, our health care system and economy have marginalized many American communities. Throughout the 116th Congress, the Committee on Ways and Means has explored the root causes of health and economic disparities, inequitable outcomes in national maternal morbidity and mortality, vulnerabilities in our ability to adapt to climate change, and the devastating acts of gun violence tearing apart communities across the country. Most recently, this Committee examined the disproportionate impact of the coronavirus (COVID-19) on communities of color and people with disabilities. The expert testimony and solutions proposed during each of these diverse hearings underscored two key principles: Health does not exist in a vacuum, and achieving health equity will require addressing the economic and social inequities that have long persisted within our country.

For over a century, health services research has demonstrated the irrefutable link between disparities in health and inequities in employment, income, and wealth opportunities. Pre-pandemic data show that on average, Americans can expect to live shorter and less healthy lives compared to people living in every other wealthy democracy – and, yet, we far outspend the average developed country on health care. Now, the COVID-19 crisis has highlighted how unchecked vulnerabilities within the United States (U.S.) health system cause inequities and impact every other aspect of our lives – how we earn, learn, and live in our communities. In light of these lessons learned, we must prioritize efforts to improve the return from our significant investments in the U.S. health system.

Our future depends on transcending traditional health and discrimination frameworks to achieve a 21st century vision that creates the conditions for all Americans to thrive. As the committee with jurisdiction over health, tax, and trade policy, as well as social safety net programs, the Ways and Means Committee is well-positioned to address the role that racism, ableism, and other social, structural, and political determinants play in perpetuating health and economic inequity. This report outlines the intersection between health and economic well-being and describes aspects of policies and practices relevant to the Committee’s jurisdiction and efforts to achieve health and economic equity in the United States.



BACKGROUND

The Relationship between Health, Economic Equity, and Social Well-Being

Societies achieve health equity when they address unfair, unjust, and avoidable differences in health outcomes by creating conditions for all people to have a fair shot at achieving their full health and economic potential. In the mid-20th century, President Lyndon B. Johnson signed Medicare and Medicaid into law as a way to extend the benefits of a prosperous nation – ensuring younger Americans avoided using the bulk of their income to finance care for aging parents and preventing vulnerable populations from being left behind.^{1,2} President Barack

Obama expanded federal health care programs available to Americans when he signed the Affordable Care Act (ACA) into law more than a decade ago, building on the vision that federal programs could address health care and economic security. As a nation, we acknowledged the role of a healthy economy and multiple federal systems in addressing gaps in essential services for lower income residents, and we acted boldly by transforming health care payment and delivery to meet the country's need. Yet 55 years after the creation of Medicare and Medicaid, the COVID-19 pandemic is demonstrating just how inadequate our systems are in conferring equitable access to health care, safe living conditions, and economic opportunity for residents across the nation.

Left Out Health Equity Report Highlights

The health disparities in rural and urban underserved communities across America are stark, costing billions of dollars in additional expenditures for related care, lost productivity, and premature death. Resources are necessary to support comprehensive studies of these outcomes along with analyses of the ways in which systemic racism within the health care system impedes health equity.

The United States can make inroads toward achieving health equity by fully integrating tenets of population health into health care coverage, financing, and delivery systems, and by implementing workforce initiatives.

Public financing of health and human services, infrastructure, agriculture, etc., must adapt to incorporate the resources, services, and workforce needed to address social and structural determinants of health.

The COVID-19 pandemic is a case study on why transformation is critical and long overdue.

A recent Ways and Means Committee report, *Left Out: Barriers to Health Equity for Rural and Underserved Communities*, examines the issues that are most relevant to health equity and the

barriers to achieving optimal health for residents of these communities.³ The analysis describes stark disparities in life expectancy, disease burden, maternal mortality, and gun violence along racial, ethnic, and geographic lines. Equally alarming were the statistics reflecting a significant health care workforce shortage in these communities, especially for behavioral health.

¹ *Medicare Primer R40425*, CONG. RESEARCH SERV. (2020).

² CHRISTINE K. CASSEL, *MEDICARE MATTERS: WHAT GERIATRIC MEDICINE CAN TEACH AMERICAN HEALTH CARE* (Univ. Cal. Press 1st ed. 2005).

³ *Left Out: Barriers to Health Equity for Rural and Underserved Communities*, COMM. ON WAYS AND MEANS MAJORITY, U.S. HOUSE OF REPRESENTATIVES (2020), https://waysandmeans.house.gov/sites/democrats.waysandmeans.house.gov/files/documents/WMD%20Health%20Equity%20Report_07.2020_FINAL.pdf

The physical environment, clinical care networks, and health behaviors – along with social, political, cultural, and economic factors – are all determinants of health.⁴ The resources available within homes and communities across America vary vastly, and these resources greatly influence choices that have a significant impact on health status and outcomes.⁵ Consider that the U.S. boasts some of the world’s most advanced and innovative hospitals, research institutions, medical schools, and medical therapies; yet, not everyone in the nation has an equal opportunity to benefit from proximity to these advances.

COVID-19 has accentuated these interactions, further demanding that policy decisions are informed with a firm understanding of the relationships among class, negative health outcomes, and race. As of December 31, 2020, there were over 20 million positive cases of COVID-19 and over 345,700 deaths in the U.S.⁶ Among these devastating numbers is the reality that Black people have died from COVID at a rate 1.6 to 2.4 times that of White people in recent months.⁷ Non-Hispanic White people comprise the largest racial group in most of the 20 counties with the highest COVID-19 death rates per capita, but two of the top 10 counties are predominantly American Indian and Alaskan Native.⁸

By the fall of 2020, Arizona’s American Indian and Alaska’s Native communities represented 12 percent of cases and 16 percent of COVID-19 deaths, respectively, despite those groups accounting for a mere four percent of the total population.⁹ In Arkansas, Latino residents comprised 19 percent of cases and 10 percent of deaths, despite being only seven percent of the state’s overall population.¹⁰ Latino Coloradans represented 44 percent of COVID-19 cases, even though they are 21 percent of the state’s population, and the District of Columbia’s Latino population – 11 percent overall – made up 28 percent of COVID-19 cases.¹¹ Individuals who identify as Native Hawaiian and Pacific Islander are 10 percent of Hawaii’s population but represented almost 40 percent of their cases and accounted for 28 percent of COVID-19 deaths.¹² Disparities were also explicit in Maine, where Black residents accounted for at least 27.7 percent of cases when the race of the individual was known, despite the fact that just 1.4 percent of the state’s population is Black.¹³ The 27.7 percent only slightly decreased when the 360 individuals of unknown race or ethnicity in Maine’s data were included, still accounting for almost a quarter all cases in the state.¹⁴

⁴ Bridget Caitlin et al., *2015 County Health Rankings Key Findings Report*, ROBERT WOOD JOHNSON FOUND (2015), <https://www.rwjf.org/en/library/research/2015/03/2015-county-health-rankings-key-findings-report.html>.

⁵ Rachel L. J. Thorton et al., *Evaluating Strategies for Reducing Health Disparities by Addressing the Social Determinants of Health*, 35:8 HEALTH AFFAIRS 1416 (2015).

⁶ *COVID-19 United States Cases*, Coronavirus Resource Center, JOHNS HOPKINS UNIVERSITY & MEDICINE, <https://coronavirus.jhu.edu/us-map>. (last visited Jan. 4, 2021).

⁷ *The COVID Racial Data Tracker*, COVID TRACKING PROJECT, <https://covidtracking.com/race>. (last visited Jan. 4, 2021).

⁸ *Racial Data Dashboard*, COVID TRACKING PROJECT, <https://covidtracking.com/race/dashboard>. (last visited Jan. 4, 2021).

⁹ *Racial Data Dashboard*, COVID TRACKING PROJECT, <https://covidtracking.com/race/dashboard>. (last visited Sep. 21, 2020).

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.*

¹³ Kevin Miller, *Maine has Nation’s Worst COVID-19 Racial Disparity*, PORTLAND PRESS HERALD (June 22, 2020), <https://www.pressherald.com/2020/06/21/maine-has-nations-worst-covid-19-racial-disparity/#>.

¹⁴ *Id.*

The health, social, and economic consequences of COVID-19 have touched nearly every American, but we have witnessed a particularly severe effect on the lives of the elderly, those with disabilities and chronic conditions, and communities of color. This disproportionate impact is related to existing structural inequities and fueled by other pandemic-driven stressors with discriminatory impact, including the conspiracy theories that led to a significant increase in anti-Asian sentiment and activity.

Even before the pandemic, communities of color were disproportionately likely to experience a disability. Age, race, ethnicity, health status, and a host of social determinants of health are routinely associated with disability.¹⁵ Three in 10 American Indians/Alaska Natives and one in five Black adults live with a disability, with the latter group being more likely to have severe impairments than their White counterparts.^{16, 17} Controlling for education and other personal characteristics, researchers have also found that workers with disabilities have lower earnings, with 12- to 15-percent gaps among women and 16- to 17-percent gaps among men who are full-time workers.¹⁸

I am especially concerned that individuals with disabilities and those with Limited English Proficiency (LEP) are being left behind as they seek up-to-date information on prevention, testing, diagnosis, and treatment... I ask for you to take immediate action to ensure that civil rights for these populations are being protected, and I urge you to issue guidance describing how organizations and providers can use COVID-19 funding to support language services. The COVID-19 pandemic is a dire public health emergency that affects us all, but for those who are deaf, hard-of-hearing, or who have LEP, there are additional hurdles and communication barriers to receiving effective testing and treatment.

