

CRONYISM IN CREATING CHRONIC DISEASE—A PATH TO FOOD JUSTICE

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I. INTRODUCTION

Central to this discussion is a quote often attributed to the ancient Greek physician Hippocrates: “Let food be thy medicine, and medicine be thy food.” Today, physicians recognize the crucial role of diet in maintaining good health and preventing chronic disease, but U.S. laws fail to reflect this understanding. The health field has seen significant progress in scientific research on pathology; however, nutritional research presents a challenging and contradictory landscape. Corporate influence in scientific research leads to a lack of consensus on the most optimal diet for promoting general health, presenting a

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challenge for policymaking.¹ The dark reality is that people are fed by the food industry, which pays no attention to health, and are treated by the health industry, which pays no attention to food.

Big Food corporations zealously lobby the federal government, seeking subsidies and latitude to seep into every facet of our lives—from baby formula to school lunches and in every vending machine or corner store.² Agrochemical companies have also lobbied the federal government for systemic use in our food system, from agriculture to raising livestock.³ Since Big Food corporations and chemical companies rose to influence our food system, we have seen a systemic decline in health outcomes as a nation.⁴ As a nation, we are experiencing a chronic disease pandemic with health expenditures at an all-time high and increasing every year.⁵ Consolidation and monopolization of food, agriculture, and healthcare have led to a corporate capture of our entire health and food system. This paper exposes the crony public policies that have shaped a food system conducive to chronic disease and paves a way for food justice.

II. THE PROBLEM: CURRENT HEALTH TRENDS

Multiple federal agencies are responsible for evaluating public health and evaluating trends in chronic disease. The Human Health and Services Department oversees several key agencies: the National Institutes of Health (NIH), the Center for Disease Control and Prevention (CDC), the Agency for Toxic Substances and Disease Registry (ATSDR), and the Food and Drug Administration (FDA), among many others.⁶ These agencies are central in setting health policy and interpreting scientific evidence to support regulatory decisions. For this discussion, the term “chronic disease” refers to noncommunicable, long-lasting health conditions such as metabolic disorders, autoimmune disease, neurological and genetic conditions, and various cancers.⁷ “Metabolic illness,” more specifically, references a group of chronic diseases related to disruptions in the body’s metabolic processes— including heart disease, type 2 diabetes, obesity,

¹ See Angela Carriedo et al., *The Corporate Capture of the Nutrition Profession in the USA: The Case of the Academy of Nutrition and Dietetics*, 25 PUB. HEALTH NUTR. 3568, 3568–69 (2022).

² See *Food Processing & Sales: Lobbying*, OPEN SECRETS, <https://www.opensecrets.org/industries/lobbying?cycle=All&ind=A09> (last visited Oct. 17, 2025).

³ See Rebecca Raney, *Pesticide-Related PAC Money Surges into State Legislatures as Companies Seek to Limit Damage Awards in Court*, U.S. RIGHT TO KNOW (Oct. 31, 2024), <https://usrtk.org/pesticides/pesticide-related-pac-money-surges-into-state-legislatures>.

⁴ See Aaron Stern, *Food Industry Influence on Dietary Advice in the United States*, NAT’L CONF. ON UNDERGRADUATE RSCH. 290, 290 (2016).

⁵ See Karen Hacker, *The Burden of Chronic Disease*, 8 MAYO CLINIC PROC. INNOVATIONS, QUALITY & OUTCOMES 112, 112 (2024).

⁶ See *HHS Agencies & Offices*, U.S. DEP’T OF HEALTH & HUM. SERV.’S, <https://www.hhs.gov/about/agencies/hhs-agencies-and-offices/index.html> (last visited Oct. 17, 2025).

⁷ See *About Chronic Disease*, CTR. FOR DISEASE CONTROL & PREVENTION (Oct. 4, 2024), <https://www.cdc.gov/chronic-disease/about>.

stroke, and even cancers.⁸ These conditions are interrelated through various metabolic pathways and represent a significant global health burden.⁹

Since the 1970s, health trends in the United States have shown a dramatic rise in chronic and metabolic disease.¹⁰ The NIH has conducted nationwide surveys since the early 1960s, and their surveys show that obesity rates have tripled over the last 60 years.¹¹ Severe obesity, also known as morbid obesity, has risen tenfold.¹² Type 2 diabetes, which was a rare condition affecting only 1% of the population in the 1960s, now affects almost 12% of the population.¹³ These health trends have paralleled a profound shift in national dietary patterns from the 19th century until now—characterized by an increase in portion sizes and heavy reliance on ultra-processed foods.¹⁴

Studies dating back to 1975 demonstrate a drastic increase in cancer across all population demographics and identify several cancers for which increasing weight exacerbates the demographic trends.¹⁵ Excess weight is associated with an increased risk of various types of cancers.¹⁶ These associations reinforce the need to examine environmental and dietary causes of metabolic illness—yet, our public health and regulatory agencies have failed to address these concerns.

The goal here is not to resolve enduring scientific controversies—it is to expose how they paralyze public health policy and to demand a purge of the conflicts of interest corroding our regulatory system. The failure of agencies to respond adequately to the chronic epidemic is not just scientific—it's structural. In the 1950s, the government began investigating the genesis of increasing rates

⁸ See *What Is Metabolic Syndrome?*, AM. HEART ASS'N, <https://www.heart.org/en/health-topics/metabolic-syndrome/about-metabolic-syndrome> (last visited Oct. 17, 2025).

⁹ See Hacker, *supra* note 5, at 112–13.

¹⁰ See NATIONAL RESEARCH COUNCIL (US) COMMITTEE ON NATIONAL MONITORING OF HUMAN TISSUES, *Appendix D: The National Health and Nutrition Examination Survey*, in *MONITORING HUMAN TISSUES FOR TOXIC SUBSTANCES* 201, 201 (1991).

¹¹ See *id.*

¹² See Chrysi Koliaki et al., *Update on the Obesity Epidemic: After the Sudden Rise, Is the Upward Trajectory Beginning to Flatten?*, 12 *CURRENT OBESITY REP.* 514, 514–15 (2023).

¹³ See *Health Statistics*, CTR. FOR DISEASE CONTROL & PREVENTION (Sept., 1960), https://www.cdc.gov/nchs/data/public_health/seriesb_21.pdf.

¹⁴ Joyce H. Lee et al., *United States Dietary Trends Since 1800: Lack of Association Between Saturated Fatty Acid Consumption and Non-communicable Diseases*, 8 *FRONTIERS IN NUTRITION* 1, 10–12 (Jan. 13, 2022), <https://www.frontiersin.org/journals/nutrition/articles/10.3389/fnut.2021.748847/full>.

¹⁵ See Hannah K. Weir et al., *The Past, Present, and Future of Cancer Incidence in the United States: 1975 Through 2020*, 121 *AM. CANCER SOC'Y J.* 1827, 1829, 1835–36 (2015), <https://acsjournals.onlinelibrary.wiley.com/doi/epdf/10.1002/ncr.29258> (describing how between 1975 and 2009, the number of cases diagnosed with cancer increased by 95.3% among white males, 76.6% among white females, 183.4% among black males, and 192.9% among black females).

¹⁶ See Christie Ehemann et al., *Annual Report to the Nation on the Status of Cancer, 1975-2008, Featuring Cancers Associated with Excess Weight and Lack of Sufficient Physical Activity*, 118 *AM. CANCER SOC'Y J.* 2338, 2338–40 (2012), <https://acsjournals.onlinelibrary.wiley.com/doi/epdf/10.1002/ncr.27514> (explaining how excess weight is a risk factor for various types of cancer including: female breast, colon and rectum, esophagus (adenocarcinomas), corpus uteri, pancreas, and kidney and renal pelvis).

of Coronary Heart Disease (CHD).¹⁷ By the 1960s, there were two prominent and divergent hypotheses of CHD: John Yudkin, who identified added sugars as the primary culprit; and Ancel Keys, who identified total fat, saturated fat, and dietary cholesterol as the catalyst for CHD.¹⁸ Keys ultimately won the political and scientific backing necessary to institutionalize his “diet-heart hypothesis.” The sugar industry, in coordination with the Sugar Research Foundation, funded Project 226, a research initiative that downplayed the role of sugar in CHD and redirected blame toward dietary cholesterol and saturated fat.¹⁹ Internal documents revealed the sugar industry executives edited the final publications to minimize the implications of sugar and its effects on cholesterol levels and triglycerides.²⁰

Ancel Keys successfully convinced the American Heart Association (AHA) to adopt his “diet-heart hypothesis” as official AHA policy.²¹ The AHA, bolstered by industry donors, including Procter & Gamble, the makers of Crisco, advocated for a national dietary shift away from animal fats and toward industrial vegetable oils.²² Procter & Gamble’s donation, equivalent to nearly \$20 million today, secured the AHA’s support and launched what would become the first and single-most influential nutrition policy in U.S. history.²³ From 1970 to 2014, American consumption of vegetable oils increased by nearly 90% as saturated fats were vilified and polyunsaturated alternatives received institutional endorsement.²⁴

A. U.S. DIETARY GUIDELINES

The U.S. Department of Agriculture’s (USDA) Dietary Guidelines for Americans are the federal government’s recommendations to promote health, prevent diet-related chronic diseases, and meet nutrient needs.²⁵ These guidelines are reviewed every five years and serve as a foundation for national food policy, federal nutrition programs, and public health messaging.²⁶ In 1980, the USDA published its first Dietary Guidelines for Americans, which focused on

¹⁷ See Cristin E. Kearns et al., *Sugar Industry and Coronary Heart Disease Research*, PUBMED CENT. 1, 1–2 (Nov. 1, 2016), <https://pmc.ncbi.nlm.nih.gov/articles/PMC5099084/pdf/nihms816629.pdf>.

