

The Rationale for and Key Elements of a Business Civil Rights Audit



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The Leadership Conference
on Civil and Human Rights



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Executive Summary

Our nation's civil rights laws are designed to bar discrimination and protect the dignity and equality of all people regardless of race, religion, national origin, ethnicity, disability, sex, gender identity, sexual orientation, immigration status, or age. Businesses play a vital role in determining how these laws play out in day-to-day life of Americans and how the United States evolves as a just, fair, inclusive, and stable nation. The well-documented prevalence of racism and prejudice¹ make the U.S. business environment more turbulent, society more dysfunctional, and undermine the development of healthy human beings².

In the aftermath of national protests over the murder of George Floyd in May 2020, greater awareness of police shootings of unarmed Black and Latino people, and a significant uptick in hate crimes directed against Asian Americans during the pandemic³, some two-thirds of the companies in the S&P 500 made various supportive statements about the need for racial justice and more inclusive practices. They ranged from the vague and noncommittal to multi-year, multibillion dollar efforts that aspire to eliminate systemic racism⁴.

Civil rights audits are not only powerful tools to hold corporate America accountable to the values of justice, diversity and equality, they are also good for business. This report lays down concrete steps for the nation's most successful businesses to become better businesses, to bend away from tokenism and performative responses and towards bold, meaningful civil rights commitments that customers and the country at large are calling for.

-- Darren Walker, President of the Ford Foundation

Much of the civil unrest in the United States is tied not to a single incident of police abuse, but to a broader history of injustice and economic inequality. The devaluation of Black lives and the lives of other people of color in all domains of American life are well-documented, especially in the criminal legal system. Other forms of structural biases are becoming more visible. The dramatic increase in the unfettered use of artificial intelligence (AI) by businesses and government has life-changing implications and can deepen harmful stereotypes, discrimination and injustices⁵. The COVID-19 pandemic is disproportionately affecting not just the health, but also the economic survival of marginalized communities including Black, Latino, Asian and Indigenous people, and others historically subject to discrimination⁶.

Because they play an outsized role in the economic, cultural and social well-being of our nation, American companies cannot sit on the sidelines. The civil rights community wants business leaders to be bold in holding themselves accountable for their role in creating, fixing, and preventing societal harms. By taking on this responsibility, companies can demonstrate to the public that they understand the urgency of this moment. As Darren Walker of the Ford Foundation said, “Corporate America can no longer get away with token responses to systemic problems. It is going to take a systemic response to sufficiently address this crisis that has been decades in the making.”⁷

In short, the civil rights community is asking business to do more to combat discrimination. One concrete way of doing that is by conducting third-party, public civil rights audits.

What is a Civil Rights Audit?

A civil rights audit is an independent, systematic examination of significant civil rights and racial equity issues that may exist in a company and provides a plan of action to address those issues in a thorough, deliberate, timely, and transparent manner. Auditors with civil rights expertise will assess a company’s business policies, practices, products, and services to determine whether and how those components have a discriminatory effect and/or disparate impact on people historically subject to discrimination. After an initial assessment, the auditors work with the company to issue a public report to provide a blueprint for corrective action and proactive, equitable outcomes, and to ensure that structures are in place to implement civil rights changes and prevent future civil rights harms.

Civil rights are the rights of individuals to be free from unfair treatment or discrimination in the areas of education, employment, housing, credit, voting, public accommodations, and more—based on certain legally protected characteristics identified in a variety of state and federal laws. A civil rights audit helps identify and strengthen a company’s obligations to the spirit and letter of civil rights laws in its internal and external activities.

In today’s increasingly diverse and competitive business environment, corporate leaders should insist on having a holistic view of how well (or badly) they are managing critical civil rights concerns through conducting a civil rights audit. Although one of the most pressing issues continues to be racism, there is a critical need to fight discrimination and protect rights across multiple and intersecting identities.

Companies have lacked consistent guidance on how to examine their own practices. Until now, there has not been consensus on the contours of an effective, meaningful civil rights audit. This report lays out key elements of any civil rights audit that can be tailored to the needs of a particular company. It builds on the experiences of three major companies that conducted these audits (Airbnb, Facebook, and Starbucks) and is informed by the views of over 30 civil rights, worker rights, and shareholder advocacy organizations. The report draws a clear distinction between diversity, equity and inclusion initiatives and civil rights audits.

Key Report Recommendations:

Civil rights audits should:

- 1 | Have the support and active engagement of senior executives, including the CEO and board of directors.
- 2 | Be rooted in U.S. civil rights law, focusing on race, gender, and other protected classes.
- 3 | Have an established purpose within a company and a shared understanding of why an audit is being conducted.
- 4 | Be led by an independent person or firm with deep expertise in civil rights and racial justice as well as adequate resources to complete the audit.
- 5 | Identify the various external and internal challenges facing the company.
 - 6 | Be supported by a team of executives and staff who will make sure the auditor has access to the company's policies, practices, products and services throughout the review for their potential discriminatory impact.
- 7 | Result in a clear plan of action.
- 8 | Publicly state the findings in a report that identifies civil rights concerns and addresses the areas where the company has or will take action.
- 9 | Have a clear timeline.
- 10 | Involve consultation with stakeholders throughout the process, including civil rights advocates and organizations.



This report discusses the growing momentum for civil rights audits from investors and shareholder advocates, members of Congress, and worker rights groups. The concerns of those groups dovetail with concerns of a growing millennial workforce. Companies need to stay relevant with and attuned to the changing cultural and regulatory landscape.

Civil rights audits represent the floor of what companies can do to achieve equity, not the ceiling. Equity should be embraced to ensure that all people are treated fairly and have access to and opportunity for advancement. We must make the most of this moment to address the many forms of discrimination that hinder the full participation of all groups in this economy and in our society at large. That is why the commitment of business leaders to this process is essential to building a future where everyone can thrive with dignity.

Companies across corporate America have made commitments to implement more equitable practices, and now we need to make good on those commitments and show the proof. This report gives us the roadmap to do just that. Businesses play a crucial role in ensuring that everyone can work with dignity in family-sustaining jobs that pay fair wages and include opportunities for advancement. This report helps us all learn how to get there.

-- Kenneth I. Chenault, Chairman and Managing Director, General Catalyst, Former Chairman and CEO, American Express

Civil rights laws and practices are a critical part of the democratic infrastructure of our country. Embracing the guarantees of equality and meaningful opportunity in the workplace strengthens our democracy and our most treasured values. This report encourages the business community to take an affirmative and active role in fulfilling its commitment to civil rights by offering clear guidance and a framework for business compliance with civil rights laws and practices. At its core, this impressive report is a detailed and long-overdue roadmap that will allow American businesses to demonstrate leadership and unequivocal support for civil rights values.

-- Sherrilyn Ifill, President and Director-Counsel of the NAACP Legal Defense and Educational Fund, Inc. (LDF)

Foreword

By Wade Henderson, *Interim President and CEO, The Leadership Conference on Civil and Human Rights*

This report could not come at a more pivotal moment, as a global pandemic and resulting public health and economic crises, attacks on our democracy, and horrific killings of Black people at the hands of police officers have all exposed the persistent impact of our nation's legacy of systemic racism and inequality. These crises are also forcing companies to confront their role in perpetuating social harms. Today, more companies than ever before are taking important steps to interrogate their practices, policies and culture, and better align them with our highest values of equity and inclusion.

Issues of corporate accountability and transparency hold great importance in the civil and human rights agenda. In 2020 The Leadership Conference on Civil and Human Rights and other civil rights organizations released an updated "Civil Rights Principles for the Era of Big Data." The principles urge companies to respect and promote equal opportunity and equal justice in the development and use of data-driven technologies. This framework applies to any company, and civil right audits are effective strategies for helping companies adopt these principles while meeting the needs of stakeholders and enhancing safety, economic opportunity and fairness for everyone.

I was proud to participate in the first ever civil rights audit of Airbnb in 2016. Though I was admittedly skeptical at the start, it quickly became apparent just how transformative such an audit could be for reducing racial bias and advancing civil rights in the sharing economy. With the blessing of its co-founder and CEO, Brian Chesky, Airbnb engaged in tough conversations about the problems with its platform and made significant changes to protect its hosts and guests from discriminatory conduct. I later participated in the civil rights assessment for Starbucks as the company sought to advance racial and social equity on behalf of its partners, customers, and communities. I commend the leadership of Kevin Johnson, president and CEO, in welcoming an honest review and committing to tracking the company's progress on an ongoing basis.

My successor at The Leadership Conference, Vanita Gupta, was a leading voice in calling on Facebook to conduct a civil rights audit. She recognized that as the world's largest social media platform, it was critical for the company to inject civil

rights into its DNA. The audit was hard-hitting and plainly showed the platform's civil rights shortcomings. Following the release of the audit, Facebook took some important steps to keep our democracy safer. But as the October 2021 whistleblower allegations about Facebook's knowledge of its platforms' negative impact on young people and harmful misinformation show, the work is not over. Clearly, civil rights is not fully part of the organic structure and operations of the company, and The Leadership Conference will continue to press Facebook and other social media platforms to implement and enforce policies to address hate speech and rampant disinformation on voting, elections, public health, and civil rights.

Unfortunately, far too many companies merely pay lip service to addressing problems of discrimination and inequity. That is why a civil rights audit is such a powerful tool for change—if it is done correctly. The audit demands more structure and accountability for the good work companies are seeking to lead. Further, a properly designed and conducted audit provides clarity and confidence to the public, as well as to the company and its shareholders, that the efforts the company is making will have the desired impact in the areas of greatest concern to the civil rights community.

The Leadership Conference enthusiastically endorses this report, and I am thrilled that Laura Murphy, author of the Airbnb and Facebook audits, drafted it in response to the urgency—and opportunity—of this moment. No one is better equipped to lead this effort than Laura. I have no doubt that her expertise, leadership, and incredible foresight will help companies of today and the future make informed decisions and advance civil rights.

The private sector has an essential role to play in building an America as good as its ideals. Companies around the globe can, and do, significantly have an impact on society and civil and human rights. And although no one company can end structural inequality and racism alone, when companies make commitments to address the ongoing legacy of discrimination and work across sectors with civil rights leaders, elected officials, communities, and others, we begin to see meaningful change on an extraordinary scale.



Statements from Companies that Have Conducted Civil Rights Audits

Airbnb

// *The civil rights audit that Laura Murphy led helped us build tools to fight discrimination and promote inclusion at our company and in our global community of Hosts and Guests. This work made us stronger. Our work is nowhere near done, but the civil rights audit was a critical first step and I hope corporations who want to build more equitable and inclusive companies will use this powerful tool.*

-- Brian Chesky, Co-founder and CEO, Airbnb, October 4, 2021

Facebook

// *When we agreed to become the first social media company to undertake an audit of this kind, at the encouragement of the civil rights community, no one knew that the final report would be published at a time when racial injustice and police brutality is bringing millions of people to the streets—both at home and abroad—to campaign for change. . . This audit has been a deep analysis of how we can strengthen and advance civil rights at every level of our company—but it is the beginning of the journey, not the end.*

-- Sheryl Sandberg, COO, Facebook, July 8, 2020⁸

Starbucks

// *. . . [A]s we consider the role and responsibility of Starbucks, as a company, to lead by example in areas of inclusion, diversity, and equity, we will: 1) be intentional about the actions we take and how they line up with our Mission and Values; 2) commit to transparency with all stakeholders about our thinking and our goals; and 3) hold ourselves accountable.*

-- Kevin Johnson, CEO, Starbucks, October 14, 2020⁹

Letter from the Author

Throughout the last year, we have heard from companies stating their commitment to advancing equity and fighting discrimination. Now, an increasingly vocal and diverse coalition of civil society and government leaders is asking for the proof of those commitments. Are businesses going to use their enormous resources to facilitate greater participation in the economy for workers and businesses from previously excluded and underserved communities, to shift business to a more just trajectory? Will they directly enable more people of color to participate in economic, social, and civic structures that will make our economy flourish?

Based on my experiences conducting civil rights audits for Airbnb and Facebook¹⁰, I thought it important to put forth a business case for civil rights audits and devise baseline elements of such audits so that they are substantial, rigorous, and meaningful endeavors that lead to measurable outcomes.