Excerpt from Letter from Chairman Neal to the Secretary of Health and Human Services, May 2020

The combination of discrimination and lack of physical accommodations to access health care services is a significant barrier to good health for people with disabilities. For example, individuals who use wheelchairs often do not have access to scales for weighing and other health care technology, such as mammography, which prevents basic health maintenance activities. Such factors compound as individuals age, as adults over age 50 who frequently experience discrimination within health care settings are more likely to develop or exacerbate a disability within four years compared to their counterparts who do not experience discrimination.¹⁹ In the context of the COVID-19 pandemic, individuals with disabilities have experienced worse outcomes, although data are limited. A study using data from the State of New York through May 28, 2020, found individuals with intellectual and developmental disabilities (IDD) in residential group homes had a case-fatality rate of 15 percent, relative to 7.9 percent across the

¹⁵ Rashmi Goyat et al., *Racial/Ethnic Disparities in Disability Prevalence*, 3:4 J. RACIAL & ETHNIC HEALTH DISPARITIES 635 (2016).

¹⁶ *Adults with Disabilities: Ethnicity and Race*, CTRS. FOR DISEASE CONTROL & PREVENTION, <https://www.cdc.gov/ncbddd/disabilityandhealth/materials/infographic-disabilities-ethnicity-race.html>. (last visited Sep. 21, 2020).

¹⁷ Rashmi Goyat et al., *Racial/Ethnic Disparities in Disability Prevalence*, 3:4 J. RACIAL & ETHNIC HEALTH DISPARITIES 635 (2016).

¹⁸ Douglas Kruse et al., *Why do Workers with Disabilities Earn Less? Occupational Job Requirements and Disability Discrimination*, 56:4 BRITISH J. INDUS. REL. 798, (2018).

¹⁹ Stephanie Rogers et al., *Discrimination in Healthcare Settings is Associated with Disability in Older Adults: Health and Retirement Study, 2008—2012*, 30:10 J. GERIATRIC INTERNAL MEDICINE 1413 (2015).

larger state population.²⁰ Another study found higher rates of COVID-19 cases in younger individuals with IDD compared to the larger population included in the analysis.²¹

What we choose to measure is a values statement. When we fail to comprehensively capture and report information about the impacts of COVID-19 and other morbidities on communities of color, these communities are erased... With smart policies created with cultural humility and sustained federal investments – modest by comparison to overall COVID-19 related appropriations – Congress and the states can rebuild our data to be prepared for future COVID-19 waves and address other racial and ethnic health inequities around the country.

Written Testimony of Joia Crear-Perry, MD and Daniel E. Dawes, JD
Hearing on *The Disproportionate Impact of COVID-19 on Communities of Color*, May 2020

Health equity cannot fully be addressed if it is considered separately from the economic and social inequities that vulnerable people experience. Policymakers must confront the truth: Across the board, communities of color routinely experience worse health outcomes, even when adjusting for geography and income.²² Decades of research have demonstrated that communities of color not only tend to have worse health outcomes, but they also experience lower incomes due to limited economic opportunities, lower levels of educational attainment, and higher exposure to unsafe living conditions.²³ Thus, the pandemic has been as indiscriminate in its ability to infect as it has been in magnifying the degree to which systems and structures across sectors fail to adequately address the needs of communities with higher concentrations of people from the same socioeconomic, racial, and ethnic groups.²⁴ The key to rectifying the sources of these failures is in naming and clarifying root causes and practical responses that best serve those whose actual needs have long been invisible to race-neutral policies.

Social and economic policies can promote equity or function in ways that exacerbate and cement inequities. Too often, residents of underserved communities experience a lack of affordable and adequate housing, stalled economic development, and an absence of critical infrastructure. Furthermore, these communities tend to be more vulnerable to environmental challenges, such as pollution and climate change. From economic disinvestment in critical infrastructure and education, to the proliferation of certain communities disproportionately experiencing excessive gun violence, shortages in social and health services resources produce conditions that make it challenging for many marginalized residents to live healthy lives.

Efforts to develop solutions to health inequities must incorporate an unprecedented level of honesty and intentionality. If we are to meet the call of today, we must proactively address the

²⁰ Scott D. Landes et al., *COVID-19 Outcomes Among People with Intellectual and Developmental Disability Living in Residential Group Homes in New York State*, *DISABILITY & HEALTH J.* (2020).

²¹ Margaret A. Turk et al., *Intellectual and Developmental Disability and COVID-19 Case-Fatality Trends: TriNetX Analysis 13:3* *DISABILITY & HEALTH J.* (2020).

²² Rhea W. Boydet et al., *On Racism: A New Standard for Publishing on Racial Health Inequities*, *HEALTH AFFAIRS* (July 2, 2020), <https://www.healthaffairs.org/doi/10.1377/hblog20200630.939347/full/>

²³ *Left Out: Barriers to Health Equity for Rural and Underserved Communities*, *COMM. ON WAYS AND MEANS MAJORITY, U.S. HOUSE OF REPRESENTATIVES* (2020), https://waysandmeans.house.gov/sites/democrats.waysandmeans.house.gov/files/documents/WMD%20Health%20Equity%20Report_07.2020_FINAL.pdf.

²⁴ *Id.*

influence of race and racism – manifested through health and economic disparities – within the systems and institutions that Congress has designed.

The Relationship between Structural Racism/Discrimination and Federally Funded Programs

Legal Protections Against Discrimination in Health Care

Health and economic inequities represent the legacy of policies and practices that have permitted *de facto* (in fact) discrimination to persist, even in the face of landmark legislation ending *de jure* (by entitlement or right) discrimination and regulations touted to bring equity to health care, housing, education, and the administration of justice.²⁵ This reality prompted the American Public Health Association (APHA) to declare racism as an *ongoing* public health crisis in May 2020.²⁶ According to APHA former President Dr. Camara Jones, “[r]acism is a system of structuring opportunity and assigning value based on the social interpretation of how one looks (which is what we call ‘race’), that unfairly disadvantages some individuals and communities, unfairly advantages other individuals and communities, and saps the strength of the whole society through the waste of human resources.”²⁷

Consider the complex legal framework intended to protect civil rights in federal programs, such as Medicare, Social Security, and Temporary Assistance for Needy Families (TANF). Title VI of the Civil Rights Act of 1964 is regarded as the foundational legal mechanism for ensuring federal funds are not used for discriminatory purposes.^{28, 29, 30} Its passage came after nearly two decades of *administrative* efforts to use federal funds to discourage *de jure* discrimination in health services failed to do so.³¹

Similarly, federal legislation to protect the civil rights of people with disabilities emerged from a movement to support people with disabilities to live successfully within their communities and end the medical model view of people with disabilities as individuals to be cured. Section 504 of the Rehabilitation Act of 1973 (Section 504) was landmark legislation that prohibits discrimination on the basis of disability in federally conducted programs and in certain programs and activities receiving federal funding.³² The Americans with Disabilities Act of 1990 (ADA) expanded protections against disability-based discrimination to cover most employers;

²⁵ Kirsten M.M. Beyer et al., *New Spatially Continuous Indices of Redlining and Racial Bias in Mortgage Lending: Links to Survival After Breast Cancer Diagnosis and Implications for Health Disparities Research*, 40 HEALTH & PLACE 34 (2016).

²⁶ *Racism and Health*, AM. PUB. HEALTH ASSOC. (May 29, 2020), <https://www.apha.org/news-and-media/news-releases/apha-news-releases/2020/racism-is-a-public-health-crisis>.

²⁷ Camara P. Jones, *What is Racism?*, AM. PUB. HEALTH ASSOC., at 4 (July 21, 2015), https://www.apha.org/~media/files/pdf/webinars/naming_racism_jones3.ashx.

²⁸ Sara Rosenbaum and Sara Schmucker, *Viewing Health Equity through a Legal Lens: Title VI of the 1964 Civil Rights Act*, 42:5 J. HEALTH POLITICS, POLICY & LAW 771 (2017).

²⁹ U.S. CONST., art. 1, § 8, cl. 1.

³⁰ *Civil Rights at School: Agency Enforcement of Title VI of the Civil Rights Act of 1964 R45665*, CONG. RESEARCH SERV. (2019).

³¹ *Id.*

³² Lisa I. Iezzoni et al. *Historical Mismatch Between Home-Based Care Policies and Laws Governing Home Care Workers*, 38:6 HEALTH AFFAIRS 973 (2019).

state and local government services, programs and activities; and privately operated public accommodations.³³

In 1999, the Supreme Court interpreted the non-discrimination protections of the ADA and ruled against unnecessary institutionalization in the *Olmstead v. L.C.* decision, which held that individuals with disabilities have the right to live in the community.³⁴ The litigation that has followed the *Olmstead* decision is credited with challenging Medicaid to innovate financing and expand access to home- and community-based services and supports.³⁵

In contrast, in 2011, the Supreme Court narrowed the breadth of Title VI and, ultimately, its ability to protect against *de facto* discrimination.³⁶ In *Alexander v. Sandoval*, the Court barred private individuals from bringing cases based on discriminatory impact; instead, the Court held that cases require *intentional discrimination*.³⁷ Even when plaintiffs can establish standing and are successful under Title VI, courts frequently defer to the relevant enforcement agency for remedies rather than directly determining appropriate relief for the aggrieved.³⁸ The Supreme

Court's interpretation of Title VI and the race-neutral nature of antidiscrimination policy are both problematic foundations upon which health and economic inequities apparent in federally funded programs can be challenged as *de facto* discriminatory, whether inadvertent or intentional.

At a time when the United States is grappling with the 2019 coronavirus (COVID-19) pandemic and access to health care services is so critical, we are disappointed that this Administration is once again taking steps to limit access to health care and embolden discrimination against some of the most vulnerable among us.

If finalized, this dangerous rule would open the door to discrimination against patients in express contradiction to the plain language and intent of the law and would therefore be illegal. Undermining protections for marginalized individuals at any time is unacceptable, but it is particularly egregious to do so during the worst global pandemic in over a century.