¹⁸ See *id.* at 2.

¹⁹ See *id.* at 4–5.

²⁰ See *id.* at 8.

²¹ Nina Teicholz, *A Short History of Saturated Fat: The Making and Unmaking of a Scientific Consensus*, 30 CURRENT OP. ENDOCRINOL., DIABETES & OBESITY, 65, 66 (Feb. 2023), https://journals.lww.com/co-endocrinology/fulltext/2023/02000/a_short_history_of_saturated_fat_the_making_and.10.aspx.

²² See *id.* (explaining that animal products are a natural source of cholesterols and saturated fat while vegetable oils are lower in cholesterol but contain polyunsaturated fatty acids).

²³ See *id.*

²⁴ See *id.*

²⁵ *Dietary Guidelines for Americans*, U.S. DEP’T OF AGRIC., <https://www.fns.usda.gov/cnpp/dietary-guidelines-americans> (last visited Oct. 17, 2025).

²⁶ See *id.*

reducing total fat, saturated fat, and dietary cholesterol for CHD prevention.²⁷ These recommendations were deeply influenced by Ancel Keys' diet-heart hypothesis.²⁸ As a result, the federal government advised Americans to replace traditional animal fats with industrial seed oils—such as Crisco—based on the erroneous belief that these alternatives would improve heart health.²⁹ The consequences were disastrous: hydrogenated oils were later found to be a major contributor to CHD due to their artificial trans-fat content, a fact which took health officials nearly a century to correct publicly.³⁰

Similarly, U.S. health agencies long restricted egg consumption based on the mistaken belief that dietary cholesterol caused CHD—a stance embedded in federal dietary guidelines since 1968, until it was finally rescinded 47 years later.³¹ Notably, the U.S. government was the first country in the world to recommend saturated fat and cholesterol restrictions, and their policies heavily influenced global nutrition policies.³² Despite the longstanding dominance of the diet-heart hypothesis in official dietary guidance, chronic disease rates in the United States have only worsened.³³ Heart disease remains the number one cause of death in the United States, followed by cancer.³⁴ Since the federal government began issuing national dietary recommendations in the late 1970s, the rates of chronic diseases have surged.³⁵ Yet, federal agencies are slow to reevaluate and meaningfully revise the core assumptions of their guidelines, dating back to 1977.³⁶

The USDA introduced the Food Guide Pyramid in 1992, later replaced by MyPlate in 2011.³⁷ What remains constant after each dietary guideline is the strong recommendation for daily grain consumption and the continued vilification of saturated fats.³⁸ Data shows it is not just personal choice—government

²⁷ *1980 Dietary Guidelines for Americans*, U.S. DEP'T OF AGRIC., <https://www.dietaryguidelines.gov/about-dietary-guidelines/previous-editions/1980-dietary-guidelines-americans> (last visited Oct. 17, 2025) (showing the dietary guideline chart from 1980 to current).

²⁸ Teicholz, *supra* note 21, at 69.

²⁹ *Id.* at 66.

³⁰ Angela Amico et al., *The Demise of Artificial Trans Fat: A History of a Public Health Achievement*, 99 MILBANK Q. 746, 748 (2021).

³¹ Peng-Fei Xia et al., *Dietary Intakes of Eggs and Cholesterol in Relation to All-Cause and Heart Disease Mortality: A Prospective Cohort Study*, 9 J. AM. HEART ASSOC. 1, 1 (2020).

³² Teicholz, *supra* note 21, at 69.

³³ See *Leading Causes of Death*, CTR. FOR DISEASE CONTROL & PREVENTION, <https://www.cdc.gov/nchs/fastats/leading-causes-of-death.htm> (last visited Oct. 17, 2025).

³⁴ See *id.*

³⁵ See NATIONAL RESEARCH COUNCIL (US) COMMITTEE ON NATIONAL MONITORING OF HUMAN TISSUES, *supra* note 10.

³⁶ See *id.*

³⁷ *Dietary Health*, U.S. DEP'T OF AGRIC., <https://www.usda.gov/about-food/nutrition-research-and-programs/dietary-health> (last visited Oct. 17, 2025).

³⁸ See *id.*; Samantha Rowbotham et al., *30+ Years of Media Analysis of Relevance to Chronic Disease: A Scoping Review*, 20 BMC PUB. HEALTH 1, 7 (Mar. 20, 2020), <https://bmcpubhealth.biomedcentral.com/articles/10.1186/s12889-020-8365-x> (including a chart to demonstrate the rise in chronic disease in relation with other lifestyle factors such as physical activity).

recommendations and subsidies help decide what goes on our plates. Attributing the rise in chronic disease to physical inactivity and genetics obscures the structural role of government and corporate actors in the current health crisis. A study comparing how American diets have changed from 1970 to 2010 demonstrates a substantial increase in the consumption of grains and polyunsaturated fatty acids—particularly from soybean oil—alongside declining intake of traditional fats.³⁹ In that same period, rates of chronic disease soared exponentially.⁴⁰

Researchers have published more than 20 independent review papers reassessing the link between saturated fats and CHD, with the vast majority concluding that the evidence does not support continued limitations on saturated fat intake.⁴¹ Internal communications released through the Freedom of Information Act (FOIA) revealed that in 2015, Dietary Guideline Advisory Committee (DGAC) members downplayed findings that contradicted the AHA's conclusions on saturated fat.⁴² The result was that the DGAC inappropriately attempted to discredit seven nonsystematic external review papers assessing saturated fats and instead selected other papers to conclude that the evidence for the relationship between saturated fats and heart disease was “strong.”⁴³ Regulatory and health agencies cannot produce evidence-based Dietary Guidelines for Americans until they systematically eliminate conflicts of interest.

The resistance from government officials and other health agencies to adopt emerging scientific evidence reflects longstanding biases in the field and the influence of vested corporate interests.⁴⁴ Corporate-funded research has polluted the scientific well, leaving the public disoriented by inconsistent messaging and contradictory health claims.⁴⁵ This informational whiplash erodes public trust and threatens public health. The ethical duty long expected of physicians—to do no harm—must also apply to researchers, regulators, and institutions tasked with safeguarding public health. When corporations control

³⁹ See generally Drew DeSilver, *What's on Your Table? How America's Diet Has Changed Over the Decades*, PEW RSCH. CTR. (Dec. 13, 2016), <https://www.pewresearch.org/short-reads/2016/12/13/whats-on-your-table-how-americas-diet-has-changed-over-the-decades/> (reporting that since 1970, American consumption of grains and certain fats have multiplied, meanwhile traditional fats like dairy products and eggs decreased).

⁴⁰ See Hacker, *supra* note 5, at 112 (finding that since 1950, heart disease has been the leading cause of death in the United States and chronic disease rates are steadily increasing).

⁴¹ See Teicholz, *supra* note 21, at 68 (“Altogether, >20 review papers . . . concluding that the data from randomized, controlled trials do not provide consistent or adequate evidence for continued recommendations limiting the intake of saturated fat.”).

⁴² See *id.* at 69 (stating that the DGAC decision to initiate a review of saturated fats was revealed in emails obtained under the Freedom of Information Act and reflects a discomfort among some DGAC members that these publications contradicted the AHA conclusions on saturated fats).

⁴³ See *id.* at 69–70 (stating that the DGAC conducted a nonsystematic review of the seven external review papers and did not provide a balance or thorough review of the external review papers, concluding that the evidence for a relationship between saturated fats and heart disease was strong).

⁴⁴ See *id.* at 70 (stating that the observed resistance by successive DGACs can potentially be seen as reflecting longstanding biases in the field and influence of vested corporate interests).

⁴⁵ See generally *id.* (stating that special interests continue to influence the scientific debates on saturated fats).

the scientific process, the common good of humanity is under threat. Scientists should not let special interests replace the pursuit of knowledge, regardless of whether the science can adversely affect the corporations they study.

