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Racial Equity Audits Are A Step in the Right Direction

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"I wish I could say that racism and prejudice were only distant memories … We must dissent from the indifference. We must dissent from the apathy. We must dissent from the fear, the hatred and the mistrust … We must dissent because America can do better, because America has no choice but to do better."

—Justice Thurgood Marshall

Workplace discrimination is prohibited by Title VII of the Civil Rights Act of 1964. Notwithstanding this federal law, the underlying jurisprudence applying it, and its state and local analogues, fair and equitable treatment of employees remains elusive for many organizations. According to a 2019 Glassdoor survey, 61% of U.S. employees reported that they have witnessed or experienced workplace discrimination, and stark racial and gender disparities in professional advancement persist at every level in every major industry. Furthermore, evidence suggests that some of the most common interventions to promote diversity do not work as intended.

The 2020 murder of George Floyd and the ensuing public outcry jolted the nation—and the racial equity movement—in ways unseen in decades. As intolerance for inequities in policing and the workplace grew, corporations across the nation pledged their commitment to transform their hiring, promotion, and retention practices to foster inclusion for personnel at all levels.

Whether organizations have made good on these commitments is an open question.

Racial Equity Audits have emerged as a promising method for answering that question and addressing identified shortcomings. A Racial Equity Audit is a third-party assessment—often conducted by an external law firm—of the policies, procedures, and practices an organization has implemented to identify and address systemic bias and discrimination. But an effective Audit goes beyond policies, procedures and practices—it also assesses whether the organization is succeeding in building a more diverse, equitable, and inclusive workplace (and in certain cases, whether its business is contributing to—or could be perceived as contributing to—external racial or other inequities).

The legal case for Racial Equity Audits is compelling and not entirely new. Indeed, this emerging trend builds on the rise in the consideration of Environmental, Social, and Governance (ESG) factors in investment decisions and the

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increasing focus on corporate social responsibility and the purpose of corporations to serve all stakeholder constituencies. Companies are increasingly incorporating ESG considerations, such as addressing climate change and ensuring pay equity, into business decisions and corporate values. In addition, recent shareholder activism, including at some of the largest corporations, has focused on civil rights and racial inequities directly through shareholder proposals, derivative suits, or even prominent comptrollers' requests. New York State Comptroller Thomas P. DiNapoli, for example, has filed, and even re-filed, shareholder proposals urging a number of large corporations to conduct Racial Equity Audits.

Stock exchanges and states have similarly demanded action. In August 2021, Nasdaq's Board Diversity Rule (Rule 5606(f)) was approved by the Securities and Exchange Commission. The Rule requires that companies now publicly disclose board diversity statistics and "have or explain why they do not have at least two diverse directors." California has taken this a step further. Using a phased-in approach, California will require all companies with their principal office in the state to have a certain number of board members from under-represented groups, based on board size, by the end of this year. Companies that fail to do so will face potentially steep fines. With such requirements being imposed by regulators, the corporate climate toward racial equity is quickly shifting to adjust to these mandates.

In addition to the legal case for Racial Equity Audits, strong scientific grounds underpin the value of this work. The science of racial (in)equity is clear: Good intentions to act without bias are not enough. Over three decades of research document the existence of implicit biases and how they can influence behavior outside of conscious awareness. For instance, prominent hiring audit studies have demonstrated that when an identical resume is submitted with either a Black-sounding or a White-sounding name, the person with the White-sounding name receives more callbacks. Similarly, when lawyers reviewed an identical memo, they evaluated the memo as worse overall and found more errors when they thought the author was Black as opposed to White. This reality often leads applicants and workers of color to employ strategies to circumvent these biases, such as White-washing their resumes (i.e., stripping a resume of cues that signal race) and code-switching (i.e., approximating oneself to Whiteness through speech, behavior, and mannerisms). These emotionally and cognitively taxing strategies often lead to more callbacks and greater career advancement.