Excerpt from Letter from Chairman Neal and House Committee Chairs to the Secretary of Health and Human Services Opposing Rule to Roll Back Nondiscrimination Protections Under the Affordable Care Act, May 2020

Largely in response to *Sandoval*, Congress enacted Section 1557 of the ACA to explicitly prohibit any form of discrimination based on sex, age, or disability in certain health care programs and activities. Though advocates and experts heralded Section 1557 and the Obama Administration's broad interpretation of its antidiscrimination protections as landmark additions to the nation's civil rights law canon, the Trump Administration has narrowed the law's reach significantly, including the entities to which the law applies, the types of conduct that are specifically prohibited, and the range of actions covered entities must take to prevent or

³³ *Id.*

³⁴ *Olmstead v. L.C. ex rel. Zimring*, 527 U.S. 581 (1999).

³⁵ Lisa I. Iezzoni *et al.* *Historical Mismatch Between Home-Based Care Policies and Laws Governing Home Care Workers*, 38:6 *HEALTH AFFAIRS* 973 (2019).

³⁶ Sara Rosenbaum and Sara Schmuker, *Viewing Health Equity through a Legal Lens: Title VI of the 1964 Civil Rights Act*, 42:5 *J. HEALTH POLITICS, POLICY & LAW* 771 (2017).

³⁷ *Alexander v. Sandoval*, 532 U.S. 275 (2001).

³⁸ Sara Rosenbaum and Sara Schmuker, *Viewing Health Equity through a Legal Lens: Title VI of the 1964 Civil Rights Act*, 42:5 *J. HEALTH POLITICS, POLICY & LAW* 771 (2017).

rectify discrimination.³⁹ Rather than leveraging these civil rights protections to safeguard the historically marginalized, the Trump Administration has chosen to deprive intended beneficiaries and communities of protection guarantees.⁴⁰

How Unchecked Discrimination Creates Systemic Harms

The systems, policies, and practices that effectively uphold discrimination in public financing and society at large lead to various forms of limitations and exclusions for people of color and can be particularly challenging for Black, Indigenous, and Latino individuals. Racial residential segregation correlates with underinvestment and disinvestment in areas with higher proportions of residents of color and is one of the most critical influences on socioeconomic status and the availability of resources for individuals, households, and communities.^{41, 42} Education and employment constraints limit the ability of people of color to accrue the resources needed to live in safe neighborhoods while also obtaining and retaining affordable and adequate access to health care and housing.⁴³ These realities are legacies of local, state, and federal laws that accepted segregationist ideas engrained into 20th century society at large and within our government systems.⁴⁴

Today, marginalized workers continue to face higher unemployment rates and a pay gap that persists after controlling for education and professional experience. Those factors have led to significant inequities in overall wealth, lifetime earnings, and retirement savings for communities of color. The pronounced wealth gap that exists now is an echo of generations of unequal opportunities and policies that privileged some over others. The

While the impact that climate change will have on health is critically important, we also must consider the financial burden that this will have on the healthcare system and, ultimately, on the American people. High healthcare spending is obviously a huge concern for the United States, and already chronic conditions like asthma, cardiovascular disease, and mental illness contribute substantially to our high spending. For example, in 2013, the total cost of asthma in the US was \$81.9 billion, \$50.3 billion of which was due to medical costs. This number will only increase as the burden of asthma continues to rise. Although the healthcare costs related to climate change are still being calculated, it is clear that climate change is already causing increased utilization of healthcare services and thus higher healthcare spending.

Testimony of Dr. Ashish Jha
Hearing on *The Economic and Health Consequences of Climate Change*, May 2019

³⁹ *Id.*

⁴⁰ Timothy S. Jost, *Trump Administration Amends ACA Antidiscrimination Rule, Cutting Transgender and other Civil Rights Protections, but Supreme Court Decision Calls Amendments into Question*, COMMONWEALTH FUND (June 15, 2020), <https://www.commonwealthfund.org/blog/2020/trump-administration-amends-aca-antidiscrimination-rule-cutting-transgender-and-other>.

⁴¹ David R. Williams and Chiquita Collins, *Racial Residential Segregation: A Fundamental Cause of Racial Disparities in Health*, 116:5 PUBLIC HEALTH REPORTS 404 (2001).

⁴² W.E.B. DUBOIS, *THE HEALTH AND PHYSIQUE OF THE NEGRO AMERICAN* (ATLANTA UNIV. PRESS 1906).

⁴³ Danyelle Solomon et al., *Systemic Inequality: Displacement, Exclusion, and Segregation*, CTR. FOR AM. PROGRESS (Aug. 7, 2019), <https://www.americanprogress.org/issues/race/reports/2019/08/07/472617/systemic-inequality-displacement-exclusion-segregation/>.

⁴⁴ Brad Plumer and Nadja Popovich, *How Decades of Racist Housing Policy Left Neighborhoods Sweltering*, N.Y. TIMES (May 24, 2020), <https://www.nytimes.com/interactive/2020/08/24/climate/racism-redlining-cities-global-warming.html>.

disparities apparent at the individual level are compounded in marginalized neighborhoods and communities. Consequently, people of color tend to live in conditions and environments that are not conducive to optimal health, and, too often, these areas suffer from a lack of affordable housing, stalled economic development, child care shortages, and an absence of critical infrastructure.⁴⁵ These communities also face the brunt of pollution and climate change.

The interrelated nature of the inequities engrained within our society makes it difficult to develop successful interventions, as lack of careful attention to the root causes of one issue often risks exacerbating existing disparities in other areas. For example, expanding access to health care, social, and other related services through technology fundamentally depends on the availability of affordable broadband internet. According to a 2017 Joint Economic Committee report, nearly 12 million children live in homes without a broadband connection, and White residents are more likely to have broadband in their homes than people of color.⁴⁶ Telecommunication companies are often hesitant to invest in installing the infrastructure necessary for broadband access in rural, older, and lower income communities where residents may be less likely to subscribe to broadband services, resulting in a structural bias against those communities.⁴⁷

Health equity cannot be separated from the racial, social, and economic inequities that communities of color experience because of structural and systemic racism that has gone unchecked for too long. Throughout 2020, the U.S. has experienced social unrest and economic uncertainty amid a once-in-a-century pandemic. Issues of community safety, disparities in the criminal justice system, and voting rights also invoke themes related to racial equity and justice. Efforts to seek legal remedies to these problems remain complex and increasingly less likely to yield adequate redress for these harms. The cries of protests across the nation demand that we revisit our role in the antiracism work the Civil Rights Act left unfinished and that the courts have challenged Congress to do.

Telehealth, the practice of caring for patients by phone or video, can mitigate some disparities but may exacerbate others. Telehealth heightens the need to self-triage and self-monitor chronic disease, a difficult task made more difficult among communities with low education and health literacy or the poor digital literacy that is commonly associated with age. Telehealth also exacerbates the difficulties of caring for patients across language barriers. Last week, I cared for a Cantonese-speaking patient by phone, with the assistance of a phone interpreter. It is very difficult to adjust insulin dosing this way, even when you know the patient well and the interpreters are excellent. Health systems need to monitor and address the disparities exacerbated by telehealth and to re-organize their care delivery systems to make telehealth and other broadly used services as accessible and patient centered as possible. Health systems will also need support to identify and address social needs.

Testimony of Dr. Alicia Fernandez
Hearing on *The Disproportionate Impact of COVID-19 on Communities of Color*, May 2020

⁴⁵ *Left Out: Barriers to Health Equity for Rural and Underserved Communities*, COMM. ON WAYS AND MEANS MAJORITY, U.S. HOUSE OF REPRESENTATIVES (2020), https://waysandmeans.house.gov/sites/democrats.waysandmeans.house.gov/files/documents/WMD%20Health%20Equity%20Report_07.2020_FINAL.pdf.

⁴⁶ *America's Digital Divide*, U.S. CONGRESS JOINT ECONOMIC COMM. (2017), https://www.jec.senate.gov/public/_cache/files/ff7b3d0b-bc00-4498-9f9d-3e56ef95088f/the-digital-divide-.pdf.

⁴⁷ *Id.*

Barriers to Economic Equity and Social Well-Being

Income inequality in the U.S. has reached its highest level in 50 years, according to Census Bureau data released in the fall of 2019.⁴⁸ The Pew Research Center observed that the growth in household incomes has slowed considerably in the most recent two decades, and that even before the onset of COVID-19, household wealth had not recovered since the recession of 2009-2010.⁴⁹ Meanwhile, average chief executive officer (CEO) compensation is now more than 200 times that of the average worker's pay, up from about 60 times greater in 1989 and 20 times larger in 1965.⁵⁰

While these statistics demonstrate that economic inequality has dramatically increased, they fail to capture fully how these disparities have disproportionately impacted communities of color and people with disabilities in the U.S. Since the 1980s, median wealth adjusted for inflation for Black and Latino families remained under \$10,000, whereas White households' median wealth increased from \$105,300 to \$140,500.⁵¹ Significant inequality also exists between Black and White wealth, with the average White family having seven times as much wealth as the average Black family, according to a 2016 analysis.⁵² One of the most harmful effects of this wealth gap is how it places many Black families in particularly precarious positions during economic downturns – and how the ramifications of those periods can be felt throughout the life course and across generations.⁵³

People with disabilities also face significant economic inequalities, living in poverty at more than twice the rate as people with no disabilities (26 percent versus 11 percent, respectively). This wealth gap is even more stark for Black and Indigenous people with disabilities, as more than one-third live in poverty.⁵⁴ People with disabilities often struggle to save, and on average have significantly less to fall back on in an economic crisis than people

⁴⁸ Gloria Guzman, *Household Income: 2018 American Community Survey Briefs ACSBR/18-01*, U.S. CENSUS BUREAU (2019), <https://www.census.gov/content/dam/Census/library/publications/2019/acs/acsbr18-01.pdf>; see also Taylor Telford, *Income inequality in America is the highest it's been since Census Bureau started tracking it, data shows*, WA. POST (Sep. 26, 2019), <https://www.washingtonpost.com/business/2019/09/26/income-inequality-america-highest-its-been-since-census-started-tracking-it-data-show/>.