III. LAWS GOVERNING OUR FOOD SYSTEM

The U.S. food system is governed by a combination of statutory laws and federal agencies that regulate all aspects of food production, including livestock and agricultural products. These agencies regulate not only what you eat, but also what you eat eats. The USDA and the Federal Trade Commission (FTC) oversee the safety, labeling, and marketing of food products.⁴⁶ The USDA also governs the National School Lunch Program.⁴⁷

A. NATIONAL SCHOOL LUNCH PROGRAM

The National School Lunch Program (NSLP), launched in the 1940s, was originally designed to support farmers and feed children by distributing the surplus grains, pork, and produce—a mutual benefit for agriculture and students' nutrition.⁴⁸ When Big Food corporations became involved in the NSLP, school lunches went from scratch cooking to factory, pre-prepared, plastic-wrapped, reheated ultra-processed food for students.⁴⁹

Institutions that receive federal funding are required to follow the USDA's nutritional guidelines such as the National School Breakfast and Lunch Program, as well as the Child and Adult Care Food Programs.⁵⁰ These guidelines are rooted in outdated assumptions from the diet-heart hypothesis, which led to longstanding and scientifically unsupported restrictions on saturated fat.⁵¹ As a result, school menus prioritize grains and low-fat processed items, at the expense of more nutrient-dense, whole foods.⁵² For example, the USDA currently

⁴⁶ See *Enforcement Policy Statement on Food Advertising*, FED. TRADE COMM'N (May 13, 1994) <https://www.ftc.gov/legal-library/browse/enforcement-policy-statement-food-advertising> (explaining the relationship between the FTC, USDA, and FDA).

⁴⁷ See generally *National School Lunch Program*, U.S. DEP'T OF AGRIC., <https://www.fns.usda.gov/nslp> (last visited Oct. 17, 2025) (stating that the NSLP is a federally assisted meal program operating in public and nonprofit private schools and residential childcare institutions).

⁴⁸ See Ashton Ellett et al., *Food, Power, and Politics: The Story of School Lunch*, NEW GA. ENCYC. (Apr. 16, 2022), <https://www.georgiaencyclopedia.org/exhibition/food-power-and-politics-the-story-of-school-lunch/> (explaining the history of the NSLP and its early rationale).

⁴⁹ *Id.* (stating that fast food companies appeared in lunchrooms and private companies were hired to serve precooked, prepackaged foods that required less preparation).

⁵⁰ See 7 C.F.R. § 210.10 (2025); see also 7 C.F.R. § 220.8 (2025); see also *Child Nutrition Programs: Meal Patterns Consistent with the 2020-2025 DGAs*, U.S. DEP'T OF AGRIC. (Apr. 25, 2024), <https://www.fns.usda.gov/cn/fr-042524>.

⁵¹ See generally Teicholz, *supra* note 21, at 70 (pointing to the inadequacy of the evidence to support the idea that saturated fats cause heart disease).

⁵² See generally 7 C.F.R. § 210.10 (limiting the amount of saturated fat in school nutrition and requiring a minimum amount of grains and low-fat items).

classifies french fries as a vegetable serving, and permits Pop-Tarts as a breakfast item—decisions that are neither evidence-based nor nutritionally sound.⁵³

This framework fails to meet children's nutritional needs and undermines public health goals. Whole foods—such as eggs, full-fat dairy, and unprocessed meats are unjustifiably excluded, while industrial cereals and starches dominate the menu.⁵⁴ Reforming school nutrition requires a shift away from processed foods and toward nutrient-dense, minimally altered ingredients. Farm to School initiatives should be brought back as they aim to provide locally grown, whole foods to school children.⁵⁵ Farm-to-school efforts are growing country-wide, providing locally grown fruits, vegetables, grains, meat, dairy, and seafood, as well as nutritional education for children.⁵⁶ Revitalizing these Farm to School programs and updating federal guidelines to reflect current science is essential to reversing the health consequences of decades of flawed food policy.

B. THE FARM BILL AND SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM

The Farm Bill, reauthorized by Congress every five years, is a comprehensive piece of legislation that governs U.S. agricultural policy, including commodity subsidies, animal health, and nutrition assistance.⁵⁷ One of its most significant components is the Supplemental Nutrition Assistance Program (SNAP), which provides food benefits to those who qualify.⁵⁸

Although initially intended to combat hunger, SNAP has produced harmful public health consequences by subsidizing the purchase of ultra-processed foods. SNAP covers a variety of foods for the household, including: fruits, vegetables, meat, poultry, fish, dairy, and other foods such as snack foods and non-alcoholic beverages.⁵⁹ Notably, soft drinks are the top-purchased item with SNAP dollars nationwide.⁶⁰ This is not by accident; this is by design, as Coca-Cola and other soft-drink companies have spent millions of dollars in lobbying

⁵³ See generally 7 C.F.R. § 210.10(c)(2)(ii) (classifying potatoes as vegetables).

⁵⁴ See generally *Child Nutrition Programs: Meal Patterns Consistent with the 2020-2025 DGAs*, *supra* note 50 (providing the updated standards that continue to favor low-fat dairy and grains over whole, unprocessed foods).

⁵⁵ See generally *About Florida Farm to School*, FLA. FARM TO SCH., <https://farmtoschoolfl.com/about/> (last visited Oct. 17, 2025) (stating that the Farm to School initiative serves schools and offers healthier meals for children through school garden activities).

⁵⁶ *Id.* (stating that Farm to School provides children with nutritious high-quality local food in order to educate them about agriculture and nutrition).

⁵⁷ See *Farm Bill*, U.S. DEP'T OF AGRIC., <https://www.usda.gov/farming-and-ranching/farm-bill> (last visited Oct. 17, 2025).

⁵⁸ See *id.*

⁵⁹ See *What Can SNAP Buy?*, U.S. DEP'T OF AGRIC., <https://www.fns.usda.gov/snap/eligible-food-items> (last visited Oct. 17, 2025).

⁶⁰ Paige Terryberry, *Make America Healthy Again: Stop Taxpayer-Funded Junk Food*, FOUND. FOR GOV'T ACCOUNTABILITY (Jan. 16, 2025), <https://thefga.org/research/make-america-healthy-again-stop-taxpayer-funded-junk-food/>.

efforts aimed at preventing sugar taxes and dietary guidelines.⁶¹ SNAP excludes coverage of hot, prepared foods, creating a paradox where it allows soda and junk foods, but prohibits a rotisserie chicken.⁶² A study published by the NIH demonstrates that SNAP participants have higher obesity incidence rates than SNAP non-participants.⁶³ The study's results support the initiative of aligning SNAP goals with sound public health objectives by restricting the purchase of sodas and other unhealthy foods.⁶⁴

Defenders of the current policy argue that processed food offers convenience, but this misinterprets convenience as freedom.⁶⁵ Choice is an illusion when SNAP participants do not have the choice to purchase hot, nutritious foods with SNAP. True choice would allow participants to purchase nutritious meals, not just ultra-processed foods. Taxpayer dollars should not be used to subsidize foods that demonstrably undermine public health and drive chronic disease. SNAP policy must be reformed to address the root causes of the diet-driven public health crisis in the United States.

The Farm Bill provides agricultural subsidies through monetary payments and other support to farmers or agribusinesses.⁶⁶ However, the problem is that these subsidies overwhelmingly favor industrial monoculture operations over Regenerative Agriculture.⁶⁷ The federal funding for organic agriculture research accounts for less than 1% of farming subsidies.⁶⁸ The Farm Bill offers greater insurance protection for monocultures than for Regenerative Agriculture, and the Federal Crop Insurance Protection provision serves to seclude monoculture from a much-needed shift in agricultural practice across the country.⁶⁹ Regenerative Agriculture draws on indigenous ecological practice, emphasizing soil health, animal welfare, and environmental sustainability.⁷⁰ Yet,

⁶¹ *Coca-Cola Co: Summary*, OPEN SECRETS, <https://www.opensecrets.org/orgs/coca-cola-co/summary?id=D000000212> (last visited Oct. 17, 2025) (demonstrating that over 80% of Coca-Cola Co's 2024 lobbyists previously held government jobs).

⁶² See *What Can SNAP Buy?*, *supra* note 59.

⁶³ M. Pia Chaparro et al., *The Relationship Between Obesity and Participation in the Supplemental Nutrition Assistance Program (SNAP): Is Mental Health a Mediator?*, PUBMED CENT. (Sept. 23, 2015), <https://pmc.ncbi.nlm.nih.gov/articles/PMC4580337/pdf/nihms681400.pdf>.

⁶⁴ *Id.*

⁶⁵ See Robert Paarlberg et al., *Keeping Soda In SNAP: Understanding the Other Iron Triangle*, 55 SOC'Y 308, 309 (2018).