Closing the gap between well-meaning diversity efforts and true equity and inclusion is difficult. Racial Equity Audits are a step in the right direction toward creating accountability between values and outcomes.

While one might anticipate that well-meaning organizations that have expressed a strong commitment to diversity, equity, and inclusion (DEI) would fare better, diversity-valuing organizations show the same bias, giving more callbacks to people with resumes that had been White-washed. Furthermore, evidence shows that the mere presence of diversity structures (e.g., diversity statements; diversity training programs) can create an illusory sense of fairness that itself obscures bias. In a series of studies, people were less likely to identify discriminatory practices when an organization had a formal diversity structure (versus not) *and* reacted more harshly toward people who claimed discrimination.

Closing the gap between well-meaning diversity efforts and true equity and inclusion is difficult. Racial Equity Audits are a step in the right direction toward creating accountability between values and outcomes. Audits help identify the unconscious ways in which individual actions adversely affect diversity in the workplace, while facilitating opportunities to consciously combat such behaviors. Indeed, the benefits are twofold: not only do Racial Equity Audits provide deep insights into the operations of the organization, these audits can serve as a starting point from which organizations can make much needed changes.

But how are audits conducted and what can be learned from doing one? Key elements of a Racial Equity Audit include:

(1) A review of formal organizational structures, including mission statements, policies, programming, and practices. This is the backbone of a Racial Equity Audit. What are the values of the organization, and in what ways are those values articulated to stakeholders? How are values institutionalized through policies, programming, and practices? A thorough review is conducted in order to document existing (and missing) structures. But as previously discussed, this type of review alone is insufficient if true equity is the goal.

(2) An analysis of representation. A key metric of success in any racial equity effort is the healthy representation of people of color. A thorough analysis is conducted to document current representation at all levels of the organization and the pathways to promotion that exist to develop internal talent for the future. These analyses often examine the racial composition of an organization, as well as the demographics of other under-represented groups, to tell a holistic story about diversity and intersectionality.

(3) An assessment of culture and inclusion. Diversity, as measured by representation, and equity (e.g., equal pay) can coexist alongside implicit biases. These biases can undermine otherwise well-intentioned efforts and initiatives, create a permissive culture in which discrimination or harassment go unaddressed, and negatively impact the well-being of employees. To effect real change, an assessment of culture and inclusion must be a priority. Culture can be assessed through interviews, surveys, focus groups, and data collection from sites such as Glassdoor.

Given the demands, expectations, and requirements surrounding DEI efforts, many proponents of Racial Equity Audits argue that these audits should be as commonplace as audits of any other operation, and soon they may be.

(4) A human-centered approach. An essential aspect of a Racial Equity Audit is that it be human-centered. Though policies and procedures will feature prominently in the assessment, so, too, must the observations and perceptions of individuals. If employees are not given a platform to voice their opinions and express their concerns, they may instead vote with their feet. According to a study published this year in *MIT Sloan Management Review*, a toxic culture—defined in part by a failure to promote DEI—was a 10-times stronger predictor of turnover than compensation.

(5) A data-driven approach. Last, but not least, a Racial Equity Audit is rooted in data—measurement is key to tracking performance and progress. For instance, it is not enough to simply assess whether or not a policy exists—it is essential to also know whether it is working. The research referenced above—demonstrating the ways in which diversity structures can backfire—serves as a cautionary tale. In an effective Audit, both quantitative and qualitative data are collected to capture breadth and depth of insight.

Given the demands, expectations, and requirements surrounding DEI efforts, many proponents of Racial Equity Audits argue that these audits should be as commonplace as audits of any other operation, and soon they may be. The legal, scientific, and social underpinnings for that argument are strong. Further, organizations need not wait for employee turnover, the threat of a lawsuit, or a reputational crisis to conduct a Racial Equity Audit. Rather, companies can be proactive in taking steps to learn about their DEI status and progress, mitigate long-term risk, and bring their values to life.