⁴⁹ Juliana M. Horowitz et al., *Trends in income and wealth inequality*, PEW RESEARCH CENTER SOCIAL & DEMOGRAPHIC TRENDS (Jan. 9, 2020), <https://www.pewsocialtrends.org/2020/01/09/trends-in-income-and-wealth-inequality/>.

⁵⁰ Lawrence Mishel and Julia Wolfe, *CEO compensation has grown 940% since 1978*, ECONOMIC POLICY INSTITUTE (Aug. 14, 2019), <https://files.epi.org/pdf/171191.pdf>.

⁵¹ Chuck Collins et al., *Dreams Deferred: How Enriching the 1% Widens the Racial Wealth Divide*, INST. FOR POL'Y STUD. (Jan. 15, 2019), https://inequality.org/wp-content/uploads/2019/01/IPS_RWD-Report_FINAL-1.15.19.pdf.

⁵² Kriston McIntosh et al., *Examining the Black-White Wealth Gap*, BROOKINGS (Feb. 27, 2020), <https://www.brookings.edu/blog/up-front/2020/02/27/examining-the-black-white-wealth-gap/>; see also *Nine Charts about Wealth Inequality in America*, URBAN INST. (Oct. 5, 2017), <https://apps.urban.org/features/wealth-inequality-charts/>.

⁵³ Gerald D. Taylor, *Unmade In America: Industrial Flight and the Decline of Black Communities*, ALLIANCE FOR AM. MANUFACTURING (October 2016), <https://s3-us-west-2.amazonaws.com/aamweb/uploads/research-pdf/UnmadeInAmerica.pdf>.

⁵⁴ *Race, Ethnicity and Disability: The Financial Impact of Systemic Inequality and Intersectionality*, NAT'L DISABILITY INST. (Aug. 2020), <https://www.nationaldisabilityinstitute.org/wp-content/uploads/2020/08/race-ethnicity-and-disability-financial-impact.pdf>.

with no disabilities.⁵⁵ Households that include one or more members with a disability have median assets in a financial institution worth less than half of those held by households with no member with a disability (\$3,500 compared to \$7,345).⁵⁶

The next month was spent in the NICU [neonatal intensive care unit] and I learned that my story was not so uncommon, there were others like me – just like me. Black like me, healthy like me, doing their best – just like me. They faced death like me too, and as I started to talk to more of those women and hear about their experiences, I learned that black women are nearly four times more likely to die from childbirth than white mothers are in the United States and that we suffer severe complications twice as often. The data was teaching me that [this] risk is equally shared by all black women regardless of income, education or geographical location. So all the ways that made me think I was prepared and doing things the right way still are not for black women.

Testimony of Allyson Felix, Olympic Champion in Track and Field
Hearing on *Overcoming Racial Disparities and Social Determinants in the Maternal Mortality Crisis*,
May 2020

Children, Families, and Workers

Systemic racism has created gaps in wages, economic opportunities, and access to family supports and services that cause persistently higher rates of poverty and unemployment among people of color – creating a cycle of inequity across generations. Maternal mortality in the U.S. increased from 23 deaths per 100,000 births in 2005 to 28 deaths per 100,000 births in 2013 – and racial inequities persist, with Black and Indigenous pregnant women dying at three times the rate of White women.⁵⁷ Non-Hispanic Black, American Indian, Alaska Native, Hispanic, and Asian Americans have a 33 percent higher risk of severe maternal morbidity and mortality compared to non-Hispanic White residents.⁵⁸ According to the Centers for Disease Control and Prevention (CDC), two-thirds of pregnancy-related deaths between 2008 and 2017 were preventable.⁵⁹ Infant mortality, low birth weight, and other complications leading to ongoing health challenges are also more common in communities of color.⁶⁰

⁵⁵ *Id.*

⁵⁶ *Median Value of Assets for Households, by Type of Asset Owned and Selected Characteristics: 2017*, U.S. CENSUS BUREAU at table 1 (2017), <https://www.census.gov/data/tables/2017/demo/wealth/wealth-asset-ownership.html>.

⁵⁷ Haile E. Cole et al., *Building a Movement to Birth a More Just and Loving World*, NAT'L PERINATAL TASK FORCE (Mar. 2018), https://www.acesconnection.com/fileSendAction/fcType/0/fcOid/478556595873144043/filePointer/478556595873144064/fodoid/478556595873144055/Groundswell_Report_final_online%20March%202018%20National%20Perinata1%20Task%20Force%20.pdf

⁵⁸ Katy B. Kozhimannil et al., *Rural-Urban Differences in Severe Maternal Morbidity and Mortality In the US, 2007–15*, 38:12 HEALTH AFFAIRS (2019).

⁵⁹ *Pregnancy-Related Deaths: Data from 14 U.S. Maternal Mortality Review Committees, 2008-2017*, CTNS. FOR DISEASE CONTROL & PREVENTION, <https://www.cdc.gov/reproductivehealth/maternal-mortality/erase-mm/mmr-data-brief.html>. (last updated Sep. 4, 2019).

⁶⁰ *Infant Mortality and African Americans*, OFFICE OF MINORITY HEALTH, U.S. DEP'T OF HEALTH & HUMAN SERVS., <https://minorityhealth.hhs.gov/omh/browse.aspx?lvl=4&lvlid=23>. (last updated Nov. 8, 2019).

Although research has documented that there is no relationship between race and child maltreatment, Black children represent over 22 percent of children entering foster care, despite accounting for only 14 percent of the population of all children.⁶¹ American Indian and Alaska Native children are similarly over-represented at more than twice their share of the general population.⁶² Racial and ethnic over-representation in foster care is a disparity that researchers suspect results from racial bias, particularly in cases where effects of poverty are judged to be neglect.^{63, 64}

Access to safe, available, and affordable child care is a critical resource that all families need to ensure child wellbeing and support family economic mobility. Black children are disproportionately likely to live in homes with all available parents working outside the home and are, therefore, in need of child care.⁶⁵ But because Black working parents earn 40 percent less, on average, than White working parents, they have more trouble paying for that care.⁶⁶ Latino and Asian children are the most likely to lack child care options in their communities relative to counterparts in other ethnic groups.⁶⁷ A majority of child care providers in Latino neighborhoods regularly have to deny a child due to lack of space.⁶⁸

Both before and after the start of the pandemic, rates of unemployment and unstable employment for Black and Latino workers were substantially higher than those for White workers.⁶⁹ During the pandemic, unemployment rates for Black and Asian workers have been significantly higher than those for White workers, and Asian unemployment rates, which had

At Legal Aid at Work, we hear directly from low-wage workers every day who are struggling to keep their jobs and income while caring for themselves or their loved ones. Most of our clients are women of color, and many are single parents who are sandwiched between caring for children and elderly relatives. For them, paid leave is a lifeline, allowing them to heal and tend to their families without risking the paycheck they need to keep a roof overhead and food on the table.

Testimony of Sharon Terman
Hearing on *Legislative Proposals for Paid Family and Medical Leave*, January 2020

⁶¹ Black Children Continue to Be Disproportionately Represented in Foster Care, The Annie E. Casey Foundation (Apr. 2020), <https://datacenter.kidscount.org/updates/show/264-us-foster-care-population-by-race-and-ethnicity>.

⁶² *Racial Disproportionality and Disparity in Child Welfare*, CHILDREN'S BUREAU (Nov. 2016), https://www.childwelfare.gov/pubpdfs/racial_disproportionality.pdf.

⁶³ *Id.*

⁶⁴ Rasheed Malik and Jamal Hagler, *Black Families Work More, Earn Less, and Face Difficult Child Care Choices*, CTR. FOR AM. PROGRESS (AUG. 5, 2016), <https://www.americanprogress.org/issues/early-childhood/news/2016/08/05/142296/black-families-work-more-earn-less-and-face-difficult-child-care-choices/>. Rasheed Malik and Jamal Hagler, *Black Families Work More, Earn Less, and Face Difficult Child Care Choices*, CTR. FOR AM. PROGRESS (AUG. 5, 2016), <https://www.americanprogress.org/issues/early-childhood/news/2016/08/05/142296/black-families-work-more-earn-less-and-face-difficult-child-care-choices/>.

⁶⁶ *Id.*

⁶⁷ Rasheed Malik and Katie Hamm, *Mapping America's Child Care Deserts*, CTR. FOR AM. PROGRESS (Aug. 30, 2017), <https://www.americanprogress.org/issues/early-childhood/reports/2017/08/30/437988/mapping-americas-child-care-deserts/>.

⁶⁸ *Household Search for and Perceptions of Early Care and Education: Initial Findings from the National Survey of Early Care and Education*, NAT'L SURVEY OF EARLY CARE & EDUCATION TEAM (Oct. 2014), https://www.acf.hhs.gov/sites/default/files/opre/brief_hh_search_and_perceptions_to_opre_10022014.pdf.