⁶⁶ See *Agricultural Subsidies*, U.S. DEP'T OF AGRIC., <https://www.nal.usda.gov/economics-business-and-trade/agricultural-subsidies> (last visited Oct. 17, 2025).

⁶⁷ See Arohi Sharma et al., *Regenerative Agriculture: Farm Policy For The 21st Century*, NAT. RES. DEF. COUNCIL 1, 19 (Mar., 2022), <https://www.nrdc.org/sites/default/files/regenerative-agriculture-farm-policy-21st-century-report.pdf>.

⁶⁸ See Gordon Merrick, *The Impact of Agricultural Research on USDA Conservation Programs*, ORG. FARMING RSCH. FOUND.: GORDON'S POL'Y CORNER (Aug., 2024), <https://ofrf.org/gordons-policy-corner/august-2024-impact-of-agricultural-research-on-usda-conservation-programs/>.

⁶⁹ See Lilian Winters, *How the Farm Bill Could Shift American Farming to the Regenerative System*, LEWIS & CLARK L. SCH. (Jan. 8, 2024), <https://law.lclark.edu/live/blogs/241-how-the-farm-bill-could-shift-american-farming-to>.

⁷⁰ See *What Is Regenerative Agriculture?*, REGENERATIVE AGRIC. FOUND.,

the current Farm Bill continues to incentivize conventional practices—monocropping, genetic modification, synthetic inputs, pesticide dependency—that degrade both human and environmental health.⁷¹

The commodity title in the Farm Bill directs billions toward commodity crops such as corn, wheat, and soybeans used predominantly in ultra-processed foods.⁷² Nearly 75% of our farmland is used for oilseed and grain production, and only two percent of farmland is used to grow fruits and vegetables.⁷³ The subsidies for commodity crops allow ultra-processed foods to be cheaper and more accessible while simultaneously fueling the chronic disease pandemic.⁷⁴

The food industry profits while the public pays: once you factor in subsidies, chronic disease, and environmental degradation, processed food costs society far more than any organic, grass-fed steak ever could. The pricing and accessibility of food we see in the market does not reflect its true cost or value. Prices become a barrier to healthier and more nutritious food, resulting in a poor diet, which is the leading factor associated with death and chronic disease in the U.S.⁷⁵ Preventative health care starts with our food system. However, policy-makers have designed a food system that promotes chronic disease while the current subsidy policies financially discourage healthy eating.

Federal agricultural subsidies extend beyond food for human consumption and heavily support grain production for livestock feed. Corn, the most widely grown and subsidized crop in the United States, has received over \$116 billion in federal subsidies since 1995.⁷⁶ Yet, less than two percent of corn grown is used directly for consumption without processing.⁷⁷ In fact, the overwhelming majority is dent corn, which is utilized as “feed for industrial livestock operations, converted to ethanol, or made into food additives that get put in almost

<https://regenerativeagriculturefoundation.org/what-is-regenerative-agriculture/> (last visited Oct. 17, 2025).

⁷¹ See Matthew R. Fisher, *Conventional Agriculture*, UNIV. OF MINN. <https://press-books.umn.edu/environmentalbiology/chapter/conventional-agriculture/> (last visited Oct. 17, 2025).

⁷² See *USDA Releases 2022 Census of Agriculture Data*, U.S. DEP'T OF AGRIC. (Feb. 13, 2024), https://www.nass.usda.gov/Publications/AgCensus/2022/Full_Report/Volume_1,_Chapter_1_US/usv1.pdf.

⁷³ *Id.*

⁷⁴ See Karen R. Siegel et al., *Association of Higher Consumption of Foods Derived from Subsidized Commodities With Adverse Cardiometabolic Risk Among US Adults*, 176 *JAMA INTERNAL MED.* 1124, 1132 (2016) (explaining that a growing body of research suggests a link between the consumption of foods derived from commodity crops and an increased risk of chronic disease).

⁷⁵ See Dariush Mozaffarian et al., *The Real Cost of Food – Can Taxes and Subsidies Improve Public Health?*, 312 *JAMA NETWORK* 889, 889–90 (2014).

⁷⁶ Tara O'Neill Hayes & Katerina Kerska, *Primer: Agriculture Subsidies and Their Influence on the Composition of U.S. Food Supply and Consumption*, AM. ACTION F. (Nov. 3, 2021), <https://www.americanactionforum.org/research/primer-agriculture-subsidies-and-their-influence-on-the-composition-of-u-s-food-supply-and-consumption/>.

⁷⁷ See Lindsey Sloat et al., *The World Is Growing More Crops — but Not for Food*, WORLD RES. INST. (Dec. 20, 2022), <https://www.wri.org/insights/crop-expansion-food-security-trends> (reporting that in the U.S. in 2020, “less than 2 %” of corn was grown for “direct human consumption”).

every processed item in the grocery store.”⁷⁸ About one-third of that corn is used for livestock feed.⁷⁹ This subsidy structure supports a feedlot-based livestock system and prioritizes grain-fed cattle over traditional grass-fed or regenerative grazing models. Although research funded by corporate agricultural interests often promotes grain-based feeding systems, independent studies have long raised concerns about their environmental and health impacts.⁸⁰

Unlike grass, grains are not a natural component of cattle diets. Before the industrialization of agriculture, cattle have historically grazed on grass—a practice that aligns with both animal health and ecological regeneration.⁸¹ Researchers have linked grain feeding in cattle to numerous health issues, including acidosis, liver abscesses, and increased susceptibility to infection.⁸² To mitigate these health issues in cattle, conventional cattle ranchers rely heavily on prophylactic antibiotics, contributing to widespread antibiotic resistance.⁸³ The nutritional variances between grain-fed and grass-fed cows show that grass-fed cows have a more favorable fat profile while grain-fed cows often carry chemical residues from feed additives and antibiotic treatment.⁸⁴ Most alarmingly, antibiotic-resistant bacteria linked to industrial livestock practices represent a growing threat to public health and strain an already overburdened healthcare system.⁸⁵

Antibiotic use in livestock poses a health risk to the public, prompting the FDA to monitor antibiotic use in livestock in collaboration with the USDA and CDC since the 1970s.⁸⁶ The FDA establishes Maximum Residue Limits for antibiotics in livestock products by setting tolerance levels as part of the drug

⁷⁸ O'Neill Hayes & Kerska, *supra* note 76.

⁷⁹ See Tom Capehart & Susan Proper, *Corn is America's Largest Crop in 2019*, U.S. DEP'T OF AGRIC. (July 29, 2019), <https://www.usda.gov/about-usda/news/blog/corn-americas-largest-crop-2019>.

⁸⁰ See *Public Research, Private Gain: Corporate Influence Over University Agricultural Research*, FOOD & WATER WATCH, <https://foodandwaterwatch.org/wp-content/uploads/2021/03/Public-Research-Private-Gain-Report-April-2012.pdf> (last visited Oct. 17, 2025); see also Mark Muller et al., *Aligning Food Systems Policies to Advance Public Health*, 4 J. HUNGER & ENV'T NUTRITION 225, 234 (2009).

⁸¹ See *The History of Grassfed Farming In America: A Tradition of Quality and Sustainability*, AM. GRASSFED, <https://www.americangrassfed.org/the-history-of-grassfed-farming-in-america-a-tradition-of-quality-and-sustainability/> (last visited Oct. 17, 2025).

⁸² See Katherine L. Huebner et al., *Effects of Saccharomyces Cerevisiae Fermentation Product on Liver Abscesses, Fecal Microbiome, and Resistome in Feedlot Cattle Raised Without Antibiotics*, SCI. REP.'S (Feb. 22, 2019), https://pmc.ncbi.nlm.nih.gov/articles/PMC6385275/pdf/41598_2019_Article_39181.pdf.

⁸³ See Michael J. Martin et al., *Antibiotics Overuse in Animal Agriculture: A Call to Action for Health Care Providers*, 105 AM. J. PUB. HEALTH 2409, 2409 (2015).

⁸⁴ See *Grass-Fed vs. Corn-Fed Beef: Decoding the Difference*, SEVEN SONS FARMS, <https://sevensons.net/grass-fed-vs-corn-fed-beef> (last visited Oct. 17, 2025).

⁸⁵ See Martin et al., *supra* note 83.