My work also finds synergy in the growing movement to bring more rigor and greater accountability to companies concerning their environmental, social, and governance (ESG) impact¹¹. This movement seeks greater corporate social responsibility so that capitalism better serves companies as well as workers, customers, vendors, local communities and the environment. In 2020 the world's four largest accounting firms, Deloitte, Ernst & Young, KPMG and PwC, developed a set of ESG metrics for companies to implement as part of their financial reporting process. This is an important moment to make progress on building a "more sustainable, inclusive and prosperous economy" by more purposefully injecting civil rights values into those ESG conversations¹².

I also wanted to answer questions that I have received over the past year from business schools, business reporters, shareholders, corporate managers, and civil rights leaders: what do civil rights audits entail? These individuals were genuinely curious, and, given their constituencies, could be influential in enlisting companies to take more responsibility for addressing pressing civil rights concerns.

Finally, I was concerned that civil rights audits could go the way of some responses to the environmental movement with "green washing."¹³ Unfortunately, some businesses may not take civil rights audits seriously, but could go forward with them without sincere engagement or a commitment to meaningfully address problems of discrimination. I want to help ensure that legitimate civil rights audits are not usurped by "faux" audits so that key discrimination and equity issues

are thoroughly examined and addressed.

Rather than handle these requests and concerns individually, it seemed a more effective route was to write a report outlining key elements of a corporate civil rights audit, based on my past experiences conducting them. I want to thank the Ford Foundation, in particular Tanya Coke and Chancellor Williams, for encouraging the foundation to underwrite this effort. This report also speaks to the leadership of Ford Foundation President Darren Walker, who has been an outspoken advocate for companies to do more serious work to address racial equity.

In addition to taking lessons from my own work with Airbnb and Facebook, I interviewed over 30 individuals and groups representing civil rights, shareholder advocacy, workers' rights, technology advocacy and social justice leaders from May through August of 2021. I also interviewed several lawyers, including Megan Cacace, formerly a partner at the law firm Relman Colfax, who was a pivotal leader on the Facebook audit, and former Attorney General Eric Holder and his partner at Covington & Burling, Aaron Lewis, to get their feedback based on their civil rights assessment of Starbucks (2020 and updated in 2021).^{14,15} A special thanks goes to Michael Connor and Hannah Lucal of Open MIC for their in-depth feedback. I appreciate the many individuals and organizations that have contributed to this paper.

Airbnb, Facebook, and Starbucks—three companies that conducted civil rights audits—have received important recognition from the civil rights community for making meaningful changes in their business operations and products. The benefits were both external and internal. In the cases of Airbnb and Facebook, I found that the audit-initiated discussions were empowering for the workforce, yielding staff-driven creative ideas that went beyond the initial audit scope and that were put into practice to advance equity at those companies.

Nonetheless, there is a cautionary tale here for companies that do engage in audits. Civil rights audits are not a panacea for companies that are facing larger moral reckonings about their role in society. The October 2021 whistleblower allegations against Facebook are deeply disturbing to the civil rights groups that called for and participated in its audit. The allegations have revived longstanding civil rights criticisms of the company: how the platform is used to spread misinformation and disseminate hate speech; how the mental health of girls and young women is undermined; and, more generally, its status as an unregulated behemoth that seems to prioritize advertising revenue over preventing

social harms. Facebook's recent crisis has alienated some key stakeholders and overshadowed many of the important and groundbreaking tangible outcomes yielded by its civil rights audit.

One important note: in examining the growing demand for audits, I found that the media and stakeholders used the terms "racial equity audit," "civil rights audit" and "civil rights assessment" interchangeably. You will notice that I do so in this paper as well. But I prefer the term "civil rights audit."

I come from a family of civil rights leaders. My great-grandfather started what is now known as the Afro-American Newspapers that chronicled the civil rights movement¹⁶. I know firsthand the unique structural barriers African Americans face—from slavery to Jim Crow to modern-day policing and voting practices—that have stymied and continue to forestall our ability to create wealth and be full participants in our democracy. But I also know that few of us who have been negatively affected by historic forms of discrimination are known by one identity. We sometimes have many characteristics, and we face many forms of discrimination that are often intersectional¹⁷. We are people

of color and we are LGBTQIA; we are Indigenous; we are female low-wage workers; we are South Asian and Latino immigrants; we are Muslim, Christian, Jewish and Sikh; we are disabled and older workers, etc. Often the most pressing issues from a civil rights perspective are issues of race and gender, but these are hardly the only civil rights issues at play.

Thus, the term "civil rights audit" best captures the intersectional nature of what these assessments are designed to uncover.

I hope that this report will help businesses and stakeholders confront the challenges resulting from systemic racism and other structural forms of discrimination by identifying real problems and implementing thoughtful solutions. We cannot wish it, pledge it, talk it or tweet it into existence. We have to roll up our sleeves to have the difficult conversations and do the hard work that civil rights audits entail to make tangible changes in our behaviors, in our services, in our workplaces, and in our products if we are going to meet the challenges and the opportunities of a diverse society.

**-- Laura W. Murphy, President,
Laura Murphy & Associates**

For more than five decades, UnidosUS has worked to open the door to opportunity for the Latino community. When businesses use the guidelines in this civil rights audit report to address the systemic barriers in place for Latinos and other people of color, we can work together to help Latino families to achieve economic stability and build wealth while addressing racial and ethnic inequities.

-- Janet Murguía, President and CEO UnidosUS

We are living through multiple compounding crises from climate to health to refugee, and all are accelerated through the positions, actions and reactions of the nation's business leaders. This report is more urgent than ever.

*-- John C. Yang, President and Executive Director of
Asian Americans Advancing Justice*



Introduction: The Business Case for Civil Rights Audits

The goal of a civil rights audit is to systematically examine significant civil rights and racial equity issues that may exist in a company and to develop a public plan of action to address them in a thorough, deliberate, timely, and transparent manner.

Civil rights are the rights of individuals to be free from unfair treatment or discrimination in the areas of education, employment, housing, credit, voting, public accommodations, and more—based on certain legally protected characteristics identified in a variety of state and federal laws. Those protected classes include race, sex, sexual orientation, gender identity, disability, national origin, religion, and age. A civil rights audit helps identify and strengthen a company's obligations to the spirit and letter of civil rights laws in the company's internal and external activities.¹⁸

Why Businesses Must Take Action to Address Discrimination and Reduce Civil Rights Harms

Companies Are Foundational to American Society

Companies have tremendous influence on the information and resources we all need to survive and prosper in our democracy and economy. Companies are foundational to American society, as they provide employment, products, and services, pay tax dollars, and influence the economic and social health of communities, small and large. They affect how we receive information, where we live, where we work, opportunities to learn, and whether or not we have resources to start businesses. As such, businesses have the responsibility to understand and address their civil rights impacts both within the confines of their own operations as well as in their immediate communities and the broader society.

Improving the lives of and strengthening the dignity of workers happens at the workplace, and it also happens through all of the countless ways corporations make an impact on civic, social and political life. The only way we can make a society that works for all of us is to hold businesses' feet to the fire and a meaningful civil rights audits is an important first step.

-- Renaye Manley, Deputy Director of the Service Employees International Union, Strategic Initiatives

The significance of the private sector on our economy cannot be underestimated. The revenues of the Fortune 500 companies represent two-thirds of the U.S. gross domestic product (GDP), and four times the revenue of the U.S. government¹⁹. This means that if inequity is to be addressed in our society, it cannot happen through laws and government action alone.

If a company is negatively affecting civil rights or perpetuating discrimination, it has the responsibility to address those impacts. There are significant risks for not doing so, including but not limited to costly litigation and regulatory sanctions. Stakeholders such as civil rights groups, employees, unions, legislators, regulators, and shareholder advocates want business enterprises to demonstrate that they are reacting sincerely, proactively, and effectively to address their own civil rights challenges and to speak more broadly in championing the social justice issues of our time.

Failing to address economic equality and civil rights issues also does damage to a company's reputation—an intangible asset that is part of the “goodwill” of a company. Global executives have estimated that on average, 63 percent of a company's market value can be attributed to a company's reputation²⁰. Product sales may not be the only thing that is affected by a negative reputation; it can also affect the ability to hire and maintain a diverse workforce or locate corporate facilities in certain communities²¹. These reputational issues also impact the fiduciary obligations of boards of directors to their shareholders to preserve and enhance the company's value.

Strong civil rights values—the basic right to be free from unequal treatment based on certain protected characteristics—are crucial to the strength of our democracy and our economy. Strong corporate partners uphold these values in their workplaces, in their practices, and in the products they produce.

A more inclusive economy will also benefit business. As Federal Reserve Chairman Jerome Powell said, “Our economy will be stronger and perform better when everyone can contribute to, and share in, the benefits of prosperity.”²²

Businesses and the Economy Are Harmed by Income Inequality and Discrimination

U.S. companies do not live in an economic vacuum; they have a responsibility to shareholders, but also a responsibility to the larger society. In 2019 the Business Roundtable posited “Companies should serve not only their shareholders, but also deliver value to their customers, invest in employees, deal fairly with suppliers and support the communities in which they operate.”²³ If, for example, American businesses focused on ensuring a living wage for hourly workers—who are disproportionately people of color—and reducing the difference between the income of the many low-wage workers and the few highest-paid executives, consumer spending and profits would benefit.

There is ample evidence that income inequality hurts not only individuals, families and communities, but it also threatens the profits of American companies. According to Pew Research, “The wealth gap between America's richest and poorer families more than doubled from 1989 to 2016.”²⁴ This gap has only deepened because of the coronavirus pandemic with evidence from the Labor Department showing that “the lowest wage workers had the steepest decline in employment and experienced the most persistent losses.”²⁵

Rising inequality harms overall economic growth, makes the nation more vulnerable to instability, reduces consumer consumption, spurs excessive borrowing, makes higher education less affordable, and diminishes a person's ability to be actively engaged in civic pursuits such as voting and participation on juries.²⁶

The United States has higher income and wealth inequality than almost any other developed country; the fact that inequality is rising should set off alarm bells for U.S. companies.²⁷ One of the main drivers of the racial earning gap is that people of color are disproportionately represented in low-wage jobs. That means that they are more often deprived of essential benefits and protections such as minimum wage, overtime pay, contributions to Social Security, unemployment compensation, protection from discrimination, and paid leave.²⁸ Many companies misclassify workers as independent contractors when in fact they should be full-time, or they manipulate schedules of workers to fall just short of the threshold for health insurance coverage. The earnings gap could be greatly reduced if companies ensure that workers have access to livable wages, worker protections, and benefits, and in turn, these improvements would greatly expand economic progress for marginalized communities.

Consider this 2018 analysis “The Business Case for Racial Equity” by the W. K. Kellogg Foundation and the Altarum Institute concerning the imperative of closing the earnings gap between Black, Indigenous, and people of color (BIPOC) communities and white communities:

Minorities make up 37% of the working age population now, but they are projected to grow to 46% by 2030, and 55% by 2050. Closing the earnings gap by 2030 would increase GDP by 16%, or more than \$5 trillion a year. Federal tax revenues would increase by over \$1 trillion and corporate profits would increase by \$450 billion. By 2050, closing the gap would increase GDP by 20%.²⁹

Increasingly the Public, Workers, and Investors Are Focused on the Role Companies Play in Contributing to Discrimination and Income Inequality

Public Attitudes

The public is concerned about business's role in systemic racism. A May 2021 survey of 2,000 Americans across demographic groups found a general sentiment that business has done too little in taking concrete actions to address systemic racism.³⁰ That view was shared by 46 percent of respondents overall; a majority of Black (57 percent), Latino (53 percent) and Asian (55 percent) respondents shared that view. The survey, commissioned by Edelman, a global public relations firm, found that racism remains an urgent concern for nearly two-thirds of Americans, virtually the same result as in a survey conducted in August of 2020.