⁶⁹ *Labor Force Statistics from the Current Population Survey*, U.S. BUREAU OF LABOR STATISTICS, https://www.bls.gov/web/empstat/cpsee_e16.htm. (last updated July 2, 2020).

been traditionally low, are seven times higher than they were in 2019.⁷⁰ For people with disabilities, the COVID-19 pandemic has been particularly destructive to employment rates: Of the estimated 750,000 Black adults with disabilities who were employed in January 2020, 44 percent had lost their jobs by April.⁷¹ Overall, by May, the unemployment rate for all workers with disabilities was 20 percent.⁷²

Workers of color face systematic obstacles to obtaining good jobs, ranging from lack of education to outright discrimination. Even those who overcome some of those obstacles struggle. For example, Black men have much higher rates of unemployment, even after controlling for age, education, veteran status, and gender.⁷³ Before the pandemic, the Black unemployment rate reached an historic low – 5.5 percent – and yet that rate was and continues to be systematically higher than the unemployment rate among Whites.⁷⁴ Black workers also earn an average of more than \$200 a week less than White workers and are significantly less likely to have employer-provided health or retirement benefits.⁷⁵

Women of color work at high rates but are overrepresented among the lowest paid professions. A woman of color who works full time, year round, can lose more than \$1 million in income over a 40-year career because of the wage gap.⁷⁶ Women of color are also more likely than White workers to need time away from work to care for family or for their own medical reasons but are unable to take that time due to financial reasons or for fear of losing their jobs. People of color also have less access to paid family leave and are more likely to have to quit their jobs or take lower paid work to care for family members. About 62 percent of Black adults and 73 percent of Latino adults are either ineligible for or cannot afford to take unpaid leave, compared to 60 percent of White adults.⁷⁷

For many women in the United States, however, the home is a dangerous place. Based on our estimate, about 4.5 million women alive today have had an intimate partner threaten them with a gun, and nearly 1 million have had an intimate partner use a gun against them. These numbers are hard to fathom and they affect the most intimate parts of our lives. These threats create realistic fear, perhaps terror even, and change the relationship, the environment in the home, and the children who witness the acts.

Testimony of Dr. Susan B. Sorensen
The Public Health Consequences and Cost of Gun Violence, September 2019

⁷⁰ *Id.*

⁷¹ *Race, Ethnicity and Disability: The Financial Impact of Systemic Inequality and Intersectionality*, NAT'L DISABILITY INST. (Aug. 2020), <https://www.nationaldisabilityinstitute.org/wp-content/uploads/2020/08/race-ethnicity-and-disability-financial-impact.pdf>.

⁷² *Id.*

⁷³ Christian E. Weller, *African Americans Face Systematic Obstacles to Getting Good Jobs*, CTR. FOR AM. PROGRESS (Dec. 5, 2019), <https://www.americanprogress.org/issues/economy/reports/2019/12/05/478150/african-americans-face-systematic-obstacles-getting-good-jobs/>.

⁷⁴ *Id.*

⁷⁵ *Id.*

⁷⁶ *Race & Gender Wage Gaps*, NAT'L WOMEN'S LAW CTR., <https://nwlc.org/issue/race-gender-wage-gaps/>. (last visited Sep. 21, 2020).

⁷⁷ *We Decide: Demanding the Polices Pregnant People need to Thrive*, NAT'L PARTNERSHIP FOR WOMEN & FAMILIES (Jan. 2019), <https://www.nationalpartnership.org/our-work/resources/repro/we-decide-demanding-the-policies-pregnant-people-need-to-thrive.pdf>.

Disparities in the criminal justice system are one key driver of lower employment rates and lower job quality for people of color. More than half of the U.S. prison population is Black or Latino, although these groups represent less than one-third of the overall U.S. population. Research shows that Black and Latino men are more likely to be arrested than White men, receive longer sentences for the same crimes, and have their parole revoked when parole officers are given discretionary discipline authority.⁷⁸ The disparity is particularly pronounced in drug arrests – people of color have similar rates of drug use relative to other groups but make up more than half of those incarcerated for drug-related offenses.⁷⁹ Incarceration drives poor employment outcomes: Nearly one-third of jobs in the U.S. require occupational licenses that may be denied to people with arrest and conviction records, and in industries without licensing requirements, employers are 50 percent less likely to call back applicants with records. Nearly 75 percent of formerly incarcerated people are still unemployed a year after release.⁸⁰

These disparities have played out in the availability of relief funding to families across the U.S. during the pandemic. At the end of July 2020, of the workers who were scheduled to lose approximately two-thirds of their COVID-19 supplement to unemployment compensation income, nearly half were people of color. Black workers have been particularly affected by the July 31, 2020, cutoff date for supplemental federal unemployment benefits, as they were both more likely to be unemployed during the pandemic (16 percent as opposed to 12 percent for all workers) and, in a departure from pre-pandemic conditions, were more likely to receive earned unemployment benefits among the unemployed (81 percent versus 76 percent for all workers).⁸¹

Income, Wealth, and the Role of Taxation

Our country's current distribution of income, assets, and wealth reflects a long and persistent history of racial barriers to economic opportunity and upward mobility. Longstanding bias in employment, housing, and education have contributed to marked disparities in incomes among families from different racial and ethnic communities. Over generations, those income differentials have generated huge inequities in the median household wealth across various groups.

For example, the Federal Reserve Survey of Consumer Finances showed the median 2016 income of Black and Hispanic families (\$35,400 and \$38,500, respectively) trailed far behind that of White families (\$61,200). Black and Hispanic families were also less likely to own major assets like a primary residence or business equity in 2016: While 73 percent of White households own their homes, only 45 percent of Black and 46 percent of Latino households do. Fifteen percent of White households own some form of business equity, while only seven and six percent of Black and Hispanic families do, respectively. These disparities in income and assets help fuel an enormous gulf in median household net worth: In 2016 the median net worth of a Black household was less than 11 percent that of a White household (\$17,600 and \$171,000,

⁷⁸ *Criminal Justice Fact Sheet*, NAT'L ASSOC. FOR THE ADVANCEMENT OF COLORED PEOPLE, <https://www.naacp.org/criminal-justice-fact-sheet/>. (Last visited Sep. 21, 2020).

⁷⁹ *Id.*

⁸⁰ *Id.*

⁸¹ *Characteristics of People Receiving Unemployment Benefits in July 2020*, CONG. BUDGET OFFICE (July 1, 2020), <https://www.cbo.gov/publication/56447>.

respectively). Latino families' median net worth measured just 12 percent of White families' (\$20,700) that year.⁸²

Hatred and the violence it begets are on the rise – and they have infected every corner of this country. In America, it seems we have made a decision. Rather than use every tool at our disposal to combat hatred, we have chosen to subsidize it, embolden it, and hand it an assault weapon. Instead of uniting us and calling upon our better angels, we have a President in Donald Trump who traffics in the darkest elements of racism, misogyny, and hate to score cheap political points. Inaction in the face of hatred has consequences, and it's high time that this Congress do something to protect those of us in the line of fire.

Testimony of Brandon Wolf
Hearing on *How the Tax Code Subsidizes Hate*, September 2019

Tax policy plays a role in shaping these outcomes. It influences how wealth is earned, accumulated, consumed, and transmitted – and who benefits. Moreover, tax law can affect who gets hired for new jobs; where people live; whether families can secure affordable child care; who can afford higher education and job training; whether a neighborhood prospers, and even the quality of its surrounding environment.

Decisions about the size and scope of the tax burden to apply to high versus low income, or investment income versus income from work, for instance, implicate race simply because the size and composition of median household income and wealth are so starkly different across racial and ethnic lines. Seventy-four percent of Black and Latino families fall into the bottom 60 percent of taxpayer incomes. Only 56 percent of White households fall into this group. On the other end of the spectrum, just 0.4 percent of Black and Latino families are members of the top one percent

of incomes, whereas 1.2 percent of White families rank in the top one percent.⁸³ Put differently, White households are three times more likely than households of color to place among the top one percent of income. Therefore, a cut to the top income tax rate or to the capital gains rate will accrue disproportionately to White families and disproportionately fail to benefit families of color.⁸⁴

The 2017 Republican Tax Cuts and Jobs Act (TCJA) – the most extensive reshaping of the tax code in many years – not only failed to address disparities flowing from the tax code, it exacerbated them. A recent study from the Institute on Taxation and Economic Policy found that White households in the top one percent of income receive 23.7 percent of the total value of the law's tax cuts, whereas the bottom 60 percent of all races together combine to receive just 13.8 percent.⁸⁵

⁸² Lisa J. Dettling et al., *Recent Trends in Wealth-Holding by Race and Ethnicity: Evidence from the Survey of Consumer Finances*, BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM, (Sep. 27, 2017), <https://doi.org/10.17016/2380-7172.2083>.

⁸³ Meg Wiehe et al., *Race, Wealth and Taxes: How the Tax Cuts and Jobs Act Supercharges the Racial Wealth Divide*, PROSPERITY NOW, <https://prosperitynow.org/resources/race-wealth-and-taxes>.

⁸⁴ Meg Wiehe et al., *Race, Wealth and Taxes: How the Tax Cuts and Jobs Act Supercharges the Racial Wealth Divide*, PROSPERITY NOW, https://prosperitynow.org/sites/default/files/resources/ITEP-Prosperity_Now-Race_Wealth_and_Taxes-FULL%20REPORT-FINAL_5.pdf. (last visited Sep. 21, 2020).

⁸⁵ Roderick Taylor, *ITEP-Prosperity Now: 2017 Tax Law Gives White Households in Top 1% More Than All Races in Bottom 60%*, CTR. ON BUDGET & POLICY PRIORITIES (Oct. 11, 2020), <https://www.cbpp.org/blog/itep-prosperity-now-2017-tax-law-gives-white-households-in-top-1-more-than-all-races-in-bottom>.

By contrast, other federal tax policies help alleviate disparities between racial and ethnic communities. The Earned Income Tax Credit is a refundable credit primarily benefitting working parents with low incomes – a group disproportionately composed of Black and Latino households – and it reduces the gap in after-tax income between White households and those of color.⁸⁶ Tax credits for businesses can also reduce disparities. The Work Opportunity Tax Credit provides employers with a tax credit covering part of certain wages of newly hired employees with specific characteristics. Among the targeted groups are some that are disproportionately composed of people of color: veterans, long-term unemployed workers, formerly incarcerated individuals, those who receive Supplemental Nutrition Assistance Program (SNAP) benefits, and residents of some distressed communities.⁸⁷

Other tax policies could further reduce disparities. For example, the Child Tax Credit is only partially refundable. The families of 27 million children in low-income households receive only partial credit or no credit at all, because the credit is based on a percentage of a household's earned income and their families' incomes are too low to recover the full credit. Full availability of the Child Tax Credit – which the Ways and Means Committee and then the full House of Representatives passed as part of H.R. 3300, the Economic Mobility Act – would lift out of poverty one million Black; one million Latino; 850,000 White; 120,000 Asian, Native Hawaiian, and Pacific Islander; and 70,000 American Indian and Alaska Native individuals.⁸⁸

The story of not enough revenues to cover our transportation investment needs is not unique to New Jersey. We and our peer states do our best to generate revenue for transportation wherever they may be available in our states. But even the sum of state-generated transportation funding will never be sizeable enough to address the investment backlog we face – we must have access to federal resources in order to keep New Jersey's portion of our national infrastructure in a state of good repair.