⁸⁶ See 21 C.F.R. § 510.112 (2025); see also Sabrina Tavernise, *F.D.A. Restricts Antibiotics Use for Livestock*, THE N.Y. TIMES (Dec. 11, 2013), <https://www.nytimes.com/2013/12/12/health/fda-to-phase-out-use-of-some-antibiotics-in-animals-raised-for-meat.html>.

use approval process.⁸⁷ Establishing limits on acceptable levels of drugs in food is scientifically complex and may ultimately be insufficient to protect public health.⁸⁸ Studies of the human health impact of long-term, low-dose exposure to drug residues in food show adverse health outcomes, including disruptions to gut microbiota and increased antimicrobial resistance.⁸⁹ One of the most concerning findings linked maternal exposure to antibiotic residues through food and drinking water with increased risk of childhood obesity and metabolic disorders, suggesting that chronic ingestion, even below regulatory thresholds, can produce generational impacts.⁹⁰

Despite these findings, regulatory agencies often rely on industry data to set safety limits, raising questions about the adequacy and independence of residue risk assessments due to these conflicts of interest.⁹¹ In contrast, regenerative livestock farmers—who raise animals on pasture using natural systems—do not rely on prophylactic antibiotics, synthetic hormones, or other chemical inputs.⁹² Redirecting federal subsidies and incentives toward regenerative and antibiotic-free systems would reduce consumer exposure to harmful residues, address root causes of antibiotic resistance, and promote public health.

C. MONOPOLIZATION OF OUR FOOD SYSTEM

Our food supply is mainly in the hands of four Big Food corporations. The Big Four meatpackers in the United States are Tyson Foods, JBS, Cargill, and National Beef Packing Co. In the 1970s, the Big Four owned about 25% of the meat market. Many mergers later, the Big Four now control more than 85% of the meat market.⁹³ In 1970, there were over 648,000 dairy farms in the U.S.; that number dropped significantly in 2022 to less than 25,000.⁹⁴ This is largely due to the consolidation of dairy and meat farms, which has put immense pressure on the economic activity in rural communities.⁹⁵ Unfortunately for

⁸⁷ See *Maximum Residue Limits (MRL) Database*, U.S. DEP'T OF AGRIC., <https://www.fas.usda.gov/maximum-residue-limits-mrl-database> (last visited Oct. 17, 2025).

⁸⁸ See Lucila Canton et al., *Rational Pharmacotherapy in Infectious Diseases: Issues Related to Drug Residues in Edible Animal Tissues*, 11 *ANIMALS* 1, 1 (Oct. 1, 2021), <https://doi.org/10.3390/ani11102878>.

⁸⁹ *Id.* at 7.

⁹⁰ *Id.*

⁹¹ See Andreas Schäffer et al., *Conflicts of Interest in the Assessment of Chemicals, Waste, and Pollution*, 57 *ENV'T SCI. & TECH.* 19066, 19067, 19071 (2023).

⁹² See Arohi Sharma et al., *Regenerative Agriculture, Part 4: The Benefits*, NAT. RES. DEF. COUNCIL (Feb. 14, 2021), <https://www.nrdc.org/bio/arohi-sharma/regenerative-agriculture-part-4-benefits>.

⁹³ James M. MacDonald, *Concentration in U.S. Meatpacking Industry and How It Affects Competition and Cattle Prices*, U.S. DEP'T OF AGRIC. (Jan. 25, 2024), <https://www.ers.usda.gov/amber-waves/2024/january/concentration-in-u-s-meatpacking-industry-and-how-it-affects-competition-and-cattle-prices/>.

⁹⁴ Elizabeth Eckelkamp, *America's Dairy Farms Are Disappearing, Down 95% Since the 1970s*, SUCCESSFUL FARMING (Sept. 24, 2024), <https://www.agriculture.com/america-s-dairy-farms-are-disappearing-down-95-since-the-1970s-8717266>.

⁹⁵ See MacDonald, *supra* note 93; see also James M. MacDonald et al., *Consolidation in U.S. Dairy*

farmers, antitrust laws have not been successful in addressing the disparity of bargaining power between individual farmers and large-scale corporations.⁹⁶

From its inception, the Sherman Act was never meant to simply protect consumers at the checkout counter—it was a bold effort to dismantle the dangerous concentration of economic and political power in the hands of corporate trusts. Senator John Sherman and his contemporaries warned that unchecked monopolies posed a threat not just to markets but to democracy itself.⁹⁷ Legislative records make clear that the law aimed to protect small businesses and producers from being crushed by industrial giants.⁹⁸ Scholars and courts broadly agree that Congress intended the Sherman Act to operate in concert with state antitrust laws, reinforcing preexisting efforts to target anticompetitive practices already deemed illegal at the state level.⁹⁹ The Supreme Court has repeatedly affirmed this dual enforcement structure, holding in *California v. ARC America Corp.* that state antitrust laws are compatible with, and not preempted by, federal antitrust enforcement.¹⁰⁰

Congress reinforced its emphasis on preserving competitive market structures by passing the Clayton Antitrust Act in 1914, explicitly aiming to close loopholes and strengthen protections against anticompetitive practices such as price discrimination and exclusive dealing.¹⁰¹ Together, these statutes reflect a legislative commitment to consumer welfare and curbing the political and economic dangers of concentrated corporate power. But that original intent has steadily eroded, particularly since the rise of the Chicago School approach and its narrow consumer-welfare framework.¹⁰²

Since the rise of the Chicago School in the late 20th century, antitrust enforcement has been redefined through the narrow lens of the consumer welfare standard, shifting focus away from corporate power and market concentration, and making it nearly impossible to prevent monopolistic trusts unless direct

Farming, U.S. DEP'T OF AGRIC. (July 2020), https://www.ers.usda.gov/sites/default/files/_la-serfiche/publications/98901/ERR-274.pdf.

⁹⁶ See MacDonald, *supra* note 93.

⁹⁷ See 21 CONG. REC. 2456 (1890) (statement of Sen. Sherman) (“If we will not endure a king as a political power, we should not endure a king over the production, transportation, and sale of any of the necessaries of life.”).

⁹⁸ See *id.* at 2460.

⁹⁹ See Harry First & Spencer Weber Waller, *Antitrust's Democracy Deficit*, 81 FORDHAM L. REV. 2543, 2546, 2562–64 (2012).

¹⁰⁰ See *California v. ARC Am. Corp.*, 490 U.S. 93, 101–02 (1989) (explaining that nothing in the Sherman Act or in our cases interpreting it suggests that Congress intended to preempt state antitrust remedies); see also Herbert Hovenkamp, *State Antitrust in the Federal Scheme*, 58 IND. L.J. 375, 375 (1983).

¹⁰¹ See Clayton Antitrust Act of 1914, ch. 323, 38 Stat. 730 (1914) (codified as amended at 15 U.S.C. §§ 12–27, 29 U.S.C. §§ 52–53); see also HERBERT HOVENKAMP, FEDERAL ANTITRUST POLICY: THE LAW OF COMPETITION AND ITS PRACTICE 136–40 (5th ed. 2021).

¹⁰² See Maurice E. Stucke, *Reconsidering Antitrust's Goals*, 53 BOS. COLL. L. REV. 551, 555–59 (2012).

harm to consumers can be proven.¹⁰³ Under this framework, antitrust policy largely ignores structural market concerns, insulating dominant firms so long as prices remain low or output increases.¹⁰⁴ This narrow interpretation shields corporate consolidation from scrutiny and distorts standing doctrine. Courts now routinely require plaintiffs to demonstrate concrete, consumer-oriented harm, rather than showing anticompetitive conduct that affects them as a producer.¹⁰⁵ This heightened burden runs contrary to earlier enforcement models and undermines the ability of producers, workers, and small businesses to challenge anti-competitive conduct.

An antitrust policy consistent with the original intent of the Sherman Act would extend protection to buyers and sellers. As Justice Learned Hand famously observed in *United States v. Aluminum Co. of America* (Alcoa), one of Congress's key concerns in enacting the Sherman Act was "a desire to put an end to great aggregations of capital because of the helplessness of the individual before them."¹⁰⁶ Hand's interpretation emphasized price manipulation, the dangers of excessive market power, and the structural inequalities it generates. Following this approach, courts should give greater weight to market concentration and its effects on consumer prices and suppliers' economic viability, including farmers and workers. Yet, modern antitrust jurisprudence, shaped by the consumer welfare standard, often overlooks these dimensions, particularly when prices remain stable or low.

This judicial reluctance is evident in cases like *FTC v. Arch Coal, Inc.*, where courts declined to block mergers in markets dominated by a few powerful buyers, despite concerns over upstream harm to suppliers.¹⁰⁷ A similar dynamic plays out in the cattle market, where the Big Four meatpacking companies—Tyson, JBS, Cargill, and National Beef—control over 80% of the beef processing industry.¹⁰⁸ Ranchers, facing only one or two potential buyers in regional markets, are often subject to price suppression and contract coercion, even as retail beef prices climb.¹⁰⁹ This bottleneck effectively shifts profit margins from producers to consolidated firms, hollowing out rural economies and limiting competitive bargaining power.

¹⁰³ Herbert Hovenkamp, *Consumer Welfare in Competition and Intellectual Property Law*, 9 COMPETITION POL'Y INT'L 53, 54–55 (2013).

¹⁰⁴ See ROBERT H. BORK, THE ANTITRUST PARADOX: A POLICY AT WAR WITH ITSELF 66–67 (1978) (arguing that antitrust law should protect consumer welfare, not competitors).