Discrimination Is of Great Concern to the Emerging Workforce

Companies need to be responsive to today's more diverse population of consumers and workers, who will drive economic growth tomorrow. As mostly white baby boomers retire, people of color will drive the growth in the U.S. labor force.³¹

According to the Deloitte Global 2021 Millennial and Gen Z Survey, millennials, the most racially diverse workforce in American history, will comprise 75 percent of the workforce by 2025. Fifty-six percent of millennials see systemic racism as very or fairly widespread in general society. At least one in five said they feel personally discriminated against "all of the time" or frequently because of an aspect of their backgrounds. More than half see older generations as standing in the way of progress.³²

In an Axios/Generation Lab poll of college students some 17 percent say companies need to pay most attention to racial diversity and inclusion, 21 percent say climate change, 22 percent say better pay for low-wage workers, 16 percent say reskilling or upskilling and 20 percent say better health care and child care benefits. The same poll says that, overall, 68 percent want companies to take public stances on social issues and another 16 percent go as far as to say they wouldn't work for a company that doesn't.³³

Another poll indicates that some 77 percent of millennial workers said their "company's purpose was part of the reason they chose to work there." Yet seven in 10 millennials are discouraged by their belief that businesses focus on their own agendas rather than considering the wider society.³⁴ Generation Z—people born after 1996—are the newest entrants in the workforce and are even more racially diverse and better educated than millennials.³⁵ These new workforce entrants will be attractive to employers because of their educational attainment and will have similarly strong if not stronger views about the values embraced by their employers.

Many corporations have begun to speak with more than their dollars. In some cases, they are leveraging their reputational capital on critical racial justice issues, such as voting rights and police accountability. Conducting high-quality civil rights audits can help these and other corporations bring their leadership full-circle, by fully living their values internally and externally. These principles for Civil Rights audits will be a significant resource in helping to catalyze that evolution.

*-- Damon T. Hewitt, President and Executive Director,
Lawyers' Committee for Civil Rights Under Law*

Even if we completely reform public policy, we will not fully address systemic bias without leadership in the private sector. The revenues of large companies alone represent over two-thirds of our nation's gross domestic product, and corporate America plays a critical role in shaping employment, entrepreneurship, wealth, and equity in goods and services. The road map that Laura has designed for a credible independent audit gives companies a blueprint to take action and go beyond supportive statements and charitable contributions.

-- Spencer Overton, President of the Joint Center for Political and Economic Studies

Investor Groups Are Demanding Greater Accountability on Civil Rights

Civil rights leaders are not alone in asking companies to take a look at the civil rights implications of their internal governance, policies, products, and practices. During the 2021 proxy season, investor groups have put forth over 75 shareholder proposals calling for companies to increase public diversity reporting (as in publicly releasing annual Employment Information Reports known as an EEO-1 reports)³⁶ and/or to conduct racial equity audits. Some 28 shareholder proposals dealing with racial justice had been filed as of April 27, 2021, according to the Sustainable Investments Institute (Si2), compared with a total of none across at least the previous nine years.³⁷

In the 2021 proxy season, eight major financial institutions were asked to conduct racial equity audits through the filing of shareholder proposals by the Service Employees International Union (SEIU) and the SOC Investment Group. These proposals were put before Bank of America (receiving support of 26.5 percent of votes cast), Citigroup (38.6 percent), Goldman Sachs (31.3 percent), JPMorgan Chase (40.5 percent), Morgan Stanley (26.5 percent), State Street Corp. (36.8 percent), and Wells Fargo (13.1 percent). The world's largest asset management firm—BlackRock—agreed to undergo an external review of how its diversity, equity, and inclusion policies affect stakeholders after the SEIU withdrew its shareholder resolution.

In 2021 New York State Comptroller Thomas P. DiNapoli filed a proposal at Amazon's shareholders' meeting requesting that its board of directors commission a racial equity audit analyzing the company's impacts on civil rights, equity, diversity, and inclusion, and the impacts of those issues on Amazon's business. While that particular proposal did not prevail, it received 44 percent of votes cast—a remarkable feat for a first-time effort.

DiNapoli is calling on more companies to conduct racial equity audits. He said, "I believe racial equity audits can be a critical tool for companies to address the risks and opportunities posed by civil rights, equity, diversity and inclusion-related issues."³⁸

As You Sow, a shareholder advocacy group, has endorsed the idea of civil rights audits, calling them "a step up" from proposals simply seeking disclosure. In the aftermath of massive public protests following George Floyd's death in 2020, the group put forth the Racial Justice Scorecard to monitor corporate responses to racial justice to ensure that their statements of support are translated into concrete actions that truly promote equity.

The reality is that these kinds of proposals are not going away. We can expect that shareholder advocates will continue to press forward for corporate audits.³⁹

Audits Have the Backing of Civil Rights Groups and Members of Congress

Civil rights groups are building a consensus in support of civil rights/racial justice audits.

- Sherilyn Ifill, president and director counsel of the NAACP Legal Defense and Educational Fund (LDF), said she believes that civil rights audits can be a “powerful and rigorous tool to confront and address corporate anti-civil rights policies and practices.”⁴⁰
- Wade Henderson, interim president and CEO of the Leadership Conference on Civil and Human Rights, has said, “Congress should press tech companies to conduct independent civil rights audits as well as improve their civil rights infrastructure. . . . That is why, in addition to pushing for civil rights audits, Congress must also urge tech companies to adopt structural reforms that comply with federal civil rights law and demonstrate that the companies understand that civil rights are not a partisan issue, but instead are fundamental to protecting the constitutional rights of all people and thus should be part of the organic structure and operations of these companies.”⁴¹
- A leading racial justice civil rights group, Color of Change, has launched, Beyond the Statement⁴², an initiative which calls on technology companies to go beyond supportive civil rights statements to conduct in-depth racial justice audits that increase transparency, evaluate products for their discriminatory impact, compel the hiring of a diverse workforce, hire and empower civil rights staff, hold internal decision-makers accountable to civil rights goals, and divest from businesses that sustain the prison industrial complex and perpetuate harmful policing practices in Black communities.
- PolicyLink, a national research and action institute devoted to advancing racial and economic equity, has called on companies to “Conduct an enterprise-wide racial equity audit to understand the intended and unintended impacts of your products, services, operations, policies, and practices on people of color and low-income communities; disclose the results and your plan to resolve issues.”⁴³
- Ranaye Manley, deputy director of strategic initiatives at the SEIU, takes the position that racial equity audits conducted by independent third parties are necessary. She said, “Banks, health care companies, and the tech/retail sector all have historically harmed generations of people of color. It’s imperative that they now help fix what is broken. A racial equity audit is the first step to safeguard against further harm and it’s also the smart thing to do.”⁴⁴ The SEIU works with pension funds on worker-friendly reforms, and it has been a leader in drafting shareholder resolutions calling for racial justice audits.
- On April 20, 2021, over 140 civil right leaders and allies signed an open letter to asset managers published in the Financial Times questioning whether their statements acknowledging systemic racism were “cynically performative, or instead representative of an actual shift in mindset and future behavior.” The letter pledged to hold asset managers to account and called upon them to use their voting power to support shareholder proposals demanding long-overdue actions to address “equitable workplace actions and discrimination, customer discrimination and abuse, algorithmic bias and community surveillance,” among other issues.⁴⁵

In the aftermath of the murder of George Floyd, corporate America scrambled to address the ongoing legacy of systemic racial discrimination. Corporate boards and executives increasingly commissioned civil rights audits to make tangible changes in policies, products and services that made their companies more equitable and inclusive. Holding the private sector to account is one of the most pressing civil rights and civil liberties issues of our time. This report lays the groundwork for companies to assess equity and create a plan to ensure that all people, no matter their background, can work and live with dignity. Corporations that pay lip service in this moment of racial reckoning – rather than change course and make substantive commitments – will ultimately be held to account by customers and the broader public.

-- Anthony D. Romero, Executive Director of the American Civil Liberties Union (ACLU)

Civil rights leaders are not just concerned about the point in time when a civil rights audit is underway. As Jessica González, co-CEO of the media reform group Free Press said in speaking about the Facebook civil rights audit, “The value of the audit is a memorialization of what the challenges were at the moment.”⁴⁶ Audits provide a blueprint for ongoing action.

Members of Congress Are Calling for Civil Rights Audits

Members of Congress have also called for civil rights audits both in the technology and financial services sectors. Sen. Cory Booker (D-N.J.), along with civil rights organizations, prevailed upon Facebook to conduct its civil rights audit in 2018⁴⁷. More recently, five U.S. Senators called on Google to conduct a racial equity audit to investigate how the tech giant’s products may contribute to discrimination.⁴⁸ Ten U.S. Representatives, led by Rep. Yvette Clarke (D-N.Y.), sent a similar letter to Google demanding an audit.⁴⁹ Rep. Bobby Rush (D-Ill.) castigated Twitter for not implementing a third-party civil rights audit that it had promised to do in 2018.⁵⁰ Not only do members of Congress want companies to engage in audits, they also expect that CEOs are knowledgeable about the elements of the audit, who is conducting it, and why.⁵¹

Rep. Joyce Beatty (D-Ohio), chair of the Congressional Black Caucus and the House Financial Services Committee Subcommittee on Diversity and Inclusion, announced at a bipartisan hearing that she is drafting legislation that would require financial services companies to have biennial independent audits of their policies and practices pertaining to civil rights, equity, diversity, and inclusion.⁵² The bill would subject companies to fines of \$20,000 a day for not conducting a racial equity audit and would also investigate any ties a firm may have to the institution of slavery and outline steps to reconcile the profits. At the same hearing Rep. Ann Wagner (R-Ohio) said, “The subcommittee has examined, and will continue to examine, the strides that the financial services industry has made toward diversity and inclusion.”⁵³

Corporate America has a huge role in the protection and enforcement of the civil rights, to assure that people of color, women, the LGBTQ community, every other marginalized group are free from the harms of discrimination. It is not enough to announce new marketing initiatives aimed at Black audiences. Companies also have to look inward to make sure that their products, policies and practices and services are not hurting our communities. Civil rights audits are a way that companies can do this much-needed work. Maintaining our rights and freedoms is a shared responsibility for all of us, including the businesses we support with our spending and our tax dollars.

-- Johnnetta Betsch Cole, National Chair and Seventh President of the National Council of Negro Women

Why Civil Rights Audits Are Critical Tools for Identifying and Addressing Civil Rights Risks

Audits Go Beyond Diversity, Equity, and Inclusion Initiatives

Too often company executives believe they have demonstrated a strong civil rights commitment because they have hired people of color or have a diversity, equity and inclusion (DEI) officer on their executive team. DEI is important and necessary, and companies should be applauded for diversifying their hires, hiring empowered DEI officers, hiring qualified DEI consulting firms, and instituting diversity training. Achieving diversity, especially in companies that have seriously lagged in this regard, is an important journey. These initiatives, along with statements and charitable contributions in support of racial justice, are significant starts, but companies cannot end the discussion there.

A company committing to, and even achieving diversity, should not be conflated with addressing the civil rights impacts of that company's policies, practices, products, and services. As Heather McGhee, former president of Demos and author of the book *The Sum of Us: What Racism Costs Everyone and How We Can Prosper Together*, has said, "While diversity encourages employment of individuals with varying backgrounds and experiences in the corporation, it does not guarantee that those people will be fully and equally included in the fabric of the organization, nor that the company's systems, practices and policies are designed to create racially equitable outcomes."⁵⁴ **Furthermore, a company can have Black, Latino, Indigenous and Asian American individuals in positions of leadership (as DEI officers) and still market racially and gender harmful products.**⁵⁵

Second, DEI leaders often do not have the power or the civil rights expertise to compel other departments to stop discriminatory practices. (See also #1 in **Key Elements of Civil Rights Audits** concerning the importance of resting responsibility for civil rights audits with the senior executives and board.) A civil rights audit is necessary to assess the impact of policies, practices, products, and services that include, but also go beyond, the traditional realm of DEI concerns.⁵⁶

By engaging in a civil rights audit, a company would address the following illustrative types of concerns, all of which lie well beyond the scope of traditional DEI functions:

- Refusing to locate banking services and branches in BIPOC communities;
- Using AI software that is inherently biased;
- Discriminating against Muslim or other religious speakers on social media platforms;
- Disregarding the needs of people with disabilities in buildings, entertainment venues, restaurants, and hotels;
- Marketing toxic health and beauty products to women, or selling private data about their reproductive health or pregnancy status to other companies;
- Offering lesser customer service to members of the LGBTQIA community;
- Steering high risk mortgage products to BIPOC individuals who would qualify for conventional loan products;
- Marketing racially inaccurate facial recognition products to law enforcement agencies;
- Using or selling surveillance technology to track racial justice and other activists;
- Steering, redlining, and limiting the housing choices shown to women, BIPOC communities, people with disabilities, and others;
- Locating toxic waste facilities in BIPOC communities; and
- Charging higher rates for telephone or e-reader tablets to people in prison or their families than rates charged to other consumers.