Testimony of Diane Gutierrez-Scaccetti
Hearing on *Paving the way for Funding
and Financing Infrastructure
Investments*, January 2020

⁸⁶ Ara vind Boddupalli and Kim Rueben, *How Income Taxes Interact with Racial Disparities*, TAX POLICY CTR. (Jan. 30, 2020), <https://www.taxpolicycenter.org/tax-vox/how-income-taxes-interact-racial-disparities>.

⁸⁷ *Work Opportunity Tax Credit: Fact Sheet*, EMPLOYMENT & TRAINING ADMIN., U.S. DEP'T LABOR (Feb. 2020), https://www.dol.gov/sites/dolgov/files/ETA/wotc/pdfs/WOTC_Fact_Sheet.pdf.

⁸⁸ Chuck Marr et al., *Temporarily Expanding the Child Tax Credit and Earned Income Tax Credit Would Deliver Effective Stimulus, Help Avert Poverty Spike*, CTR. ON BUDGET & POLICY PRIORITIES (July 21, 2020), <https://www.cbpp.org/research/federal-tax/temporarily-expanding-child-tax-credit-and-earned-income-tax-credit-would>.

Retirees

Tens of millions of workers in the U.S. reach retirement age without the savings they need. This trend is more pronounced within marginalized communities because our retirement system mirrors the inequalities in the labor market. Social Security provides a basic foundation of retirement income for nearly all workers, and its design partially mitigates the inequalities in the labor market that carry over into retirement. For the majority of retirees, Social Security benefits are half or more of their income; however, the average benefit of \$1,500 per month is not enough to ensure recipients can achieve financially secure retirements.⁸⁹ The typical Black or Latino household has less than half of the overall retirement wealth (counting Social Security) of a typical White household. Without Social Security, those inequalities would be far worse, with Black and Latino households having less than a fifth the non-Social Security retirement wealth of White households.⁹⁰

Social Security. Social Security is the foundation of retirement security for nearly all Americans – but particularly those in marginalized communities. Its progressive benefit formula is particularly important for groups that tend to earn lower wages during their working lives, including Black and Latino populations. The progressive formula means benefits replace a higher share of pre-retirement earnings for low-wage workers. Because people of color are also less likely to work for employers who offer pensions and less likely to receive pension benefits in retirement, their reliance on Social Security is especially high. Among those who received Social Security benefits in 2014, 45 percent of Black, 52 percent of Latino, and 53 percent of Asian American seniors relied on it for all or almost all of their income, compared to 32 percent of Whites.⁹¹ Without Social Security, 52 percent of Black seniors and 46 percent of Latino seniors would live in poverty; with Social Security, those numbers drop to 19 percent of Black seniors and 17 percent of Latino seniors.⁹²

Saving Social Security now is essential to our nation, our seniors, and especially to the economic well-being of communities of color. [...] At the time of his assassination, Dr. Martin Luther King was focusing the civil rights movement on economic justice and the opportunity gap that exists in this country. So, Mr. Chairman, I share your view that a strong Social Security system is a civil rights issue because it addresses the structural barriers that keep groups of Americans poor.

Testimony of Rep. Danny K. Davis
Hearing on *Save Our Social Security Now*,
September 2020

In addition, Social Security's disability and survivor protections are especially important to many workers of color. For example, Black workers have lower life expectancy and higher

⁸⁹ *Fact Sheet: Social Security*, SOCIAL SECURITY ADMIN., <https://www.ssa.gov/news/press/factsheets/basicfact-alt.pdf>. (last visited Sep. 21, 2020).

⁹⁰ Wenliang Hou and Geoffrey T. Sanzenbacher, *Measuring Racial/Ethnic Retirement Wealth Inequality*, CTR. FOR RETIREMENT RESEARCH (Jan. 2020), https://cr.bc.edu/wp-content/uploads/2020/02/wp_2020-2.pdf.

⁹¹ *Relative Importance of Social Security for Beneficiary Units 65 or Older*, SOCIAL SECURITY ADMIN., at table 9.A3, (Apr. 2016), https://www.ssa.gov/policy/docs/statcomps/income_pop55/2014/sect09.html#table9.a3.

⁹² Kathleen Romig, *Social Security Lifts More Americans Above Poverty than any Other Program*, CTR. ON BUDGET & POLICY PRIORITIES (Feb. 20, 2020), www.cbpp.org/research/social-security/social-security-lifts-more-americans-above-poverty-than-any-other-program.

disability rates during their working years, so they and their families are more likely to receive Social Security disability and survivor benefits.⁹³

Retirement Savings. There are a number of ways that our current system perpetuates disparities through economic and wealth inequalities from the working years into retirement. First, because retirement savings are tied to employment earnings, pay inequality during the working years is mirrored in retirement. People who are unemployed or who have only part-time, seasonal, or intermittent work are less likely to earn adequate retirement savings. Additionally, people who work in low-wage occupations may struggle to cover immediate, basic expenses – including emergency expenses – for themselves or loved ones, much less save for their future. Furthermore, many people do not have access to retirement benefits through their jobs. Those who have access to benefits might be subject to pay inequality and low wages, or they might be passed over for promotions and raises through no fault of their own, which diminishes the amount they can save.

The retirement crisis in America will only worsen for marginalized communities, including moderate- and low-income workers, unless we make saving easier and more remunerative and do more to encourage saving earlier in life. Traditionally, the easiest and most effective way for most people to save has been through an employer plan, but too few workers, especially workers of color, are offered this opportunity.

For years, at least one out of every three American workers – an estimated 55 million – has been denied the choice to save for retirement using their employer’s payroll system because they lack access to an employer plan at their workplace.⁹⁴ Access to employer plans is critical, as very few save for retirement on their own in a non-employer-sponsored plan: In any given year, only roughly one out of 10 people eligible to contribute to an Individual

In 2013, half of beneficiaries in traditional Medicare spent at least 14 percent of their per capita income on out-of-pocket health costs, with the highest shares spent by the oldest, the sickest, and beneficiaries with modest incomes. More than one-third (36 percent) of beneficiaries in traditional Medicare spent at least 20 percent of their incomes on out-of-pocket health care costs. It is past time to truly modernize Medicare benefits by legislating a cap on beneficiaries’ out-of-pocket spending throughout the Medicare program. Such caps have long been a feature of most employer-sponsored insurance and are now required under the affordable care act. Not to have such a cap in Medicare is a disservice to older and disabled Americans who are most likely to need care.

Testimony of Dr. Judith Feder
Hearing on **Investing in The U.S. Health System
by Lowering Drug Prices, Reducing Out-Of-
Pocket Costs, and Improving Medicare Benefits,**
October 2019

⁹³ *Social Security and People of Color*, NAT’L ACADEMY OF SOCIAL INSURANCE, www.nasi.org/learn/socialsecurity/people-of-color. (last visited Sep. 21, 2020); *Policy Basics: Top Ten Facts about Social Security*, CTR. ON BUDGET & POLICY PRIORITIES, (Aug. 13, 2020), www.cbpp.org/research/social-security/policy-basics-top-ten-facts-about-social-security.

⁹⁴ *Table 2. Retirement benefits: Access, participation, and take-up rates, private industry workers*, U.S. BUREAU OF LABOR STATISTICS (Mar. 2019), <https://www.bls.gov/ncs/ebs/benefits/2019/ownership/private/table02a.pdf>; *Current Population Survey, 2014, Annual Social and Economic Supplement*, U.S. BUREAU OF THE CENSUS (Mar. 2014), <https://www2.census.gov/programs-surveys/cps/techdocs/cpsmar14R.pdf>.

Retirement Account (IRA) do so.⁹⁵ By contrast, approximately seven or eight out of 10 participate in employer plans, and about nine out of 10 participate in an employer plan using automatic enrollment.^{96, 97}

Workers of color, particularly Latino workers, are significantly less likely than White workers to be covered by an employer-sponsored retirement plan (whether that plan is a defined contribution plan or a defined benefit pension plan). Based on a 2013 report, only 54 percent of Black and Asian employees and 38 percent of Latino employees ages 25-64 worked for an employer that offered a retirement plan, compared to 62 percent of White employees.⁹⁸ As of 2016, only 41 percent of Black families and 35 percent of Latino families had retirement account savings, in contrast to 68 percent of White families.⁹⁹ Sixty-two percent of Black and 69 percent of Latino working-age households did not own assets in a retirement account, compared to 37 percent of White households. Three out of four Black households and four out of five Latino households ages 25-64 had less than \$10,000 in retirement savings, compared to one out of two White households. The median Black family with retirement account savings had saved only \$29,200.¹⁰⁰ The median Latino family with retirement savings had saved only \$23,000, less than one-third the amount (\$79,500) saved by the median White family with a retirement account.¹⁰¹

Even when employees are offered a retirement plan at work, many do not participate. But automatic enrollment in 401(k) plans – providing for people to participate in the plan unless they take the initiative to opt out – significantly increases participation. Since the U.S. Department of Treasury first defined and approved it in 1998, automatic enrollment has boosted participation by eligible employees generally, and particularly for Black, Latino, and lower wage

⁹⁵ Victoria L. Bryant, *Accumulation and Distribution of Individual Retirement Arrangements, 2004*, *Statistics of Income Bulletin*, INTERNAL REVENUE SERVICE 92—93 (2008), <https://www.irs.gov/pub/irs-soi/04inretirebul.pdf>; Victoria L. Bryant and Jon Goyer, *Accumulation and Distribution of Individual Retirement Arrangements, 2010*, *Statistics of Income Bulletin*, INTERNAL REVENUE SERVICE 5 (2013), <https://www.irs.gov/pub/irs-soi/13inirafallbul.pdf>. See also INVESTMENT COMPANY FACT BOOK: A REVIEW OF TRENDS AND ACTIVITIES IN THE INVESTMENT COMPANY INDUSTRY 179 (Investment Co. Inst. 60th ed. 2020) (60th ed.) (“[O]nly 12 percent of U.S. households contributed to traditional or Roth IRAs in tax year 2018. . . .”).

