

# Fostering the Civil Rights of Health

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**SUMMARY.** In 2020, structural racism in the United States forcefully entered the public consciousness. The disparate impacts of COVID-19 on people of color, coupled with massive protests and organizing against racialized state violence (which themselves were met with racialized state violence), inspired many American policymakers, institutions, and organizations to craft race-aware responses to the pandemic. Race-aware remedies to the harms of COVID-19 are essential and long overdue. Nonetheless, in the context of long-standing and pervasive structural racism, race-aware policies continue to be blocked or challenged. This Chapter uses the “civil rights of health” framework introduced in Volume I to suggest how short-term policymaking on behalf of racialized vulnerable populations must be embedded in longer-term strategies for building an inclusive sense of the common good, starting with an “infrastructure of facts.”

## Introduction

The civil rights of health framework urges public health, civil rights, and social justice movements to achieve together what they cannot alone. It is premised on the recognition that ending structural racism is necessary to ending racial health disparities.

Under the framework, government entities and advocates tasked with the protection of civil rights should draw on the social determinants of health literature to pinpoint how racial discrimination and marginalization across systems create and sustain differential vulnerability to COVID-19. Public health advocates must address discrimination as a health issue and fully embrace anti-discrimination law and policy as an essential public good necessary for health equity. Finally, civil rights and public health professionals should embrace the expertise and equal partnership of the frontline communities leading today’s social justice movements in eliminating structural racism.

An endemic challenge in this work is the tension between universal policies and policies targeted to benefit marginalized populations. Precisely because structural racism is so embedded in American society, attempts to uproot it are often met with fierce opposition. In Volume I, we recommended a “targeted universalism” approach that combines attention to stigmatized populations with universal policies. For more information on the civil rights of health framework and the first round of recommendations, please see Chapter 35 in *Assessing Legal Responses to COVID-19: Volume I*.

The Introduction and Assessment in Volume I also discussed a series of disconnects in governance and advocacy that contribute to the disproportionate toll of COVID-19 on people of color. This Chapter builds on our account of those disconnects by focusing on narrative disconnects that have fractured policymakers and the

public, leading to disagreements about basic health-related facts, as well as deficits in the collective capacity necessary to address a crisis on the scale of COVID-19.

Racialized health disparities in the United States are ultimately rooted in subordination (Harris & Pamukcu, 2020). Subordination refers not only to interpersonal racism but, importantly, institutional and structural dynamics that tilt the playing field against Indigenous peoples and communities of color. The pandemic provides a vivid demonstration of these dynamics. It is now well documented that COVID-19 has taken a disproportionate toll on the health, wealth, and longevity of people of color. In response, as this Chapter noted and recommended in Volume I, many state and local governments have explicitly connected the dots between racism and health, with some declaring racism itself to be a public health crisis. Now, governments and non-governmental advocates must decide how to craft policy in response to this recognition. This Chapter recommends that these efforts begin by addressing the information disconnect that stymies the adoption and implementation of race-aware policies.

## The Racism at the Root of the “Infodemic” Threatening the Nation

By early 2020, the World Health Organization warned that COVID-19 had created not only a pandemic, but also an “infodemic” (Zarocostas, 2020). Lack of agreement on basic facts about the coronavirus has contributed to a weakening of the nation’s ability to adopt evidence-based infection mitigation strategies such as mask wearing and social/physical distancing, and has even fueled unfounded claims that the pandemic itself is a hoax, and that the virus is no more dangerous than the common cold. Worse, the atmosphere of confusion and uncertainty engendered by the lack of a shared infrastructure of facts has enabled conspiracy theories

and fact-free, overtly racist and xenophobic narratives to rush in to fill the void – some promoted by the previous president himself, such as the idea that SARS-CoV-2 was created in a Chinese laboratory and deliberately released.

The context of this infodemic was a four-year war on facts in the physical sciences, the social sciences, medicine, and history. The culmination of the previous administration's attack on truth was the violent effort to overturn the results of the 2020 presidential election. Motivated by Trump's baseless claims that the election was "stolen," an armed mob of supporters stormed the Capitol building during the certification of election results. The mob, largely made up of white people, carried racially charged and anti-Semitic symbols through the Capitol, including nooses, Confederate flags, and Nazi references.