These are but a few examples of policies, products, practices and services that are not typically covered by DEI functions within a company, but that need to be addressed to reduce structural discrimination.

Audits Can Identify Legal Risks Under U.S. Civil Rights Law that Are Not Captured by Human Rights Impact Assessments

Some companies use the UN Guiding Principles on Business and Human Rights⁵⁷ to conduct Human Right Impact Assessments (HRIAs)⁵⁸ to provide guidance on meeting their social responsibilities under the Universal Declaration of Human Rights⁵⁹ and other international treaties. By contrast, a civil rights audit is rooted in the U.S. Constitution and in federal, state and local civil rights statutes designed to legally prohibit certain forms of discrimination based on protected characteristics.⁶⁰ Civil rights audits also take into account the United States' particular history and culture. Although this report is supportive of HRIAs, human rights law does not have the same binding impact on companies within the United States as do federal, state and local civil rights laws. For many civil rights organizations consulted for this report, a company's choice to conduct an HRIA instead of a civil rights audit (as outlined in this report) would mean that the company is choosing not to analyze and resolve its U.S. civil rights challenges in a manner that specifically embraces the spirit and the letter of U.S. civil rights laws.

As New York State Comptroller Thomas DiNapoli recently asserted, "Companies like Starbucks, which completed similar human rights assessments, still faced reputational risks and controversies related to their failure to address issues related to discrimination, equity, diversity, and inclusion. A human rights assessment is not the same as an independent racial equity audit, and shareholders should be wary of equating the two."⁶¹

The continued prevalence of racial discrimination, both subtle and overt, in businesses across the country is astounding in the twenty-first century United States, especially in light of the substantial innovation and increased efficiency in other elements of our economy. Latinos now comprise one-fifth of the U.S. workforce and a similar percentage of consumers; those proportions will only increase in future years. At MALDEF, we therefore view the elimination of discrimination in all aspects of U.S. business as essential to our nation's progress. Civil rights audits, by placing direct and concentrated research and analysis on these issues – as is done in other elements of business – are essential tools to reaching the transparent, inclusive, and thriving economic sector that will permit our powerful nation to continue to thrive.

-- Thomas A. Saenz, President and General Counsel, MALDEF





Key Elements of a Business Civil Rights Audit

The following recommendations on the components of a rigorous civil rights audit are based on the author's experiences with Airbnb and Facebook and on interviews conducted with leading stakeholders interviewed for this report.

1. The audit should have the support and active engagement of senior executives including the CEO and board of directors.

The CEO and/or the board of directors should be the primary sponsor of the audit to ensure sufficient support and cooperation from senior executives within the company. An audit is undermined if the staff assigned to the undertaking are powerless to facilitate the auditor's request for a review of company policies, practices, or products, or if the staff cannot ensure that the auditor's recommendations are implemented. In most cases, it is advisable for the CEO or a senior executive to thereafter assign a team of company managers and staff to facilitate the auditor's inquiry. The CEO should require all appropriate company units to participate in the audit. Full cooperation is essential to the success of the audit, and senior leadership must set the tone.

As discussed earlier, it is not sufficient to vest responsibility for a civil rights audit with a company's DEI officer. DEI leaders typically lack both the power and the civil rights expertise to compel other departments to stop discriminatory practices. **Thus, it is crucial that the ultimate responsibility for addressing civil rights challenges rests with the senior executive team and board of directors.**

In the early days of the Airbnb audit, CEO Brian Chesky's active support was crucial. He said the company could not be true to its mission of "belong anywhere" if it has a discrimination problem.⁶² Executives like Chesky helped his team understand and weather the phases of a civil rights audit: questions, research, informed persuasion, collaboration, surges forward, setbacks, and redoubling of efforts. Similarly, a few months into Facebook's audit, COO Sheryl Sandberg personally oversaw the civil rights audit process, led a cross-functional task force of executives across critical teams, and met regularly with the civil rights auditors. That is when their audit moved with greater efficiency and speed.

// The difference between a merely interesting audit and a truly actionable one is the difference between giving mere lip service to change and actually providing the means to pursue it. Very few people have the right technical expertise or demonstrate the level of rigor and truth-telling that Laura does, yet that is exactly what's required to deliver a racial justice audit capable of setting new and implementable standards for changing business as usual across a large corporation, and reducing the harm a corporation causes for Black people and all people in society. Laura is building on her record of no-nonsense work that she began with audits of Airbnb and Facebook, and her contributions continue to set the right standards for this work — outcomes-driven standards — across the field.

-- Rashad Robinson, President of Color Of Change

2. The audit should be rooted in U. S. civil rights law, history, and cultural context focusing on race and other protected classes.

Some civil rights and shareholder groups have asked companies to conduct racial equity audits.⁶³ That term, as well as the terms “civil rights assessment” and “civil rights audit,” are treated interchangeably for the purposes of discussing this process. However, the term “civil rights audit” best captures the breadth of protected classes that should be covered by the audit.

The long history of overt and unconscious institutional racism against Black people and people of color in the United States is a private sector problem that must be addressed. Nonetheless, discrimination is often intersectional and not limited to a single protected class.⁶⁴ For example, a civil rights audit of a private hospital's treatment of its nursing staff could reveal issues of race, immigration status, and gender because of the prevalence of immigrant women of color in that industry. A review of a private prison company could potentially explore violence and discrimination rooted in race, gender, disability, and LGBTQIA status. A civil rights audit of an entertainment company could assess the depiction of women and people of color in its media products. A company that runs theme parks could need to examine the unequal treatment of people based on their disability or religious clothing.

By using a civil rights lens to examine patterns of institutional discrimination, a civil rights audit provides an opportunity for companies to take into account the intersecting and compounding forms of discrimination faced by individuals and groups based on race, sex, sexual orientation, gender identity, disability, national origin, religion, and age, among other characteristics. Each type of discrimination deserves the appropriate level of review and remedy.

3. The audit should have an established purpose and a shared understanding of why it is being conducted.

Civil rights audits need not always flow from complaints, scandals or stakeholder pressure. An audit can be conducted as a preventative measure to help a business gain an understanding of its civil rights and racial justice impact and to mitigate long-term legal, financial, and regulatory risk. Civil rights leaders encourage this kind of proactive approach.

// Corporate accountability is just one step toward addressing the most challenging economic realities that people of color face in this country. Meaningful civil rights audits can create that pathway toward a world where everyone can work with dignity. With the guiding principles in this report, we can continue working to create a more inclusive economy to end racial inequality.

-- Derrick Johnson, President and CEO of the NAACP

Here are some of the questions that a company should ask:

- What are some of the specific and unique goals in conducting the audit?
- What are the most pressing areas of concern that should be investigated?
- Who will be responsible for achieving the goal?
- How will the completion of the audit support mitigating legal and reputational risks in the short term and long term?
- Who are the relevant stakeholders, and what discriminatory business practices are being alleged? (Stakeholders can include an array of civil rights and social justice organizations, policymakers, shareholders, employees, workers' rights organizations, customers, users, and internal constituencies such as employee resource groups [ERGs].)
- How are the relevant stakeholders' views reflected in both the audit process and the outcome?

It is important that an audit be responsive to these concerns.

It is possible that new information will come to light once the audit has begun, based on consultation with stakeholders, because of breaking news around company behaviors or litigation. While audits should not be "fishing expeditions," the topics covered by a civil rights audit may evolve. Further, civil rights audits should not be seen as the "ceiling" for what companies can do to battle discrimination. Advancing equity should also be a goal embraced by the company and facilitated by a civil rights audit.

4. The audit should be led by an independent person or firm from outside of the company that has civil rights expertise, cultural competence, and adequate resources to conduct and complete the audit.⁶⁵

Some companies have questioned the value of bringing in an outside independent person or firm to conduct the audit because they believe that existing staff is likely to have the expertise and knowledge of the company to probe the issues and devise solutions. In reality, few companies have civil rights departments or experts on their staff. Also, employees can be ignored, pressured, given poor performance reviews, and fired for coming up with solutions that the company may not like, especially if those solutions threaten to eat into company profits.⁶⁶ A civil rights audit is an unfair burden to put on employees.

An internally conducted audit is also unlikely to be seen as credible. Just as independence is important for a financial auditor, the same independence is crucial for a civil rights auditor. An independent outside civil rights auditor will also have more latitude to inform executives about serious problems and resources that may be needed to correct those problems. The fact that a company pays an auditor does not vitiate the need for the auditor to be independent or to carry out his or her work freely and in an objective manner.

The outside auditor should have demonstrated experience advancing civil rights and racial justice policies and should bring deep relationships with civil rights, workers' rights, racial justice groups, and other stakeholders. The auditor should agree to the appropriately tailored nondisclosure agreements that protect proprietary information (e.g., product trade secrets, products in development, planned but as yet undisclosed company reorganizations, etc.) consistent with the public facing role of the auditor as discussed below in Key Element # 8. The auditor should be empowered by company leadership to conduct a meaningful review and to engage with internal and external stakeholders.

Finally, proper resourcing of an audit is crucial. An auditor may need to assemble a staff of researchers, interviewers, and consultants. The company will also need to hire civil rights legal experts separate and apart from outside law firms the company may already have on retainer. Commercial law firms often do not have civil rights practitioners who have represented plaintiffs on their teams, and more importantly, the proactive lens needed for a civil rights audit may conflict with the defensive obligations and approach of outside counsel.



The National Urban League believes that companies need policies and practices that undo harm to communities of color to ensure that we all can work and live with dignity. The time is now to make that change. Civil rights audits are a tool companies can use that will bring us closer to a future where our employers and the businesses we frequent are less discriminatory and more inclusive.

*-- Marc H. Morial, President and CEO of
the National Urban League*

5. Using a variety of sources, the auditor should thoroughly assess and compile the various external and internal challenges facing the company.

Possible Areas of External Review:

The auditor should:

- Gather and analyze open letters, petitions, boycott information, complaints, news reports, information, and social media posts and reviews directed to the company that are relevant to civil rights concerns.
- Identify and invite a range of civil rights and other key stakeholders to articulate their civil rights concerns directly to the auditor. (Again, stakeholders can include, but should not be limited to, customers, workers' rights groups, policy leaders, privacy and technology advocates, social justice groups and internal constituencies, such as employee resource groups (ERGs)).
- Conduct a scan of public records/documents that include legal actions, shareholder inquiries or proposals, federal and state regulatory actions and legislative oversight related to the company's impact on civil rights and racial justice.
- Examine the external policy footprint of the company, including, for example, the positions it has taken on federal and state legislation and rulemaking either directly or through third-party business groups and associations (e.g., the Chamber of Commerce, the Business Roundtable, or the American Legislative Exchange Council) that have relevance to civil rights and racial justice. This could also include contributions to candidates who take positions antithetical to civil rights.⁶⁷

Possible Areas of Internal Review:

The auditor will conduct a focused, internal, and confidential examination of the impacts of the company's policies, practices, operations, and culture relevant to civil rights concerns. Areas of investigation will be specific and tailored to the company and its products.

To respond to stakeholder concerns and any alleged discriminatory practices, a company should expect that an auditor will request a review of any business operations and materials that are relevant to discrimination and inclusion concerns. The auditor will prioritize areas of review based on factors including the scale of civil rights concerns and the remediability of such impacts.

The auditor should meet with a cross section of employees, union groups, ERGs, vendors, and contractors in a manner where such groups can speak freely, confidentially, and without fear of retaliation. The goal of this access is not to weigh in on individual employment issues, but to assess overriding concerns, identify institutional patterns, and seek feedback concerning climate and culture within the organization.