⁹⁶ *Table 2. Retirement benefits: Access, participation, and take-up rates, private industry workers*, U.S. BUREAU OF LABOR STATISTICS (Mar. 2019), <https://www.bls.gov/ncs/ebs/benefits/2019/ownership/private/table02a.pdf>.

⁹⁷ *General Explanations of the Administration’s Fiscal Year 2017 Revenue Proposals*, U.S. DEP’T TREASURY 134—135 (2016); Jeffrey W. Clark and Jean A. Young, *Automatic Enrollment: The Power of the Default*, VANGUARD 105 (2018), <https://institutional.vanguard.com/iam/pdf/CIRAE.pdf>. See also Jack VanDerhei, *The Impact of Automatic Enrollment in 401(k) Plans on Future Retirement Accumulations*, EMPLOYEE BENEFIT RESEARCH INSTITUTE (2010), (“The analysis indicates that the adoption of automatic enrollment in 401(k) plans is likely to have a very significant positive impact (even greater than EBRI projected in 2008) in generating an additional retirement savings for many workers, especially for young and low-income workers.”), https://www.ebri.org/docs/default-source/ebri-issue-brief/ebri_ib_04-2010_no341_auto-enroll1.pdf?sfvrsn=a8db292f0.

⁹⁸ Nari Rhee, *Race and Retirement Insecurity in the United States*, NAT’L INST. ON RETIREMENT SECURITY 1 (2013), https://www.giaging.org/documents/NIRS_Report_12-10-13.pdf. See also Signe-Mary McKernan et al., *Less Than Equal: Racial Disparities in Wealth Accumulation*, URBAN INST. (2013), <http://www.urban.org/sites/default/files/alfresco/publication-pdfs/412802-Less-Than-Equal-Racial-Disparities-in-Wealth-Accumulation.PDF>.

⁹⁹ Monique Morrissey, *The State of American Retirement Savings*, ECONOMIC POLICY INSTITUTE 14 (Dec. 10, 2019), <https://files.epi.org/pdf/136219.pdf>.

¹⁰⁰ *Id.* at 15.

¹⁰¹ *Id.*

employees.^{102, 103} An early study found that adoption of auto-enrollment increased participation in a 401(k) plan by short-tenure Latino employees from 19 percent to 75 percent.¹⁰⁴ Another study found that auto-enrollment led to dramatic increases in 401(k) plan participation, particularly among younger and lower wage employees and nearly eliminated the racial gap in participation rates.¹⁰⁵

Access to the Benefits of Trade for Individuals and Communities

Commonplace discussions about the objectives of international trade policy generally identify and promote the interests of economic sectors – industrial, agricultural, and services, for example. Seldom have trade’s effects on individuals or communities been considered, much less prioritized as such, beyond in any but the most abstract terms. When trade policymakers have taken the time to make the interests of individuals and communities a priority, however, their efforts have generated substantial political support for those policies.¹⁰⁶ Consequential developments in recent years – and in 2020 in particular – are challenging policymakers to investigate further the role that trade policy has played in either perpetuating or exacerbating unequal access to the benefits of trade for certain individuals and communities – both in the U.S. and worldwide. In 2020, the COVID-19 pandemic has highlighted the fact that these disparities in outcomes among different communities result from structural and systemic inequities U.S. laws and policies create – inequities that emerged as far back as some of the first U.S. international economic policies involving the exchange of goods and people.¹⁰⁷

Globally, the pandemic has also revealed the fragility of our international supply chains and the inequity in the treatment of workers in low-cost labor countries where manufacturing has become concentrated. Predominantly non-White workers from developing countries and former colonies across the world suffer compromised labor conditions while producing goods for U.S. and global consumers. Unequal contracting and employer relationships that have developed from the arbitrage that conventional trade policies enable have encouraged a spectrum of exploitative

¹⁰² Rev. Rul. 98-30 INT. REVENUE SERV. (1998).

¹⁰³ See PETER ORSZAG ET AL., *AGING GRACEFULLY: IDEAS TO IMPROVE RETIREMENT SECURITY IN AMERICA* 26 (Century Foundation Press 2006).

¹⁰⁴ Brigitte C. Madrian and Dennis Shea, *The Power of Suggestion: Inertia in 401(k) Participation and Savings Behavior*, 116:4 QUARTERLY J. ECONOMICS 1149–87 (2001).

¹⁰⁵ *401(k) Plans in Living Color: A Study of 401(k) Savings Disparities Across Racial and Ethnic Groups*, ARIEL EDUCATION IMITATIVE 3 (2012), https://www.arielinvestments.com/images/stories/PDF/arielhewittstudy_finalweb_7.3.pdf.

¹⁰⁶ Guided by a focus on the effect of the trade agreement on individuals, in 2019, House Democrats engaged in a direct negotiation with the Trump Administration to correct serious deficiencies in the Administration’s attempted renegotiation of the North American Free Trade Agreement (NAFTA). House Democrats required significant changes to strengthen the standards and enforceability of worker rights and environmental protections, and to ensure people’s timely access to affordable medicines. The changes secured a level of bipartisan, bicameral support that U.S. trade policy had not seen in nearly 40 years.

¹⁰⁷ Danyelle Solomon et al., *Systematic Inequality and Economic Opportunity*, CTR. FOR AM. PROGRESS (Aug. 7, 2019), <https://www.americanprogress.org/issues/race/reports/2019/08/07/472910/systematic-inequality-economic-opportunity/>.

practices, including the prevalence of forced labor in certain regions.¹⁰⁸ In their attempts to minimize financial losses related to COVID-19, U.S.- and European-based multinational companies have left already low-wage workers in developing countries – also struggling to survive the pandemic – without pay.¹⁰⁹ In this way, COVID-19 revealed how globalization has incentivized supply chain models that depend on finding the lowest cost workforce for production, regardless of living or working conditions, with dire consequences for public health, supply chain resilience, and a disparate impact on those already bearing the heaviest burdens in the existing global economic order.¹¹⁰ Indeed, some have called on brands and global retailers to remedy inequitable purchasing practices and commit to support millions of garment workers of color around the world who have enabled substantial industry profits, particularly in light of recent corporate public actions to promote racial justice.¹¹¹

For the last 50 years, the U.S. has pursued a policy of aggressive trade liberalization and experienced a painful decline in manufacturing and redistribution of jobs to the services sector. The loss of manufacturing jobs and the increase in service sector work has exacerbated income inequality more broadly because those manufacturing jobs often had union benefits and wages that supported middle- and working-class families, whereas service

We should be asking: why are Black and Latino people less likely to be working from home; less likely to be insured; less likely to live in unpolluted neighborhoods? The answer is racist policy... Will policymakers turn away as people of color suffer in their bedrooms, suffer on their hospital beds, suffer watching their loved ones lowered into their graves –all the while blaming them for their own suffering –all the while adding to the racist history of their suffering? Or will policymakers be antiracist? Meaning no longer blaming people of color for disparities. And focused on pushing policy that leads to equity and justice for all.

Testimony of Dr. Ibram X Kendi
Hearing on *The Disproportionate Impact of COVID-19 on Communities of Color*, May 2020

¹⁰⁸ Eliza beth Paton and Austin Ramzy, *Coalition Brings Pressure to End Forced Uighur Labor*, N.Y TIMES (July 23, 2020), <https://www.nytimes.com/2020/07/23/fashion/uighur-forced-labor-cotton-fashion.html>; *see also* Vicky Xiuzhong Xu et al, *Uyghurs for Sale*, AUSTRALIAN STRATEGIC POLICY INST. (Mar. 1, 2020), <https://www.aspi.org.au/report/uyghurs-sale>.

¹⁰⁹ Mark Anner, *Abandoned? The Impact of Covid-19 on Workers and Businesses at the Bottom of Global Garment Supply Chains*, PENNSTATE CENTER FOR GLOBAL WORKERS' RIGHTS (Mar. 27, 2020), <https://www.workersrights.org/wp-content/uploads/2020/03/Abandoned-Penn-State-WRC-Report-March-27-2020.pdf>; *see also* *Who Will Bail Out the Workers That Make Our Clothes?*, WORKER RIGHTS CONSORTIUM (Mar. 2020), <https://www.workersrights.org/wp-content/uploads/2020/03/Who-Will-Bail-Out-the-Workers-March-2020.pdf>.

¹¹⁰ Traditional payment structures for a apparel orders heavily favor global brands and retailers over suppliers and workers in developing countries. *See, Garment Workers on Poverty Pay are left without Billions of Their Wages During Pandemic*, CLEAN CLOTHES CAMPAIGN (Aug. 8, 2020), <https://cleanclothes.org/news/2020/garment-workers-on-poverty-pay-are-left-without-billions-of-their-wages-during-pandemic>; *My Children Don't Have Food: What the Crisis Means for the People Who Make Collegiate Apparel*, WORKER RIGHTS CONSORTIUM (June, 2020), https://www.workersrights.org/wp-content/uploads/2020/06/My-children-dont-have-food_June-2020.pdf.