Though shocking, the previous administration's assault on truth – and the literal assault on the Capitol – only dramatized a preexisting condition: a chronic infodemic regarding our nation's racial past and present. The United States is distinctive among other wealthy nations for its fragile social safety net, and social scientists have traced this unwillingness to provide generous access to public goods to our national history of racism (Alesina et al., 2001). Yet, today many Americans hold misleading, partial, or downright incorrect understandings of this history and of present-day structural racism (Lowen, 2018; Kendi, 2019; Zinn, 1990). This absence of a shared infrastructure of facts – including a recognition of structural racism – threatens our health, our social fabric, and the very mechanisms of our democracy.

Racism has, time and time again, blocked universal access to the material resources that we need for individual and collective flourishing (Pamukcu & Harris, 2020). Americans have been reluctant to support universal public benefit programs; instead, access to public benefits and programs has often been based on race. This has occurred at all levels of society, from the actions of government (such as the exclusion of agricultural and domestic workers from New Deal programs) to private actors (such as lending discrimination on the basis of racial geography by banks and Realtors, known as "redlining"). For example, in the wake of *Brown v. Board of Education*, as Carol Anderson has recently recounted, the desire to prevent Black people from having access to public goods led state and local governments to close swimming pools, schools, and eliminate other public services altogether, rather than see them be open to all (Anderson, 2016). Even in the present day, as Jonathan Metzler has documented, many Americans would prefer to go without access to public benefits such as health insurance than to see them go to "undeserving" people of color (Metzler, 2019). Even where benefits programs exist, the narrative of "deserving" versus "undeserving" communities has induced governments to care more about preventing fraud than about providing badly-needed support to vulnerable populations.

One reason why the United States has been a worldwide leader in pandemic illness and death is the absence of a sense of common good, a basic building block of democratic governance. The sense that "we're all in this together" is associated not only with individual willingness to wear a mask and socially distance, but also with

public support for a strong social safety net. In the United States, however, racism has long stood in the way of recognizing the common good.

### Fostering a Sense of the Common Good

The civil rights of health framework suggests that rebuilding an infrastructure of facts, including the facts of structural racism, can not only begin to ameliorate health disparities, but also to build a nationwide commitment to the common good – a commitment necessary to effectively combat COVID-19, strengthen public health infrastructure, and achieve health equity. This framework suggests at least two key priorities for combatting the infodemic that has worsened the harms of COVID-19 and sustained health disparities for generations:

1. Foster a sense of the common good by connecting the dots between improving national health outcomes and addressing structural racism, and
2. Use the principles of targeted universalism to build a shared "infrastructure of facts."

This Chapter proposes that governments, including but not limited to the current presidential administration, undertake efforts to establish an infrastructure of facts to build the ties and trust necessary to prevent and address ongoing and future racialized threats to our collective health and safety.

In the first Volume, our recommendations focused on the need for "targeted universalism" as a framework for developing policy. This Chapter recommends using the principles of targeted universalism to build an infrastructure of facts. This can be accomplished by developing a shared understanding of history that, without blaming and shaming individuals, includes the experiences of people of color and is honest about the role of the white supremacy in shaping modern-day institutions and systems.

Efforts to establish an inclusive infrastructure of facts would not start from scratch. Social justice movements, including the Movement for Black Lives, have already begun to lead the way. The recent widespread sharing on social media of videos of police and private violence against Black people has challenged the belief of many Americans, especially white Americans, that the United States is a colorblind society. The hashtag #SayHerName called public attention to violence against Black cis and trans women. And the creation of memes involving "Karens" and "Beckys" has raised awareness of the complicated role that white women play in releasing state violence. Access to shocking and heartbreaking video footage of police killings brought many non-Black people into the streets to protest police violence in the summer of 2020, and catapulted scholarly accounts of institutional and structural racism onto bestseller lists.

Well before 2020, in colleges and universities, faculty, administrators, and students had started working together to understand and address the ways in which slavery and land dispossession has been embedded in these institutions (Brown University, n.d.). In communities across the country, passionate

debates have taken place over public statuary and other memorials that honor white supremacists. Historians and archaeologists have discovered Black cemeteries and shed new light on white “race riots,” ending decades of silence and evasion. Media, artists, and culture workers have brought the story of racism, especially slavery and its afterlife, into the public eye. Although some of this cultural work takes a heightened toll on Black mental health, it speaks to the urgent need for a collective shared reality and for increased awareness of the experiences of marginalized people that might otherwise be discredited or disbelieved.