A civil rights audit will likely seek disaggregated statistics on the diversity of the staff, executive team, board, contract workers and vendors, covering hiring, promotion, retention and contracting practices. A civil rights audit could also look at human resource practices governing salaries, wages, bonuses, and benefits and qualitative data (such as climate and culture) on the diversity of the staff, the executive team, the board, contract workers and vendors, covering hiring, promotion, retention, and contracting practices. Companies may also need to assess the disparate impact of wage practices. For example, the restaurant industry's \$2.13 base wage for servers is applied to all workers regardless of race, but disproportionately affects workers of color and women because they make up the majority of servers. Understanding the distinction between disparate treatment and disparate impact is important.

Beyond internal policies and pay practices, an internal assessment should include a review of the civil rights impacts of company policies, practices, products, and contracts (for example, with tech firms that use harmful surveillance technology). The review should also include political and charitable contributions, investments in socially questionable enterprises (e.g., private prisons or immigrant detention facilities),⁶⁸ assessments, budgetary decisions, arrangements with outside vendors, contractors (that may engage in worker exploitation, for example), external financial services firms, automated decision-making and use of AI (internally and in products), data privacy practices, and other business operations that are relevant to discrimination and inclusion concerns. An internal review of a digital or technology product could reveal that it is based on a racially skewed algorithm. An internal review of a mortgage product could show that it is disproportionately offered to White customers.

We must continue to work to improve the lives of Black women, our families and our communities, which includes providing the tools to lift people out of poverty. Corporations must serve as good corporate citizens and must be accountable when they cause harm; and should actively and swiftly make repairs. The civil rights audit principles outlined in this report will move us toward a future where Black women can have more economic opportunities, live with dignity, respect and pride.

*-- Melanie Campbell, President and CEO of
National Coalition on Black Civic Participation,
and Convener of Black Women's Roundtable*

6. The audit should be supported within the company by an executive and staff whose function is to facilitate and manage the audit process that reviews policies, practices, products, and services for their potential discriminatory impact.

An internal team is crucial to help the auditor manage this process. Assigning a company executive to facilitate the audit who is supported by adequate staffing will greatly speed up the progress of a civil rights audit. The executive will need the support of assigned staff that forms a team to help make appointments, retrieve documents and be the primary liaison within the company. The auditor will need access to staff and executives within the company to investigate relevant civil rights concerns.

A company should also identify leaders who have the authority, if needed, to quickly respond to and remediate civil rights issues based on their urgency or severity. For less pressing issues, the auditor will work with the liaison team to produce a timeline. Working with an internal team, the auditor will help a company differentiate between its more urgent responsibility to remediate negative civil rights impacts and its opportunities to proactively implement positive ones.

7. The auditor will identify areas of key concern that need to be addressed and present a plan of action.

After conducting an external and internal review as outlined above, the auditor will compile a list of major concerns to identify business practices to the company that have real or potential harmful impacts on protected classes or characteristics including, but not limited to, race, religion, national origin, ethnicity, disability, sex, gender identity, sexual orientation and age.

This part of the civil rights audit process is largely confidential, as it allows the company to examine its issues free of preemptive disclosures that could be distractions from the necessary work of fixing its civil rights problems.

The goal of identifying areas of concern confidentially as an initial matter is to allow the company to address some of these impacts before the auditor's report is made final. The company will have the opportunity to respond to observations and recommendations and to agree upon a plan of action to remedy problems before the report is made public.

By necessity, issues of concern will need to be prioritized to identify the most relevant and pressing matters. The auditor has a responsibility to translate issues or concerns into concrete, actionable recommendations, keeping the company's structure and business model in mind.⁶⁹ For example, in the case of the Facebook civil rights audit, the auditors received numerous concerns from stakeholders about the prevalence of hate speech on the platform. Rather than saying, "Stop hate speech," the audit offered specific guidance on how Facebook might make changes to content policy or enforcement based on the auditor's unique vantage point and the internal access that would be designed to reduce the specific stakeholder-identified hate speech. At Airbnb, the most pressing problem was discrimination against guests by hosts, which led to a multitude of changes including stronger antidiscrimination policies, host training, better customer support, and revealing guest profile picture to hosts only after they have accepted the booking request.

8. A public report should be issued that identifies civil rights concerns and addresses the areas where the company has or will take action.

In consultation with the company, the auditor should issue a public report outlining the issues identified and the methods by which the company will go about resolving them. The report should also acknowledge civil rights concerns that were not addressed because of limitations of time, scope, or cooperation.

Civil rights leaders interviewed for this report emphasized strongly that audit reports summarizing observations, recommendations and corporate responses must be made public. There are several reasons for this.

- Being transparent about civil rights and racial equity challenges and how a company is approaching those challenges builds credibility with stakeholders and positions the company as a leader on civil rights, racial justice and human capital management. Public civil rights audits demonstrate that a company is being "above board." As discussed earlier, a visible embrace of racial and other kinds of social equity builds social capital with an increasingly diverse population of consumers, employees, and shareholders.
- A public report helps a company build internal capacity on civil rights and enshrine an action plan against which the public can hold the company accountable. The civil rights audits of Airbnb, Facebook and Starbucks helped those companies build internal capacity to regularly review civil rights issues and to engage in proactive due diligence. This new capacity has helped address ongoing stakeholder concerns. For example, Airbnb created the Project Lighthouse initiative, which helps measure disparate racial impact on the platform so that discrimination can be remedied. Facebook has hired and staffed an internal civil rights division, led by a vice president, to follow up on the proactive audit outcomes and outstanding challenges.
- A company may have concerns about competitive disadvantages for exposing potential areas of vulnerability, but it is also true that publicly acknowledging and confronting civil rights challenges can provide competitive advantages over those companies that do not. If a company wants to be proactively accountable for its civil rights actions and get credit for doing so, it must be transparent. There are ways to conduct civil rights audits while protecting proprietary information.

- Investors and shareholder groups want companies to avoid litigation, boycotts, and federal and state investigations relating to civil rights and racial justice. Proactively engaging with stakeholders and implementing civil rights protocols, controls, or processes that could be improved reflect well on the corporate leadership.

The fact that Airbnb, Facebook, and Starbucks were public about their intentions and issued public reports about their findings and next steps allowed stakeholders to gauge the seriousness of their efforts and to track progress (or lack thereof). There is no evidence of any adverse impact on those companies' profitability as a result of engaging in these audits. However, failing to address civil rights concerns creates reputational harm. Facebook has received harsh criticism from civil rights groups and the broader public—not because of the audit, but because of its perceived failure to adequately follow through on its responsive commitments.

On the contrary, conducting a public-facing civil rights audit has many business benefits. The executives of each of these three companies have publicly stated that the civil rights audit processes made them stronger companies, and that leadership has become wiser from the effort. The companies further stated that they are better prepared to serve all of their customers and better equipped to meet the needs of an increasingly diverse society. These audits moved the ball forward with tangible civil rights outcomes across a range of business units well beyond diversity and inclusion practices. (See the appendix for specific audit outcomes.) None of these companies has declared victory over their civil rights challenges. Rather, these audits have served as a pivot point, generating momentum, leadership, resources, and enthusiasm to continue the work to build better, more equitable companies over the long term.

9. A company should commit to a time frame for issuing the audit.

Final civil rights audit reports should be released, if possible, within months, not years. Interim reports can provide updates about the progress. Not every audit can address in-depth all matters of concern to civil rights and racial justice stakeholders within a short period of time. Many factors are at play, such as the size and reach of the business, the complexity of the issues, the resourcing of the internal and external audit teams, the level of cooperation of the company, and unanticipated internal and external events (changes in leadership or a worldwide pandemic, for example). These complications can affect the stated areas of investigation and the release of the audit. Coming up with a realistic but flexible time frame is a challenging task for all involved. It is critical that the company be transparent and responsive to the often long-festering concerns of stakeholders and be straightforward about any modifications to audit timing. A thorough, responsive work product is crucial—but so is timeliness.

Investors are concerned about both shareholder value and social impact. As a result, they're increasingly asking companies to assess and report about corporate performance on critical issues such as civil rights and racial equity. This report provides an enormously valuable roadmap for senior management and boards of directors of leading companies to begin to investigate policies and practices that affect billions of people all around the world. Smart companies will take note and take action.

-- Michael Connor, Executive Director, Open MIC

10. The company should involve stakeholders and consult with them throughout the process.

It is crucial that corporate civil rights audits have, from their inception, the consistent input of a wide range of external stakeholders—civil rights organizations, employees, executives, customers, government leaders, etc. It is also important for the company to include internal stakeholders such as executives, managers, workers, contractors, and others, including those who have trepidation about or resistance to the audit.

Stakeholders should be engaged to identify pressing risks and kept informed throughout the process. These relationships can sometimes yield feedback and advice on an ongoing basis that prevent issues from languishing, identify roadblocks, and lead to timely resolution of problems. In some cases, meaningful, sincere stakeholder relationships can reduce the likelihood of litigation or congressional investigations. Key stakeholder groups should be made aware of the auditor's conclusions before interim and final reports are made public.

A clear benefit of an audit is helping the company create or build upon meaningful poly-cultural relationships with a broader array of stakeholders. As BlackRock CEO Larry Fink observed, "A company cannot achieve long-term profits without embracing purpose and considering the needs of a broad range of stakeholders."⁷⁰

Conclusion

This report should provide useful guidance to companies about the importance of committing to a review of their practices and products from a civil rights perspective. In an increasingly diverse society, doing so provides crucial social capital to companies that can create and uphold their reputational goodwill as fair, unbiased enterprises.

Please refer to the appendix for additional resources and examples of specific action steps taken by Airbnb, Facebook, and Starbucks in response to their civil rights audits.

This is a moment like no other – not because of the billions in stated corporate commitments to racial justice, not because of the increased global attention toward racial injustice and other pressing social issues; this is a historic moment because people of color and our allies across the nation are choosing en masse to no longer accept racism and structural oppression as the status quo. We know that meaningful, long-term change in the private sector – among corporations and investors alike – must start with a deep understanding of where we are right now and the private sector’s role in perpetuating inequities. A civil rights audit, with a deep focus on racial equity in line with Laura’s robust recommendations, is the right starting place. Conducted in alignment with Laura’s report, the civil rights audit is a powerful tool toward rebuilding trust with workers and communities of color. Though trust is deeply broken right now, we know the private sector can rebuild it in partnership with civil society.

*-- Mahlet Getachew, Managing Director,
Corporate Racial Equity & Legal, PolicyLink*



Appendix

Additional Resources on Civil Rights Audits

- Color of Change, [Beyond the Statement](#): This website provides an affirmative antidiscrimination and inclusion framework for the technology industry through the use of racial equity audits.
- Policy Link, [The 2021 CEO Blueprint for Racial Equity](#): What companies can do to advance racial equity and combat systemic racism in the workplace, communities, and society.
- Olshan Law Firm, [Racial Equity Audits: A New ESG Initiative Poised to Gain Traction and Greater Shareholder Interest in the Upcoming Proxy Season](#): An overview of the 2021 and upcoming proxy season on racial equity audits.
- SOC Investment Group, [Racial Equity Audits](#): A list of shareholder proposals requesting racial equity audits and the rationale for them.

Resources on DEI Initiatives

A number of business and nonprofit groups have recently created notable initiatives and tools to measure or encourage racial equity in corporate settings.