¹⁰⁵ See Hovenkamp, *supra* note 103, at 55.

¹⁰⁶ *United States v. Aluminum Co. of Am.*, 148 F.2d 416, 428 (2d Cir. 1945).

¹⁰⁷ See *FTC v. Arch Coal, Inc.*, 329 F. Supp. 2d 109, 151–52 (D.D.C. 2004) (denying preliminary injunction in merger case involving coal producers despite high concentration and potential supplier harm).

¹⁰⁸ See MacDonald, *supra* note 93.

¹⁰⁹ See *In re Cattle Antitrust Litig.*, No. 20-cv-01414 (D. Minn. June 10, 2020); see also *Boxed Beef & Fed Cattle Price Spread Investigation Report*, U.S. DEP'T OF AGRIC. 1, 16–22 (July 22, 2020), <https://www.ams.usda.gov/sites/default/files/media/CattleandBeefPriceMarginReport.pdf>.

The poultry industry offers a parallel example. Despite record profits among the dominant chicken processors, the majority of poultry farmers in the United States live near or below the poverty line.¹¹⁰ Over 90% of chickens are raised under “contract farming” systems, where vertically integrated firms dictate nearly every aspect of production—from breed and feed to pricing—while retaining unilateral control over contract terms.¹¹¹ The Department of Justice has investigated these practices in cases such as *In re Broiler Chicken Antitrust Litigation*, where companies allegedly colluded to suppress grower compensation and fix prices through coordinated supply controls.¹¹² These examples underscore how modern antitrust enforcement—too narrowly focused on consumer pricing—fails to address the broader market distortions and power imbalances originally targeted by the Sherman Act.

Restoring the original purpose of antitrust law requires a renewed focus on producer welfare and structural enforcement, not just consumer pricing. Structural reform must accompany a revitalized criminal enforcement regime that delivers real consequences and fines that do not merely constitute an additional operational expense. The overreliance on consent decrees and nominal penalties has allowed repeat offenders to escape meaningful accountability. For example, in the poultry industry in 2020, Pilgrim’s Pride admitted to price-fixing and agreed to pay a \$107.9 million fine.¹¹³ While this amount may seem significant, it represents a small fraction of the company’s revenues, which totaled over \$11 billion that year.¹¹⁴ Authorities did not jail any executives from Pilgrim’s Pride.¹¹⁵

Similarly, in the cattle industry, despite overwhelming evidence of coordinated price suppression by the Big Four processors, the Department of Justice has yet to secure prison time for any executives.¹¹⁶ While civil settlements and corporate fines often draw public attention, they offer little deterrent effect when

¹¹⁰ See Dee Laniga, *Time to Break up with Big Chicken? A Hard Look at the Contract Growing System*, FARM ACTION (Aug. 17, 2022), <https://farmaction.us/2022/08/17/time-to-break-up-with-big-chicken-a-hard-look-at-the-contract-growing-system/>.

¹¹¹ See Heather Decker, *What Is Contract Farming?*, TRANSFORMATION (Oct. 21, 2024), <https://thetransformationproject.org/blog/what-is-contract-farming/>.

¹¹² *In re Broiler Chicken Antitrust Litig.*, 290 F. Supp. 3d 772, 788–91 (N.D. Ill. 2017) (allowing price-fixing and grower suppression claims to proceed).

¹¹³ See *One of the Nation’s Largest Chicken Producers Pleads Guilty to Price Fixing and is Sentenced to a \$107 Million Criminal Fine*, U.S. DEP’T OF JUST. (Feb. 23, 2021), <https://www.justice.gov/archives/opa/pr/one-nation-s-largest-chicken-producers-pleads-guilty-price-fixing-and-sentenced-107-million> [hereinafter Office of Public Affairs Press Release].

¹¹⁴ *Annual Report Pursuant to Section 13 or 15(D) of the Securities Exchange Act of 1934*, PILGRIM’S PRIDE CORP. (Feb. 11, 2021), <https://ir.pilgrims.com/static-files/ebc1edab-5dfa-4d7e-8c6e-4276fd58b763>.

¹¹⁵ See Office of Public Affairs Press Release, *supra* note 113.

¹¹⁶ See generally *Federal Lawsuit Filed in Texas Accuses Four Largest Beef Processors of Price Fixing*, NBC DFW, <https://www.nbcdfw.com/news/local/texas-news/federal-lawsuit-filed-in-texas-accuses-four-largest-beef-processors-of-price-fixing/3009550/> (July 8, 2022 2:15 PM) (reporting on how the largest food distributors in the nation have been accused of price fixing and have paid fines but no convictions have been obtained).

the profits from illegal conduct outweigh enforcement costs and actively disincentivize compliance. Criminal adjudication under the Sherman Act must involve greater use of felony charges and individual accountability, including prison sentences for executives who knowingly benefit from collusion. The Department of Justice's Antitrust Division has statutory authority to pursue criminal charges, including prison sentencing up to 10 years under 15 U.S.C. § 1, yet rarely exercises it to its full potential in food industry cases.¹¹⁷

A fundamental shift from the consumer welfare standard toward a holistic model that values the role of producers, labor, competition, and accountability is needed. Congress should strengthen section 2 of the Sherman Act to update merger guidelines to incorporate monopsony harms and limit vertical integration and exclusive dealing in agricultural markets. With the recent appointment of Abigail Slater as Assistant Attorney General for Antitrust, the division has an opportunity, and obligation, to reverse this trend.¹¹⁸ Slater should prioritize criminal enforcement in agriculture, direct her office to pursue individual accountability in cartel conduct, and reject the overuse of consent decrees. Antitrust reformation under her leadership could restore credibility to antitrust law, deter future violations, and realign enforcement with the Sherman Act's original purpose: restraining concentrated private power, not merely managing its consequences.

IV. AGENCIES RESPONSIBLE FOR REGULATING AGRICULTURAL PRACTICES

Agricultural practices in the United States are regulated by multiple federal agencies, including the USDA, FDA, and the Environmental Protection Agency (EPA). The EPA administers the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), which governs pesticide approval and usage to protect public health and the environment.¹¹⁹ FIFRA authorizes the administrator of the EPA to issue emergency orders suspending pesticide registration in cases of imminent danger yet, enforcement remains inconsistent as chemical use continues to rise.¹²⁰ Pesticides are chemical substances that kill, repel, or control certain plant or animal life forms, such as insects, weeds, fungi, rodents, and

¹¹⁷ See 15 U.S.C. § 1 (2025) (making price-fixing and other anticompetitive conduct criminal felonies); see also Lillianna Byington, *Antitrust Accusations Escalate in the Food Industry as DOJ Cracks Down*, FOOD DIVE (July 13, 2020), <https://www.fooddive.com/news/antitrust-accusations-escalate-in-the-food-industry-as-doj-cracks-down/580994/>.

¹¹⁸ *Assistant Attorney General Abigail Slater*, U.S. DEP'T OF JUST., <https://www.justice.gov/atr/staff-profile/assistant-attorney-general-gail-slater> (last visited Oct. 17, 2025).

¹¹⁹ See *Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and Federal Facilities*, ENV'T PROT. AGENCY, <https://www.epa.gov/enforcement/federal-insecticide-fungicide-and-rodenticide-act-fifra-and-federal-facilities> (last visited Oct. 17, 2025).

¹²⁰ See H.R.1627, 104th Cong. (1996).

microorganisms. Globally, between six and ten billion pounds of pesticide products are applied to the environment annually, with the United States applying over 500 million pounds yearly.¹²¹

Conventional agricultural practices have a significant environmental impact. Practices like monocropping without crop rotation or cover cropping degrade topsoil, reduce biodiversity, and increase vulnerability to drought.¹²² In the U.S., approximately twelve million tons of nitrogen and four million tons of glyphosate-based herbicides are applied annually to crops, contributing to water pollution, oceanic dead zones, and harmful algae blooms.¹²³ Alarming studies show that 75% of air and rainfall, and even 80% of human samples, are contaminated with glyphosate.¹²⁴ If current trends persist, scientists estimate that the U.S. topsoil could be depleted within sixty harvests.¹²⁵ Regenerative agriculture can reverse the damage that conventional farming has caused to our ecosystem and agricultural lands.¹²⁶ Ever since the harmful side effects of industrial agriculture unfolded, farmers, healthcare professionals, and scientific communities have been sounding alarm bells to bring conventional farming practices to a halt. The ongoing Monsanto Roundup litigation has further exposed the urgent need for a systemic agricultural policy and practice shift.