¹¹¹ Kalkidan Legesse, *Racism is at the Heart of Fast Fashion—It's Time for Change*, THE GUARDIAN (June 11, 2020), <https://www.theguardian.com/global-development/2020/jun/11/racism-is-at-the-heart-of-fast-fashion-its-time-for-change>.

sector jobs generally did not.¹¹² In recent years, U.S. service sector jobs have also faced the pressures of globalization and losses to lower-labor-cost countries.¹¹³ Trade policies favoring financial and corporate interests over those of individuals and their communities have yielded lowered labor conditions and standards for American workers in the form of decades-long wage stagnation, weaker labor protections, limited options for quality jobs, and increased unemployment.¹¹⁴

Black workers have faced even harsher obstacles to recover from globalization-related job losses due to systemic and pervasive racial disparities across the labor market and in accessing public services.¹¹⁵ The loss in manufacturing jobs disproportionately impacted Black workers in a multitude of ways, including negatively affecting their wages, employment, marriage rates, house values, poverty rates, death rates, single parenthood, teen motherhood, child poverty, and child mortality.¹¹⁶ In addition to increases in precarious work, the decline in union jobs has also been cited as a contributing factor to growing inequality. In fact, union jobs help reduce disparities Black workers suffer by enabling more equitable labor conditions that help protect them from discriminatory practices.¹¹⁷ At the same time, trade liberalization has impacted immigrant and Latino workers in the U.S. who have also suffered job losses and wage stagnation.^{118, 119}

¹¹² Robert E. Scott, *Trading Away the Manufacturing Advantage*, ECONOMIC POLICY INST. (Sep. 30, 2013), <https://files.epi.org/2013/trading-manufacturing-advantage-china-trade.pdf>; Daniella Zessoules, *Trade and Race: Effects of NAFTA 2.0 and Other Low-Road Approaches to Trade on Black Communities*, CTR. FOR AM. PROGRESS (June 18, 2019), <https://www.americanprogress.org/issues/economy/reports/2019/07/18/471198/trade-and-race/>; Gerald D. Taylor, *Unmade In America: Industrial Flight and the Decline of Black Communities*, ALLIANCE FOR AM. MANUFACTURING (October 2016), <https://s3-us-west-2.amazonaws.com/aamweb/uploads/research-pdf/UnmadeInAmerica.pdf>.

¹¹³ *Offshoring Security: How Overseas Call Centers Threaten U.S. Jobs, Consumer Privacy, and Data Security*, COMMUNICATIONS WORKERS OF AM. (Oct. 2013), <https://files.cwa-union.org/national/offshoring-security.pdf>.

¹¹⁴ Sandra Polaski et al., *How Trade Policy Failed U.S. Workers—and How to Fix It*, BOSTON UNIV. GLOBAL DEVELOPMENT POLICY CTR. (Sep. 14, 2020), <http://www.bu.edu/gdp/files/2020/09/How-Trade-Policy-Failed-US-Workers-and-How-to-Fix-it-FIN.pdf>; David H. Autor, *The China Shock: Learning from Labor Market Adjustment to Large Changes in Trade*, NAT'L BUREAU OF ECONOMIC RESEARCH (2016) <https://www.nber.org/papers/w21906.pdf>.

¹¹⁵ Robert E. Scott, *Trading Away the Manufacturing Advantage*, ECONOMIC POLICY INST. (Sep. 30, 2013), <https://files.epi.org/2013/trading-manufacturing-advantage-china-trade.pdf>; Daniella Zessoules, *Trade and Race: Effects of NAFTA 2.0 and Other Low-Road Approaches to Trade on Black Communities*, CTR. FOR AM. PROGRESS (June 18, 2019), <https://www.americanprogress.org/issues/economy/reports/2019/07/18/471198/trade-and-race/>.

¹¹⁶ Eric D. Gould, *Torn Apart? The Impact of Manufacturing Employment Decline on Black and White Americans*, THE MIT PRESS J. (Mar. 6, 2020), https://www.mitpressjournals.org/doi/pdf/10.1162/rest_a_00918. See also Sandra Polaski et al., *How Trade Policy Failed U.S. Workers—and How to Fix It*, BOSTON UNIV. GLOBAL DEVELOPMENT POLICY CTR. (Sep. 14, 2020), <http://www.bu.edu/gdp/files/2020/09/How-Trade-Policy-Failed-US-Workers-and-How-to-Fix-it-FIN.pdf>

¹¹⁷ *Id.*; see also Andrea Flynn et al, *Rewrite the Racial Rules: Building an Inclusive American Economy*, ROOSEVELT INST. (June 2016), <https://rooseveltinstitute.org/wp-content/uploads/2016/06/RI-RRT-Race-201606.pdf>; Natalie Spievack, *Can labor unions help close the black-white wage gap?*, URBAN INST. (Feb. 1, 2019), <https://www.urban.org/urban-wire/can-labor-unions-help-close-black-white-wage-gap>.

¹¹⁸ *Fracaso: NAFTA's Disproportionate Damage to U.S. Latino and Mexican Working People*, PUBLIC CITIZEN (Dec. 3, 2018), <https://www.citizen.org/article/fracaso-naftas-disproportionate-damage-to-u-s-latino-and-mexican-working-people/>.

¹¹⁹ *Trade Discrimination: The Disproportionate, Underreported Damage to U.S. Black and Latino Workers from U.S. Trade Policies*, PUBLIC CITIZEN (Jan. 7, 2021), https://www.citizen.org/wp-content/uploads/PC_Trade-Discrimination-Report_1124.pdf.

So climate change will lead to increased droughts, more frequent droughts. But, at the same time, it will also change precipitation patterns and lead to heavier downpours. The Great Plains, which are the breadbasket of America, are projected to experience drought conditions unprecedented in the last millennium. We expect to see the ranges of certain pests expanding, and changes in the growing seasons. And all of these things could have implications for agriculture and our food security.

Testimony of Dr. Katherine Marvel
Hearing on *The Economic and Health Consequences of Climate Change*, May 2019

An examination of U.S. policies affecting agricultural production and trade, as well as the historical realities that helped shape them, reveals racial inequities in both their development and impacts. The production of certain commodities in the U.S. can be traced back to the founding of the original colonies as part of trans-Atlantic trade when forced labor powered production and comprised a key element of the triangular trade flow. Those commodities continue to enjoy robust support through U.S. government policies – support that is often strategically sheltered from strict multilateral trade disciplines. U.S. policies and systemic inequities have over time restricted the rights and ability of Black Americans to acquire or retain land for farming; Black farmers currently make up less than two percent of all U.S. farmers.¹²⁰ Furthermore, policies and practices have been documented that further restricted the ability of Black farmers to access the government support that other farmers receive.¹²¹ Taken together, it appears that benefits and prosperity that U.S. farmers and agricultural producers

enjoy from trade and attendant policies lack inclusivity and reflect significant disparities between communities. Thus, such factors must be revisited to promote economic equity.

Some have criticized the globalization resulting in large part from U.S. trade policies of the past decades for a redistribution of wealth that places costs disproportionately on those that are socially and economically disadvantaged in other countries as well.¹²² The current application of U.S. trade policies has contributed to imbalanced economic benefits in developing countries and broader unrealized development goals. The disproportionate benefits for corporate entities over individuals and local communities have dramatically impacted the economies and demographics of some developing countries. The resulting job losses in those foreign nations have in many cases spurred mass forced migration.¹²³ Similarly, U.S. preference programs have

¹²⁰ Khalil G. Muhammad, *The Sugar that Saturates the American Diet has a barbaric history and as the White Gold that Fueled Slavery*, NY. TIMES (Aug. 14, 2019), <https://www.nytimes.com/interactive/2019/08/14/magazine/sugar-slave-trade-slavery.html>.

¹²¹ Nathan Rosenberg, *USDA Gave Almost 100 Percent of Trump's Trade War Bailout to White Farmers*, THE COUNTER (July 29, 2019), <https://thecounter.org/usda-trump-trade-war-bailout-white-farmers-race/>; Paola Rosa-Aquino, *Nearly 100 Percent of Trump Funds Designed to Help Farmers Went to White Farmers*, GRIST (Aug. 1, 2019), <https://grist.org/article/trump-trade-war-usda-farmer-subsidy-race-disparity/>; and Chantal Thomas, *Income Inequality and International Economic Law: From Flint, Michigan to the Doha Round, and Back*, CORNELL LEGAL STUDIES RESEARCH (2019)

¹²² Chantal Thomas, *Income Inequality and International Economic Law: From Flint, Michigan to the Doha Round, and Back*, CORNELL LEGAL STUDIES RESEARCH (2019).

¹²³ Both NAFTA and the U.S. Dominican Republic-Central America Free Trade Agreement (CAFTA-DR) have been criticized for contributing to increased migration of Mexican and Central American workers, respectively, into the U.S. See Andrew Chatzky, et. al., *NAFTA and the USCA: Weighing the Impact of North American Trade*, COUNCIL ON FOREIGN RELATIONS (July 1, 2020), <https://www.cfr.org/background/naftas-economic-impact>; see

historically benefitted a small set of developing countries and have largely left the least developed countries behind.¹²⁴ A thoughtful, probing re-examination of the modes and objectives of U.S. trade policy in light of their domestic and international effects is necessary now more than ever before. Only then can reforms and new approaches be adopted to produce a sustainable and inclusive prosperity that prioritizes meaningful economic benefits for individuals and communities, and others who have been left out, overlooked, and exploited.

also Mark Weisbrot et. al., *Did NAFTA Help Mexico? An Assessment After 20 Years*, CTR. FOR ECONOMIC & POLICY RESEARCH (Feb. 2014), <https://cepr.net/report/nafta-20-years/>; *NAFTA at 20*, AFL-CIO (Mar. 27, 2014), <https://aflcio.org/reports/nafta-20>.

¹²⁴ *Generalized System of Preferences (GSP): Overview and Issues for Congress RL33663*, CONG. RESEARCH SERV. (2019).