- The CEO of NASDAQ proposed a rule that was accepted by the Securities and Exchange Commission (SEC) to require most NASDAQ companies to have, or explain why they do not have, at least two members of an “underrepresented” group (such as women and people of color) on their board. [The new rule](#) requires NASDAQ members to disclose board diversity statistics.⁷¹
- The Connecticut Office of the Treasurer and the Ford Foundation launched a [working group](#) that includes some 14 companies (having more than \$26 trillion in assets) willing, for the first time, to publicly disclose workforce demographic data that is currently reported to the U.S. Equal Employment Opportunity Commission. Known generally as “EEO-1 data,” these disclosures will allow investors, consumers, and other stakeholders to assess the composition of the workforce of these companies, and to measure progress toward greater diversity.⁷²
- Ken Frazier, the CEO of Merck, and Ken Chenault, the former CEO of American Express, founded [OneTen](#), an organization whose mission is to hire, promote, and advance one million Black individuals into family-sustaining careers over the next 10 years. OneTen is particularly focused on Black people who do not have a four-year degree and instead encourages an approach that focuses on a person’s skills (rather than their educational attainment level) in closing the opportunity gap.⁷³
- A new coalition led by business, nonprofit, philanthropic, and academic leaders has launched [Ninety to Zero](#), an initiative that will challenge companies to promote inclusion, diversify their operations, and create contracting opportunities for minority-owned businesses, among other goals.
- State Street Global Advisors, Russell Reynolds Associates, and the Ford Foundation created a board oversight tool, [The Board’s Oversight of Racial and Ethnic Diversity, Equity and Inclusion](#), to provide guidance to business boards of directors on how to achieve racial and ethnic diversity.⁷⁴
- [The Business Roundtable](#) recently announced that it formed a special committee to look for ways to advance racial equality in finance, education, health care, and criminal justice.⁷⁵
- The Joint Center for Political and Economic Studies collaborated with the law firm WilmerHale to create a [toolkit](#) on how corporate America can effectively counter racial bias in the workplace while minimizing legal risk. The toolkit “provides insights on understanding bias and aligning incentives to values; best practices for improving hiring, recruitment, and retention of Black professionals . . . (from entry level positions to the boardroom); and guidance on third party business relationships.”⁷⁶

- JUST Capital has launched a [Corporate Racial Equity Tracker](#) to publicly report how companies are operating on a range of racial justice issues. The objective of the tracker is to incentivize companies to take meaningful steps concerning antidiscrimination policies, pay equity, racial/ethnic diversity data, education and training programs, response to mass incarceration, and community investments.⁷⁷

Key Accomplishments Yielded through the Civil Rights Audits of Airbnb and Facebook and the Starbucks Civil Rights Assessment

Airbnb

Changes Made Through the Civil Rights Audit

Antidiscrimination

- Launched the Airbnb Anti-Discrimination Steering Committee, composed of key executives to oversee antidiscrimination efforts throughout the company.
- Introduced the Airbnb Community Commitment and a strengthened nondiscrimination policy. All users globally must attest to the Community Commitment, an agreement to treat others with respect and without judgment or bias regardless of their race, religion, national origin, ethnicity, disability, sex, gender identity, sexual orientation, or age in order to join the Airbnb community. Since 2016, 1.4 million users have been removed from or denied access to the Airbnb platform after declining to agree.
- Established a dedicated antidiscrimination product team to drive research and develop tools dedicated to rooting out bias and eliminating disparities within the platform. The team has now been expanded and retitled as the Anti-Discrimination & Platform Equity Programs team; it consults with other teams across the company to help them build products and policies that lead to equitable outcomes.
- Updated guest profile picture to display to hosts only after they have accepted the booking request, to encourage more objective bookings.
- Created and distributed antibias training and materials for hosts.
- Implemented an Open Doors Policy that seeks to find guests an alternative place to stay if they believe a host denied a booking because of discrimination.
- Overhauled enforcement protocols and developed tools to route discrimination concerns to a group of trained specialists.
- Expanded ability to flag negative content to include message threads, accommodation listing descriptions and on a user profile.
- Convenes regular roundtables, hosted with The Leadership Conference on Civil and Human Rights, with a number of national civil rights organizations for consultation on antidiscrimination and inclusion efforts.
- Launched partnerships with the NAACP and LULAC (League of United Latin American Citizens) to help bring economic benefits of hosting to communities of color.
- Launched Project Lighthouse, an initiative to measure discrimination based on a user's perceived race, in partnership with Color Of Change and with input from nine other racial justice and technology equity organizations. Project Lighthouse is designed to help Airbnb create and update tools and policies to more effectively combat racial discrimination and bias.

- Worked [in partnership](#) with the Rainbow PUSH Coalition to ensure that 12 minority, women- and veteran-owned financial services firms participated as underwriters in its IPO.

Company Diversity

- Implemented a Diverse Candidate Slate Rule, which requires that all candidate pools for open positions include women and candidates from underrepresented backgrounds.
- Established a dedicated Supplier Diversity program to support companies owned by minorities, women, veterans, members of the LGBTQIA community and people with disabilities. In 2020 Airbnb exceeded its goal of spending 10 percent of all contracting funds with diverse suppliers.
- Expanded recruitment among historically Black colleges and universities, schools with large Latino populations, and schools with large female populations studying science and engineering.

Accessibility

- Implemented a set of accessibility filters for listings, such as “step-free entry” and “accessible parking spot,” in collaboration with the California Council of the Blind, the California Foundation for Independent Living Centers, and the National Council on Independent Living (NCIL) to make it easier for guests with mobility issues and disabilities to find accommodations that meet their needs.
- Requires hosts to provide photos of accessibility features to add the feature to their listing page.
- Introduced Online Experiences designed by hosts with accessibility needs in mind.
- Hosted 20 workshops across eight countries to teach hosts how to improve accessibility of their listings and the importance of making their listings accurate.
- Launched landing page specific to Airbnb accessibility (airbnb.com/accessibility).
- Launched an internal accessibility team to work toward meeting the digital accessibility standards of the Web Content Accessibility Guidelines.
- Joined the [Valuable 500](#) and committed to putting disability inclusion on its business agenda.
- Convenes quarterly disability advisory roundtables, hosted by the NCIL, with a number of national and regional organizations, activists, advocates and leaders in the United States that represent a variety of people with disabilities.
- Convenes a semiannual disability advisory roundtable with several organizations throughout Europe that represent a variety of people with disabilities.

Support for Refugees

- In 2017 Airbnb committed \$4 million to the International Rescue Committee (IRC) to support the housing needs of people affected by the U.S. executive order that halted refugee admissions and temporarily barred entry to people from seven Muslim-majority countries. Work to support refugees and asylum seekers continues under Airbnb.org.
- Over the past four years, Airbnb.org and Airbnb have connected approximately 25,000 refugees—including hundreds participating in the U.S. Special Immigrant Visa Program—to temporary housing.
- In August 2021 Airbnb announced that Airbnb.org will provide temporary housing to 20,000 Afghan refugees worldwide, the cost of which is funded through contributions to Airbnb.org and by its CEO.

Amicus Briefs

- Over the past several years, Airbnb has lent its voice to support civil rights issues that underscore the company's values, including [support for the Deferred Action for Childhood Arrivals \(DACA\) program](#) and joining the Human Rights Campaign and more than 200 companies in signing on to [an amicus brief](#) in support of civil rights protections for LGBTQ+ people in the workplace.

Facebook

Changes Made Through the Civil Rights Audit

Staff and Oversight Board

- Before the audit was completed, Facebook established a Civil Rights Task Force of key leaders that meets monthly to address and discuss civil rights issues.
- Auditors provided input on the structure, governance, and composition of the Facebook Oversight Board and helped it include board members with diverse views and experiences, such as human rights advocates and civil rights experts.
- After the audit, Facebook hired a vice president of civil rights with authority to build a team to oversee Facebook's long-term civil rights strategy. (Facebook subsequently created a nine-member permanent, internal civil rights team. The team is designing training for employees that work on key areas of policy and product development. The team is developing specialized training for employees on compliance with the Fair Housing Act in advertisements.)
- Changed the internal performance review process for employees to mitigate against potential bias.
- Created criteria and scorecards to hold department managers accountable, including rating them on use of the [Diverse Slate Approach](#), antibias training, inclusion, and allyship.

Platform Advertisements

Reached a historic legal settlement of civil rights lawsuits challenging Facebook's advertising policies, resulting in an overhaul of housing, employment, and credit advertising on Facebook. These changes included:

- Restricted ads targeting options for housing, employment, and credit to limit advertisers' ability to engage in discriminatory conduct. Advertisers will no longer be able to target housing, employment, and credit ads by age, gender, ZIP code, and other categories.
- Created a searchable library available to the public for housing, employment, and credit ads.
- Required advertisers to certify compliance with a nondiscrimination policy.

Anti-Harassment

- Built tools for detecting organized harassment against disproportionately at-risk users

Election and Census Protection

- Added information labels to content that discourages voting or seeks to delegitimize the outcome of the election.
- Prohibited statements that advocate bringing weapons to polling places or encouraging others to do the same.
- Banned ads that tell people not to vote.
- Banned content that said voting participation may or will result in law enforcement consequences (e.g., arrest, deportation, imprisonment).
- Provided training to voting rights groups on reporting violations and using Facebook tools.
- Provided Voting Information Center with up-to-date voting information and official election results.
- Introduced in-app promotions on Facebook and Instagram that directed more than 11 million people to the Census Bureau's website ahead of Census Day.
- Hired voting rights and census experts to consult teams working on elections and census.
- Proactively disseminated correct voting information.

- Trained get-out-the-count organizations on leveraging Facebook tools to encourage census participation.
- Banned misrepresentations of government involvement in the census, including that an individual's census information will be shared with another government agency.
- Banned calls for coordinated interference that would affect an individual's ability to participate in the census.
- Housed all voter suppression and census suppression policies in one place in the Community Standards.

Content Policy (including hate speech)

- Launched an expanded policy to explicitly ban praise, support, and representation of white supremacy.
- Broadened how Facebook defines hate targeted at people based on their national origin to prohibit hate targeted at people from a particular region (e.g., Central America, the Middle East, or Southeast Asia) in addition to prohibiting hate targeting people from a specific country.
- Banned content that explicitly calls for harassment of people on the platform.
- Removed humor as an exception to hate speech policies.
- Improved content reviewer tools to increase accuracy.
- Refined guidelines on self-referential use of slurs.
- Built tools for detecting organized harassment against disproportionately at-risk users.

Other Areas

- Provided more transparency on the appeals and penalties process for all Facebook users worldwide.
- Created guidelines, in consultation with experts, to mitigate unintentional biases in algorithms.
- Labeled content that violates Facebook Community Standards but have been left online for public awareness because of the content's newsworthiness.

Starbucks

Changes Made Through the Civil Rights Assessment/Audit

Personal

- Hired a chief inclusion and diversity officer. Established an Inclusion and Diversity Executive Council for guidance on internal equity matters.
- Connected executives' compensation to inclusion and diversity goals within their teams.
- Launched a mentorship program connecting BIPOC employees with senior leaders.
- Achieved 100 percent gender pay equity in the United States, Canada, and China.
- Resolved EEOC allegations and committed to improve transparency around opportunities for promotion.
- Met goal to hire 25,000 veterans and military spouses.
- Expanded mental health and family expansion benefits for retail workforce that is disproportionately people of color and women.

Antidiscrimination in Service Operations

- Revised antidiscrimination and anti-harassment policies to increase transparency.

- Examined Starbucks's role in community equity via listening sessions with local law enforcement and community members.
- Created a "To Be Welcoming" curriculum that teaches about bias, empathy, civility, and dialogue, originally designed for front-line Starbucks employees but made more broadly available to the public.
- Updated "third place policy," which typically empowers employees to feel comfortable asking individuals to leave if there are behavioral concerns.
- Opened 14 community stores in underserved neighborhoods. These stores focus on hiring locally, creating dedicated space for communities to come together for events, and working with diverse contractors for store construction and remodels.
- Expanded FoodShare program to 6,000 stores in partnership with Feeding America that packages eligible unsold food every evening and delivers the food to nonprofits around the United States.
- Created Courageous Conversations series about the murders of George Floyd, Ahmaud Arbery, and Breonna Taylor and other racial injustices.

Voter Education

Helped employees and customers register to vote and provided open-sourced voter education.

Glossary

Artificial intelligence - Artificial intelligence (AI) is intelligence demonstrated by machines, as opposed to the natural intelligence displayed by humans or animals.