Such projects generally do not, and are not intended to, build a feel-good “consensus;” indeed, they are likely to be controversial and their claims hotly contested. The aim, however, is not to eliminate debate, but to engage ordinary people, as well as “experts,” in discussions about race that are based on a shared basic understanding of basic facts, including the racial health gap and the environmental and systemic forces that shape it.

### **Toward Health Justice: Supporting Truth and Reconciliation**

Under a civil rights of health approach, government entities partner with their communities to build an infrastructure of facts by helping their communities come to a shared understanding of our racialized past and present. Such efforts would build the groundwork for more effective and equitable responses to public health crises in the future.

This Chapter recognizes particular promise in the mechanism of truth and reconciliation commissions (TRCs), which provide a more formal opportunity for this work of healing and shining a light on our shared past. Although the South African Truth and Reconciliation Commission is the most famous example, TRCs have also been convened in the United States at both the local and state level. A local example is the Greensboro, North Carolina Truth and Reconciliation Commission that ran from 2004 to 2006

to investigate a 1979 incident in which members of the Ku Klux Klan attacked and killed unarmed people at a civil rights march, with the apparent complicity of local law enforcement. A state example is the Maine Wabanaki-State Child Welfare Truth and Reconciliation Commission, which led a truth-seeking process from 2013 to 2015 to investigate the practice of taking Indigenous children in that state from their homes and placing them with white families (Truth & Reconciliation Commission, 2015).

Some U.S. observers and policymakers have called for a national TRC on racial justice. In June 2020, for example, California Congresswoman Barbara Lee announced legislation calling for the establishment of the first United States Commission on Truth, Racial Healing, and Transformation (Concurrent Resolution, 2020). However, a federal TRC would face intensely partisan divisions and the difficulty of building community at a national scale. TRCs might therefore be more practical and effective at the state and local level, where they can be scaled to communities and help build ties rooted in a shared sense of past and place. Recognizing this potential, district attorneys in Boston, Philadelphia, and San Francisco have recently announced they would each create commissions to address racism and police brutality.

The alliance of civil rights, public health, and social justice movements can catalyze and contextualize TRCs and other efforts to build the infrastructure of facts required to address structural racism as a driver of health disparities. Such efforts will strengthen our collective will and readiness to respond to the ongoing threat of COVID-19 which, like other widespread disasters, thrives in places where the fabric of our society is frayed. They are not meant to displace immediate policy responses to health disparities, but rather to complement them and prepare for a future in which a robust sense of the common good is truly inclusive and based in a shared infrastructure of facts. 🌱

# Recommendations for Action

## Federal government:

- Agencies should develop guidance for the use of “targeted universalism” as a policy and planning frame in order to benefit all populations while specifically addressing the harms of racism.
- The Biden administration should provide policy guidance to state and local governments on the establishment of truth and reconciliation committees.
- The Biden administration should issue an executive order establishing an interagency working group or a national task force to focus on addressing racial and health inequities exacerbated by COVID-19.
- Congress should support state and local truth and reconciliation committees by making financial resources available for such efforts.

## State governments:

- State governments should work with agencies and departments to develop guidance on the use of “targeted universalism” as a policy and planning frame, in order to benefit all populations while specifically addressing the harms of racism.
- State governments should support state and local truth and reconciliation committees, including efforts located within specific agencies.

## Local governments:

- Local governments should create and support truth and reconciliation committees, including efforts located within specific agencies such as school districts, prosecutors offices, and police departments.
- Local governments should recognize and address racism as an institutional and systemic issue, such as the proliferation of local government declarations characterizing racism as a public health crisis.
- Local governments should use “targeted universalism” as a policy and planning frame in order to benefit all populations while specifically addressing the harms of racism.
- Local governments should foster three-way partnership among civil rights, public health, and anti-discrimination movement leaders.

## Tribal governments:

- Tribes should create and support truth and reconciliation committees.



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