A. SYSTEMIC AGROCHEMICAL USE

Pesticide exposure presents a global public health crisis. It is estimated that 44% of the world's farming population experience at least one incident of acute pesticide poisoning each year, resulting in roughly 740,000 unintentional poisonings and 11,000 deaths annually.¹²⁷ Beyond acute effects, researchers have linked certain pesticides to chronic health issues, including endocrine disruption, neurological damage, reproductive dysfunction, and increased cancer

¹²¹ Bob Weinhold, *Mystery in a Bottle: Will the EPA Require Public Disclosure of Inert Pesticide Ingredients?*, 118 ENV'T HEALTH PERSP. 169, 171 (2010) (stating that pesticide is an umbrella term which includes herbicides, insecticides, rodenticides, fungicides, bactericides, larvicides, and algicides).

¹²² See *Nonpoint Source: Agriculture*, ENV'T PROT. AGENCY, <https://www.epa.gov/nps/nonpoint-source-agriculture> (last visited Oct. 17, 2025).

¹²³ *Id.*

¹²⁴ See Carey Gillan, 'Disturbing': Weedkiller Ingredient Tied to Cancer Found in 80% of US Urine Samples, THE GUARDIAN (July 9, 2022 5:30 AM), <https://www.theguardian.com/us-news/2022/jul/09/weedkiller-glyphosate-cdc-study-urine-samples>.

¹²⁵ See Chris Arsenault, *Only 60 Years of Farming Left If Soil Degradation Continues*, SCI. AM. (Dec. 5, 2014), <https://www.scientificamerican.com/article/only-60-years-of-farming-left-if-soil-degradation-continues/>.

¹²⁶ See *Food, Climate, and Nature FAQs*, NATURE CONSERVANCY (Sept. 1, 2023), <https://www.nature.org/en-us/what-we-do/our-priorities/provide-food-and-water-sustainably/food-and-water-stories/climate-friendly-food-faqs-regenerative-ag-101/>.

¹²⁷ See Wolfgang Boedeker et al., *The global distribution of acute unintentional pesticide poisoning: estimations based on a systematic review*, 20 BMC PUBLIC HEALTH (Dec. 7, 2020), <https://pubmed.ncbi.nlm.nih.gov/33287770/>.

risk.¹²⁸ Yet, research on pesticide toxicity regarding residuals in food and water remains inconsistent, often skewed by corporate influence and limited regulatory oversight.¹²⁹

Currently, the EPA and FIFRA testing requirements for pesticides primarily focus only on their active substances, not the full commercial formulation.¹³⁰ This presents a serious oversight, as some active ingredients on their own are not as toxic as the entire formulation itself.¹³¹ For example, in glyphosate-based herbicides like Roundup, public regulators will primarily test for the active glyphosate component, although there are other chemicals in the product that make it more toxic than glyphosate alone.¹³² By contrast, academic research tend to look at and test entire formulations, which is what both humans and the environment are exposed to.¹³³ As a matter of public policy, academics should be encouraged to test and scrutinize products that are so pervasive, like Roundup and other herbicides or pesticides.

In the United States, the Department of Health and Human Services (HHS) deems academic research to be inferior to the testing and research submitted by industry research, despite its inherent conflict of interest.¹³⁴ However, in different jurisdictions, such as the European Union, academics are allowed to contribute to the testing and assessment of herbicide products as set forth by the European Food Safety Authority.¹³⁵ As part of the European Commission's framework, the European Union carries out approval of active pesticides, which "requires at least one representative use and [that the] formulation is assessed and deemed acceptable."¹³⁶ However, not even the European Union is immune

¹²⁸ See Karoly Nagy et al., *Systematic Review of Comparative Studies Assessing the Toxicity of Pesticide Active Ingredients and Their Product Formulations*, 181 ENV'T RSCH. (2020).

¹²⁹ See *id.*; see also Leland Glenna & Analena Bruce, *Suborning Science for Profit: Monsanto, Glyphosate, and Private Science Research Misconduct*, RSCH. POL'Y (Sep. 2021), <https://www.sciencedirect.com/science/article/abs/pii/S004873321000925> (noting the usage of ghost writers by corporations to influence and "distort the scientific peer-review process").

¹³⁰ See Caroline Cox & Michael Sorgan, *Unidentified Inert Ingredients in Pesticides: Implications for Human and Environmental Health*, 114 ENV'T HEALTH PERSP. 1803, 1803 (2006).

¹³¹ *Id.*

¹³² See *What the Monsanto Papers Tell Us About Corporate Science*, CORP. EUR. OBSERVATORY (Jan. 03, 2018), <https://corporateeurope.org/en/food-and-agriculture/2018/03/what-monsanto-papers-tell-us-about-corporate-science>.

¹³³ *Id.*

¹³⁴ See *Scholarly and Journalistic Activities Deemed Not to be Research: 2018 Requirements*, U.S. DEP'T OF HEALTH & HUM. SERV. (July 19, 2018), <https://www.hhs.gov/ohrp/regulations-and-policy/requests-for-comments/draft-guidance-scholarly-and-journalistic-activities-deemed-not-to-be-research/index.html> (clarifying that scholar and journalistic activity is not considered research for the purposes of regulatory oversight); see also U.S. GEN. ACCT. OFF, GAO-02-89 BIOMEDICAL RESEARCH: HHS DIRECTION NEEDED TO ADDRESS FINANCIAL CONFLICT OF INTEREST 5-6 (2001) (noting that HHS guidance over private corporation's funding research "is limited" and the "need for guidance in this area increases" due to the "financial relationships between institutions and industry").

¹³⁵ See *Pesticides*, EUR. FOOD SAFETY AUTH. (July 15, 2025), <https://www.efsa.europa.eu/en/topics/topic/pesticides>.

¹³⁶ Eva Novotny, *Glyphosate, Roundup and the Failures of Regulatory Assessment*, 10 TOXICS 1,

to influence by industrial agrochemical industries. Although the Court of Justice of the European Union has ruled that the assessment of active substances *and* formulas must be tested for authorization, compliance remains inconsistent due to regulatory capture and industry favor.¹³⁷

The Monsanto Roundup litigation required the release of internal Monsanto communications, which revealed that the company was aware that some of the other ingredients in the product made it potentially more dangerous.¹³⁸ Internal communication showed that Monsanto blocked a replication of a Dutch study demonstrating high dermal absorption of glyphosate formulations, fearing it would “blow up risk evaluations.”¹³⁹ Monsanto also ghostwrote research and essays to promote the safety of glyphosate, and attacked independent researchers, effectively poisoning the scientific well by orchestrating a campaign to discredit the International Agency for Research on Cancer (IARC) after it classified glyphosate as a probable human carcinogen in 2015.¹⁴⁰ Monsanto’s communications, advertisements, and political messaging are ridden with doublespeak to promote that their research is rooted in “sound science” while simultaneously dismissing opposing scientific evidence as “junk science.”¹⁴¹

These actions undermine scientific integrity and endanger public health by allowing toxic products to remain on the market under the pretenses of “sound science.” A pragmatic approach is needed where regulatory agencies independently test active, inert ingredients, and complete formulations to protect health and restore public trust. Conflicts of interest between government actors and corporations must not be allowed in the approval process, and we must publicly fund and encourage transparent, reproducible research.

B. MONSANTO LITIGATION

State failure-to-warn claims against agrochemical companies, notably Monsanto (now Bayer), have intensified since the IARC identified glyphosate, Roundup’s active ingredient, as a probable carcinogen. Not surprisingly, following Bayer’s acquisition of Monsanto, Bayer has lobbied over \$8 million to Congress in the 2024 cycle to pass legislation that could shield the company from lawsuits alleging that its product causes cancer.¹⁴² Monsanto has consistently argued that the FIFRA and the EPA approval processes preempt these claims. However, Monsanto cannot hide behind the laws of federalism to escape liability for these causes of action.

2–3 (June 13, 2022), <https://doi.org/10.3390/toxics10060321>; see Nagy et al., *supra* note 128.

¹³⁷ See Novotny, *supra* note 136, at 2, 4.

¹³⁸ See *What the Monsanto Papers Tell Us About Corporate Science*, *supra* note 132.

¹³⁹ See *id.*

¹⁴⁰ See *id.*

¹⁴¹ See *id.*

¹⁴² See *Bayer AG Profile: Summary*, OPEN SECRETS, <https://www.opensecrets.org/orgs/bayer-ag/summary?id=D000042363> (last visited Oct. 17, 2025).

In *Durnell v. Monsanto Co.*, the Eastern District Court of Appeals of Missouri held that the FIFRA does not expressly or implicitly preempt state-law claims because Missouri's strict liability failure to warn requirements did not impose obligations beyond FIFRA's labeling requirement.¹⁴³ Under FIFRA 136(q)(1)(G) expressly has a prohibition on misbranding, providing that "[a] pesticide is misbranded if . . . the label does not contain a warning or caution statement which may be necessary and if complied with . . . is adequate to protect health and the environment."¹⁴⁴

The Missouri court correctly recognized that state duty-to-warn standards align closely with FIFRA's misbranding provisions, posing no irreconcilable conflict with federal law. Missouri's law and FIFRA's misbranding provisions have the same practical effect: to warn consumers of cancer risks. Conversely, in *Schaffner v. Monsanto Corp.*, the Third Circuit Court of Appeals concluded that Pennsylvania's failure-to-warn requirement imposed obligations beyond FIFRA's labeling requirement, thus expressly preempted.¹⁴⁵ However, *Schaffner* overlooks FIFRA's explicit prohibition of misbranding, and the *Schaffner* court did not adequately address the burden Monsanto would bear to demonstrate actual conflict—that is, proving the EPA would reject such a warning had Monsanto fully disclosed relevant safety data.