BIPOC - Black, Indigenous, and people of color.⁷⁸

Civil rights - An expansive set of legal rights codified in federal and state law designed to protect individuals from unfair treatment. Broadly speaking, they assure the rights of individuals to be free from unfair treatment or discrimination in education, employment, housing, public accommodations, and other settings, based on certain legally protected characteristics.⁷⁹

Discrimination - Discrimination occurs when the civil rights of an individual are denied or interfered with because of the individual's membership in a particular group or class. Various jurisdictions have enacted statutes to prevent discrimination based on a person's race, sex, religion, age, previous condition of servitude, physical limitation, national origin, and in some instances sexual orientation."⁸⁰

Equity - The fair treatment, access, and opportunity for advancement for all people. Equity recognizes that there are advantages and barriers built into society that create uneven starting lines. Equity seeks to identify the root causes of these disparities and correct the imbalances.

ESG - Environmental, social, and governance.

LGBTQIA - Lesbian, gay, bisexual, transgender or transsexual, queer, intersex, or asexual.

Millennials - Anyone born between 1981 and 1996.⁸¹

Protected characteristic - A protected characteristic—also referred to as a protected class—is a personal trait that cannot be used as a reason to discriminate against someone. As stated on the EOCC's [website](#), these are eight protected characteristics in the United States in the context of [employment discrimination](#): race, color, religion, sex, national origin, age, disability, and genetic information. For the statutes that created these protections, see [Title VII of the Civil Rights Act of 1964](#), the [Age Discrimination in Employment Act](#) of 1967, the [Rehabilitation Act of 1973](#), and the [Americans with Disabilities Act of 1990](#).

Pregnancy is also protected under the ambit of sex (see the [Pregnancy Discrimination Act](#)). Discrimination on the basis of sexual orientation and gender identity is prohibited as sex discrimination following the 2020 Supreme Court case of [Bostock v. Clayton County, Georgia](#). Such protections are also extended in the context of education and in access to public amenities, such as shops, restaurants, and hotels.

In the context of housing discrimination, [section 3604](#) of the Fair Housing Act enumerates seven protected characteristics: race, color, national origin, religion, sex, familial status, and disability. Under this law, It is illegal to refuse to rent or sell property to a person based on one of those characteristics.⁸²

Shareholder advocacy - Using the power of stock ownership, shareholder advocates promote environmental, social, governance, and other policy changes in the form of proposals at annual stockholder meetings.

Organizations Consulted for the Report

American Civil Liberties Union
Asian Americans Advancing Justice
Center for Democracy and Technology
Color Of Change
Data and Society
Georgetown Law Center on Privacy and Technology
Human Rights Campaign
Joint Center for Political and Economic Studies
Lawyers' Committee for Civil Rights
The Leadership Conference on Civil and Human Rights
Mexican American Legal Defense and Educational Fund (MALDEF)
Muslim Advocates
National Action Network
NAACP
NAACP Legal Defense and Educational Fund (LDF)
National Black Worker Center
National Coalition for Black Civic Participation
National Coalition for Independent Living
National Council of Negro Women
National Day Laborers Organizing Network
National Taxi Workers Alliance (AFL-CIO)
National Urban League
One Fair Wage
Open MIC
PolicyLink
Rainbow Push Coalition
SEIU
SOC Investment Group
Upturn
UnidosUS
Voto Latino

Endnotes

- ¹ Lee, R. T., A. D. Perez, C. M. Boykin, and R. Mendoza-Denton, "On the Prevalence of Racial Discrimination in the United States," PLOS ONE 14, no. 1 (January 10, 2019), <https://journals.plos.org/plosone/article?id=10.1371/journal.pone.0210698>.
- ² Svetaz, M. V., T. Coyne-Beasley, M. Trent, R. Wade Jr., M. Howard, M. Kelley, and V. Chulani, "The Traumatic Impact of Racism and Discrimination on Young People and How to Talk About It," in *Reaching Teens*, 2nd ed. (American Academy of Pediatrics, 2020), <https://www.seattlechildrens.org/globalassets/documents/clinics/diversity/the-traumatic-impact-of-racism-and-discrimination-on-young-people-and-how-to-talk-about-it.pdf>.
- ³ Viswanatha, A., "U.S. Hate Crimes Rose in 2020 with Jumps in Racially Motivated Incidents," Wall Street Journal, Aug. 30, 2021, <https://www.wsj.com/articles/u-s-hate-crimes-rose-in-2020-with-jumps-in-racially-motivated-incidents-11630354599>.
- ⁴ Alcorn, C., "George Floyd's Death Was a Wake-up Call for Corporate America. Here's What Has - and Hasn't - Changed," CNN, May 25, 2021, <https://www.cnn.com/2021/05/25/business/corporate-america-anti-racism-spending/index.html>.
- ⁵ Mack, R., "Facebook Apologizes After A.I. Puts 'Primate' Label on Video of Black Men," New York Times, September 3, 2021, <https://www.nytimes.com/2021/09/03/technology/facebook-ai-race-primates.html>.
- ⁶ Wallis, C., "Why Racism, Not Race, Is a Risk Factor for Dying of COVID-19," Scientific American, June 12, 2020, <https://www.scientificamerican.com/article/why-racism-not-race-is-a-risk-factor-for-dying-of-covid-19/>.
- ⁷ Gelles, D., "'Corporate America Has Failed Black America,'" New York Times, June 6, 2020, <https://www.nytimes.com/2020/06/06/business/corporate-america-has-failed-black-america.html>.
- ⁸ Sandberg, S., "Making Progress on Civil Rights—But Still a Long Way to Go," About.Facebook.com, July 8, 2020, <https://about.fb.com/news/2020/07/civil-rights-audit-report/>.
- ⁹ Johnson, K., "Letter to Partners," Starbucks.com, Oct. 14, 2020, <https://stories.starbucks.com/press/2020/starbucks-role-and-responsibility-in-advancing-racial-and-social-equity/>.
- ¹⁰ Murphy, L. W., Airbnb's Work to Fight Discrimination and Build Inclusion: A Report Submitted to Airbnb. (September 8, 2016), https://blog.atairbnb.com/wp-content/uploads/2016/09/REPORT_Airbnbs-Work-to-Fight-Discrimination-and-Build-Inclusion.pdf, and Facebook's Civil Rights Audit - Final Report (July 8, 2020), <https://about.fb.com/wp-content/uploads/2020/07/Civil-Rights-Audit-Final-Report.pdf>.
- ¹¹ "Environmental, Social, and Governance (ESG) Criteria," Investopedia (March 5, 2021), <https://www.investopedia.com/terms/e/environmental-social-and-governance-esg-criteria.asp>.
- ¹² O'Leary, M., and W. Valdmantis, "An ESG Reckoning Is Coming," Harvard Business Review, March 4, 2021, <https://hbr.org/2021/03/an-esg-reckoning-is-coming>.
- ¹³ Corcione, A., "What Is Greenwashing?" Business News Daily, January 17, 2020, <https://www.businessnewsdaily.com/10946-greenwashing.html>.
- ¹⁴ A Report to Starbucks on the Progress of Its Efforts to Promote Civil Rights, Equity, Diversity, and Inclusion, Stories.Starbucks.com, February 24, 2020, <https://stories.starbucks.com/uploads/2020/02/Starbucks-Civil-Rights-Assessment-2020-Update.pdf>.
- ¹⁵ A Report to Starbucks on the Progress of Its Efforts to Promote Civil Rights, Equity, Diversity, and Inclusion, Stories.Starbucks.com, March 31, 2021, <https://stories.starbucks.com/uploads/2021/03/Starbucks-2021-Civil-Rights-Assessment.pdf>.
- ¹⁶ "The Afro-American: Founder John Henry Murphy Sr.," PBS.org, n.d., https://www.pbs.org/blackpress/news_bios/afroamerican.html.
- ¹⁷ Crenshaw, K., "What Is Intersectionality?" National Association of Independent Schools, streamed live on June 22, 2018, YouTube video, <https://www.youtube.com/watch?v=ViDtnfQ9FHc>.
- ¹⁸ Some companies have conducted broader human rights impact assessments to consider the impact of their products and operations through the lens of the UN Guiding Principles on Business and Human Rights. Companies often use frameworks such as the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights and on Economic Social and Cultural Rights, and the International Labour Organization (ILO) Core Conventions as a basis for assessments. This paper is based on a U.S. federal and local civil rights law framework.
- ¹⁹ "Fortune 500," Fortune, n.d., <https://fortune.com/fortune500/2021/search/>.
- ²⁰ The State of Corporate Reputation in 2020: Everything Matters Now, Weber Shandwick, n.d., http://www.webershandwick.com/wp-content/uploads/2020/01/The-State-of-Corporate-Reputation-in-2020_executive-summary_FINAL.pdf.
- ²¹ Goodman, J. D., "Amazon Pulls Out of Planned New York City Headquarters," New York Times, February 19, 2019, <https://www.nytimes.com/2019/02/14/nyregion/amazon-hq2-queens.html>.
- ²² "The Federal Reserve's Response to the Coronavirus Pandemic," testimony of Jerome H. Powell, chairman of the Board of Governors of the Federal Reserve System, before the House Select Subcommittee on the Coronavirus Crisis, June 22, 2021, <https://www.federalreserve.gov/newsevents/testimony/powell20210622a.htm>.
- ²³ "One Year Later: Purpose of a Corporation," Business Roundtable, n.d., <https://purpose.businessroundtable.org/>.

- ²⁴ Schaeffer, K., "6 Facts about Economic Inequality in the U.S.," Pew Research Center, February 7, 2020, <https://www.pewresearch.org/fact-tank/2020/02/07/6-facts-about-economic-inequality-in-the-u-s/>.
- ²⁵ Dalton, M., J. A. Groen, M. A. Loewenstein, D. S. Piccone Jr., and A. Polivka, "The K-Shaped Recovery," U.S. Bureau of Labor Statistics, July 2021, <https://www.bls.gov/osmr/research-papers/2021/ec210020.htm>.
- ²⁶ Akee, R., "Voting and Income," Econofact.org, February 7, 2019, <https://econofact.org/voting-and-income>.
- ²⁷ Siripurapu, A., "The U.S. Inequality Debate," Council on Foreign Relations, July 15, 2020, <https://www.cfr.org/background/US-inequality-debate>.
- ²⁸ Frye, J., "On the Frontlines at Work and at Home," Center for American Progress, April 23, 2020, <https://www.americanprogress.org/issues/women/reports/2020/04/23/483846/frontlines-work-home/>.
- ²⁹ Turner, A. Business Case for Racial Equity. W. K. Kellogg Foundation, July 24, 2018, <https://www.wkkf.org/resource-directory/resources/2018/07/business-case-for-racial-equity>.
- ³⁰ Edelman, R., "The 2021 Edelman Trust Barometer Special Report: Business and Racial Justice in America," Edelman.com, May 6, 2021, <https://www.edelman.com/trust/2021-trust-barometer/business-racial-justice>.
- ³¹ Bahrampour, T. and T. Mellnick, "All Population Growth in U.S. Driven by Minorities, Upcoming Census Is Likely to Reveal," Washington Post, August 10, 2021, <https://www.washingtonpost.com/dc-md-va/2021/08/10/census-race-population-changes-redistricting/>.
- ³² A Call for Accountability and Action: The Deloitte Global 2021 Millennial and Gen Z Survey, Deloitte (2021), <https://www2.deloitte.com/content/dam/Deloitte/global/Documents/2021-deloitte-global-millennial-survey-report.pdf>.
- ³³ Pandey, E., "Business, Politics, and the Workplace," Generation Lab, n.d., www.generationlab.org/business-views.
- ³⁴ A Call for Accountability and Action: The Deloitte Global 2021 Millennial and Gen Z Survey, Deloitte.
- ³⁵ Fry, R., and K. Parker, "Early Benchmarks Show 'Post-Millennials' on Track to Be Most Diverse, Best-Educated Generation Yet," Pew Research Center, November 15, 2018, <https://www.pewresearch.org/social-trends/2018/11/15/early-benchmarks-show-post-millennials-on-track-to-be-most-diverse-best-educated-generation-yet/>.
- ³⁶ EEO-1 Data Collection, U.S. Equal Employment Opportunity Commission.
- ³⁷ Maiden, B., "Investor Groups Probing Issuers on Racial Equity Messaging this Proxy Season," Corporate Secretary, June 17, 2021, <https://www.corporatesecretary.com/articles/esg/32614/investor-groups-probing-issuers-racial-equity-messaging-proxy-season>.
- ³⁸ Remarks by Thomas P. DiNapoli at SEIU Capital Stewardship Program and CtW Investment Group Webinar, "Racial Equity Audits: A Critical Tool for Shareholders," April 13, 2021, Albany, NY, <https://www.sec.gov/Archives/edgar/data/0001018724/000121465921004165/r413211px14a6g.htm>.
- ³⁹ Kishan, S., and M. Hirtzer, "Tyson Investor Calls on Meat Producer to Perform Racial Audit," Bloomberg Equality, September 3, 2021, <https://www.bloomberg.com/news/articles/2021-09-03/tyson-investor-calls-on-meat-producer-to-perform-racial-audit>.
- ⁴⁰ Ifill, S. (@SifillLDF). 2021. "Lwmmurphy is a total boss. Unrelenting and determined, she has transformed the civil rights audit into a powerful and rigorous tool to confront and address corporate anti-civil rights policies and practices. I learn so much from her." Twitter, August 5, 2021, 2:54 p.m., https://twitter.com/Sifill_LDF/status/1423356734647816195.
- ⁴¹ Letter to members of Congress, Leadership Conference on Civil and Human Rights, March 25, 2021, http://civilrightsdocs.info/pdf/policy/letters/2021/Letter_for_Record_SocialMediaandExtremism_32521.pdf.
- ⁴² "Beyond the Statement: Tech Framework," Color of Change, n.d., <https://colorofchange.org/btstech/>.
- ⁴³ The 2021 CEO Blueprint for Racial Equity: What Companies Can Do to Advance Racial Equity and Combat Systemic Racism in the Workplace, Communities, and Society. PolicyLink, FSG, and JUST Capital, June 2021, <https://www.fsg.org/publications/2021-ceo-blueprint-racial-equity>.
- ⁴⁴ Manley, R., T. Patel, and J. Kron, "Racial Justice Audits: Holding Companies Accountable for Their Role in System Racism," Proxy Preview.com, March 16, 2021, <https://www.proxypreview.org/2021/contributor-articles-blog/racial-justice-audits-holding-companies-accountable-for-their-role-in-system-racism?rq=racial%20audits>.
- ⁴⁵ "Letter to Asset Managers," Majority Action and SEIU, April 20, 2021, <https://www.racialjustice.majorityaction.us/letter-to-asset-managers>.
- ⁴⁶ Nix, N., "The Woman Who Did Facebook's Racial Audit Is About to Be Really Busy," Bloomberg Businessweek, August 5, 2021, <https://www.bloomberg.com/news/articles/2021-08-05/how-aclu-veteran-laura-murphy-audited-facebook-s-race-problem>.
- ⁴⁷ U.S. Sen. Cory Booker, "Booker Urges Facebook to Enact Broader Reforms," press release, May 14, 2018, <https://www.booker.senate.gov/news/press/booker-urges-facebook-to-enact-broader-reforms>.
- ⁴⁸ Lima, C., "Senate Democrats Call on Google to Conduct Racial Equity Audit," Politico, June 2, 2021, <https://www.politico.com/news/2021/06/02/senate-democrats-google-racial-equity-491605>.
- ⁴⁹ Lima, C., "Analysis: The Technology 202: Democrats Urged Google to Get Itself Vetted for Racial Biases. It Hasn't Budged," Washington Post, August 10, 2021, <https://www.washingtonpost.com/politics/2021/08/10/technology-202-democrats-urged-google-get-itself-vetted-racial-biases-it-hasnt-budged/>.
- ⁵⁰ U.S. Rep. Bobby L. Rush, "Rush: 'Mr. Dorsey, Where Is the Audit?'" press release, March 5, 2021, <https://rush.house.gov/media-center/press-releases/rush-mr-dorsey-where-audit>.

- ⁵¹ Zakrzewski, C. "The Technology 202: Mark Zuckerberg Struggles to Defend Facebook's Civil Rights Record," Washington Post, October 24, 2019, <https://www.washingtonpost.com/news/powerpost/paloma/the-technology-202/2019/10/24/the-technology-202-mark-zuckerberg-struggles-to-defend-facebook-s-civil-rights-record/5db0811f602ff10cf14f9700/>.
- ⁵² Goldber-Zelizer, A., "Lawmakers Debate Bill Mandating Racial Equity Audits at Firms," The Hill, June 20, 2021, <https://thehill.com/policy/finance/561026-lawmakers-debate-bill-mandating-racial-equity-audits-at-firms?rl=1>.
- ⁵³ "The Legacy of George Floyd: an Examination of Financial Services Industry Commitments to Economic and Racial Justice," U.S. House Subcommittee on Diversity and Inclusion, streamed live on June 29, 2021, YouTube, 3 p.m., <https://financialservices.house.gov/calendar/eventsingle.aspx?EventID=407754#LiveStream>.
- ⁵⁴ McGhee, H. C., and S. Ifill, Toward a Vision for Racial Equity & Inclusion at Starbucks: Review and Recommendations, Demos, July 2018, <https://www.demos.org/research/toward-vision-racial-equity-inclusion-starbucks-review-and-recommendations>.
- ⁵⁵ Hao, K., "The Two-Year Fight to Stop Amazon from Selling Face Recognition to the Police," MIT Technology Review, June 12, 2020, <https://www.technologyreview.com/2020/06/12/1003482/amazon-stopped-selling-police-face-recognition-fight/>.
- ⁵⁶ This report supports a robust DEI function within a company and the need for hiring more people from protected classes. This is an area where greater transparency is needed. Unfortunately, most companies do not publicly disclose the racial and gender makeup of their workforces, staff and boards, but they should. According to JUST Capital, only [32 companies in the Russell 1000 disclosed detailed EEO-1 reports](#) in 2019. This lack of disclosure is problematic because it makes it difficult to evaluate companies on issues of pay parity, employee discrimination, and diversity and inclusion practices. There is no way to measure a company's commitment to diversify if those data are not public. This lack of disclosure can lead to the inability to attract and retain a quality workforce and create reputational harm. In the wake of the Floyd protests, there has been a surge in shareholder proposals calling for diversity reporting—10 in 2020 alone, up from three in 2016.
- ⁵⁷ Guiding Principles on Business and Human Rights Implementing the United Nations "Protect, Respect and Remedy" Framework. (New York and Geneva: UN Office of the High Commissioner, 2011),
- ⁵⁸ "United Nations Guiding Principles on Business and Human Rights," Wikipedia.com, https://en.wikipedia.org/wiki/United_Nations_Guiding_Principles_on_Business_and_Human_Rights.
- ⁵⁹ "Universal Declaration of Human Rights," United Nations, <https://www.un.org/en/about-us/universal-declaration-of-human-rights>
- ⁶⁰ Protected characteristic," Legal Information Institute, https://www.law.cornell.edu/wex/protected_characteristic.
- ⁶¹ Remarks by Thomas P. DiNapoli at SEIU Capital Stewardship Program and CtW Investment Group Webinar, "Racial Equity Audits: A Critical Tool for Shareholders," April 13, 2021, Albany, NY.
- ⁶² della Cava, M., "Airbnb CEO Chesky Vows Site Overhaul with Racism in Mind," USA Today, June 8, 2016, <https://www.usatoday.com/story/tech/news/2016/06/08/airbnb-ceo-chesky-vows-site-overhaul-racism-mind/85601304/>.
- ⁶³ "Racial equity audits" by definition are not only about the impacts on Black people. Though many may be thinking of it that way or doing audits with that limited scope, the term is meant to cover all people of color.
- ⁶⁴ Mer, B. "A Review of 'The Importance of Intersectionality for Research on the Sexual Harassment of Black Queer Women at Work,'" Race, Research & Policy Portal, May 1, 2021, <https://rapp.hks.harvard.edu/intersectional-research-on-workplace-sexual-harassment-of-black-queer-women-is-needed/#0>.
- ⁶⁵ "Cultural competence" is defined as a set of values, behaviors, attitudes and practices within a system, organization, program, or among individuals "that enable them to work effectively cross-culturally." https://nccc.georgetown.edu/culturalbroker/8_Definitions/index.html.
- ⁶⁶ Banjo, S., "Facebook Is Latest Tech Company to Ignore Employee Alarm Bells," Bloomberg Equality, October 7, 2021, <https://www.bloomberg.com/news/newsletters/2021-10-07/facebook-whistle-blower-testimony-shows-latest-tech-to-ignore-employees?sref=k4Fjl2Tp>.
- ⁶⁷ Similar analysis has been conducted in the area of climate change; see B. Bradham, A. Tartar, and H. Warren, "American Politicians Who Vote Against Climate Get More Corporate Cash," Bloomberg Green, October 23, 2020, <https://www.bloomberg.com/graphics/2020-election-company-campaign-finance-climate-change/>.
- ⁶⁸ There is a great deal of concern in the civil rights community about investments in private prisons, border facilities, and related construction industries See <https://prisonfreefunds.org/> and https://colorofchange.org/press_release/civil-rights-group-targets-principal-financial-ove/.
- ⁶⁹ Carlos, I., "Racial equity audits are rising. Here's what businesses should know." Minneapolis/St. Paul Business Journal, October 13, 2021, <https://www.bizjournals.com/twincities/news/2021/10/11/facebook-airbnb-starbucks-racial-equity-audits.html>
- ⁷⁰ "Larry Fink's 2021 Letter to CEOs: A Fundamental Reshaping of Finance," BlackRock, n.d., <https://www.blackrock.com/corporate/investor-relations/2020-larry-fink-ceo-letter>.
- ⁷¹ "SEC Approves Nasdaq Board Diversity Proposals," National Law Review 11, no. 290 (August 9, 2021), <https://www.natlawreview.com/article/sec-approves-nasdaq-board-diversity-proposals>.
- ⁷² "Corporate Call to Action: Coalition for Equity & Opportunity Announces Commitments to Disclose Workforce Data, Furthering Diversity, Equity, and Inclusion Efforts," press release, Corporate Call to Action: Coalition for Equity & Opportunity, February 11, 2021, <https://portal.ct.gov/-/media/OTT/Press-Room/Press-Releases/2021/PR021121-CorporateActionCoalitionEquityOpportunityCommitmentDiscloseWorkforceData.pdf>.
- ⁷³ <https://oneten.org/>.
- ⁷⁴ "The Board's Oversight of Racial and Ethnic Diversity, Equity and Inclusion," Russell Reynolds Associates, July 13, 2021 <https://www.russellreynolds.com/insights/thought-leadership/the-boards-oversight-of-racial-and-ethnic-diversity-equity-and-inclusion>.
- ⁷⁵ "Business Roundtable Commits to Break Down Barriers to Economic Opportunity," press release, Business Roundtable, n.d., <https://www.businessroundtable.org/equity>.
- ⁷⁶ "How to Advance Corporate Diversity in Compliance with the Law: a Toolkit," WilmerHale, October 8, 2021,

<https://www.wilmerhale.com/en/insights/publications/20211007-how-to-advance-corporate-diversity-in-compliance-with-the-law-a-toolkit>.

⁷⁷ The Corporate Racial Equity Tracker, JUST Capital, n.d., <https://justcapital.com/reports/corporate-racial-equity-tracker>,

⁷⁸ Garcia, S., "Where Did BIPOC Come From?" New York Times, June 17, 2020, <https://www.nytimes.com/article/what-is-bipoc.html>.

⁷⁹ "What Are Civil Rights?" Findlaw, n.d., <https://www.findlaw.com/civilrights/civil-rights-overview/what-are-civil-rights.html>

⁸⁰ "Civil Rights," Legal Information Institute, n.d., https://www.law.cornell.edu/wex/civil_rights.

⁸¹ Dimock, M., "Defining Generations: Where Millennials End and Generation Z Begins," Pew Research Center, January 17, 2019, <https://www.pewresearch.org/fact-tank/2019/01/17/where-millennials-end-and-generation-z-begins/>.

⁸² "Protected characteristic," Legal Information Institute, n.d., https://www.law.cornell.edu/wex/protected_characteristic.