The *Schaffner* court ruled in favor of Monsanto after it reasoned that the cause of action imposed a requirement that was not equivalent to the federal regulatory requirement and was therefore expressly preempted.¹⁴⁶ However, this is a misstatement of the law as FIFRA's express preemption provides that a "[s]tate shall not impose or continue in effect any requirements for labeling or packaging in addition to or different from those required under [federal law]."¹⁴⁷ *Schaffner* allowed Monsanto to escape liability merely because the cancer warning was not included in Roundup's pre-approved label from the EPA, undermining the fundamental purpose of the state failure-to-warn claim.¹⁴⁸

Monsanto's invocation of preemption, supported by the EPA's approval, is problematic given documented collusion between EPA officials and Monsanto during the approval process.¹⁴⁹ Internal documents reveal Monsanto actively influenced EPA assessments, ghostwrote research to minimize glyphosate's

¹⁴³ See *Durnell v. Monsanto Co.*, 707 S.W.3d 828, 833–34 (Mo. Ct. App. 2025).

¹⁴⁴ See 7 U.S.C.S. § 136(q)(1)(G) (2025).

¹⁴⁵ See *Schaffner v. Monsanto Corp.*, 113 F.4th 364, 371, 399 (3d Cir. 2024).

¹⁴⁶ See *id.* at 371, 379–80, 399.

¹⁴⁷ 7 U.S.C. § 136(v)(b) (2025).

¹⁴⁸ 7 U.S.C. § 136(q)(1)(G) (1996); see *Schaffner*, 113 F.4th at 371, 381–82.

¹⁴⁹ Alex Formuzis, *Monsanto Relied on Shady EPA Risk Study to Dispute Court Verdict That Roundup Caused Cancer*, ENV'T WORKING GRP. (Apr. 2, 2020), <https://www.ewg.org/news-insights/news-release/monsanto-relied-shady-epa-risk-study-dispute-court-verdict-roundup>; see Andrew H. Paul, *Just Like Us: MDL is Eating Weedkiller*, 41 GA. ST. U.L. REV. 491, 494 (2025) ("Glyphosate is the main component of the most circulated herbicide in the world: Roundup [T]he production of a vast array of products incorporates glyphosate-use under the Environmental Protection Agency's (EPA) regulatory blessing.").

carcinogenic risks, and suppressed independent studies linking Roundup to cancer.¹⁵⁰ For example, internal correspondence in 2015 showed Monsanto executives and Jess Rowland, who was leading EPA's cancer assessment review, coordinating to quash the release of the cancer assessment from the Agency for Toxic Substances and Disease Registry (ATSDR).¹⁵¹ ATSDR operates under the HHS and separately from the EPA. ATSDR's toxic assessment of Roundup found that there was a possible association between exposure to glyphosate and the risk of non-Hodgkin lymphoma, which could not be ruled out.¹⁵² Monsanto's collusion with regulatory agencies and involvement in ghostwriting research papers, discrediting dissenting scientists and academics who refute Monsanto's claims, has immense ethical and legal implications, which could lead to more claims of misleading or deceptive conduct.

The EPA provides cancer guidelines as a comprehensive framework for assessing cancer risks.¹⁵³ Despite the EPA's invocation of its cancer guidelines for authorizing the use of pesticides, the Ninth Circuit Court of Appeals was not convinced by the EPA's position regarding its determinations on glyphosate.¹⁵⁴ The resolution in a cause of action against the EPA, *NRDC v. United States EPA*, is one example of the court redressing federal agency malfeasance. Judicial review, as permitted under FIFRA 7 USCS § 136n, provides that "[t]he judgment of the court affirming or setting aside, in whole or in part, any order under this section shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28 [of the United States Code]".¹⁵⁵

Despite the EPA's repeated invocation of its Cancer Guidelines, the Ninth Circuit decided that the EPA's interim decision failed to abide by its Cancer Guidelines.¹⁵⁶ Therefore, the court vacated the human health portion of EPA's interim decision and remanded it for further analysis.¹⁵⁷ FIFRA needs to be amended for issues like this because its policy makes it too easy for potentially harmful products to enter the market while making it unfairly difficult to remove dangerous products from the market. Petitioning the court for malfeasance in administrative law takes too long and is inadequate for addressing issues that have toxic effects on our health and the environment.

¹⁵⁰ Formuzis, *supra* note 149.

¹⁵¹ *Id.*

¹⁵² See Alexis Temkin & Olga Naidenko, *Cancer Risks From Monsanto's Weedkiller Deserve Further Scrutiny, Government Agency Says*, ENV'T WORKING GRP. (Apr. 12, 2019), <https://www.ewg.org/news-insights/news/cancer-risks-monsantos-weedkiller-deserve-further-scrutiny-government-agency>.

¹⁵³ See *Guidelines for Carcinogen Risk Assessment*, U.S. ENV'T PROT. AGENCY (Mar. 2005), https://www.epa.gov/sites/default/files/2013-09/documents/cancer_guidelines_final_3-25-05.pdf.

¹⁵⁴ Nat. Res. Def. Council v. U.S. Env't Prot. Agency, No. 20-70787, at *6 (9th Cir. Jan. 17, 2022)

¹⁵⁵ 7 U.S.C. § 136(b) (2025).

¹⁵⁶ See *Nat. Res. Def. Council*, at *6 (rejecting EPA's conclusion that glyphosate poses no cancer risk, reasoning that lack of conclusive evidence does not justify definitive claims of no association).

¹⁵⁷ *Id.*

Monsanto petitioned for a writ of certiorari for review of *Durnell* from the U.S. Supreme Court after a split among federal circuit courts in the Roundup personal injury litigation.¹⁵⁸ If the Supreme Court reverses *Durnell*, it would substantially reduce the claimant's state rights and could have vast repercussions in reducing others' abilities to bring a cause of action against wrongdoers in different areas heavily regulated by the federal government. Neither FIFRA nor the EPA provides independent causes of action for those injured by the products they regulate.¹⁵⁹ FIFRA does not authorize private enforcement suits or create private causes of action; its purpose is to regulate and assess products for approval before they are permitted for public use.¹⁶⁰ If the Supreme Court finds that federal law preempts failure-to-warn state claims regarding agrochemical products, it would leave claimants with no remedies for their injuries. This is a problem because not even the agencies that regulate these products are exercising due care in protecting our health and the environment by allowing these products into the market in the first place.

These issues are not unique to Monsanto. The scientific and environmental community has also scrutinized other agrochemical companies like Syngenta for prioritizing corporate interests over public health.¹⁶¹ Syngenta manufactures atrazine, one of the most widely used herbicides in the United States, which has been the subject of growing scientific concern due to its links to endocrine disruption, developmental toxicity, impaired fertility, and potential carcinogenicity.¹⁶² Research led by endocrinologist Tyrone Hayes found that atrazine exposure at even low concentrations could chemically castrate and feminize male frogs, raising serious concerns about its effects on human endocrine systems.¹⁶³ Similarly, Croplife America, which represents pesticide manufacturers including Syngenta, Bayer, and Corteva, has aggressively lobbied and spent over 40 million dollars to preempt local governments from enacting their own pesticide regulations.¹⁶⁴ These tactics reflect a broader pattern of regulatory capture and

¹⁵⁸ See *Bayer Announces Filing of Petition to U.S. Supreme Court for Review of Durnell Roundup Case*, BAYER (Apr. 4, 2025), <https://www.bayer.com/media/en-us/bayer-announces-filing-of-petition-to-us-supreme-court-for-review-of-durnell-roundup-case> (bypassing the Missouri Supreme Court and appealing directly to the U.S. Supreme Court).

¹⁵⁹ See *Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and Federal Facilities*, *supra* note 119 ("Historically, EPA has not assessed civil penalties against Federal agencies for violations of FIFRA. As a matter of practice, given the current of the law, EPA does not intend to pursue such penalties.").

¹⁶⁰ *Id.*

¹⁶¹ See Olga Naidenko, *EPA Ignores Science, Dismisses Risks to Children's Health from Syngenta's Atrazine*, ENV'T WORKING GRP. (Sept. 11, 2018), <https://www.ewg.org/news-insights/news/2018/09/epa-ignores-science-dismisses-risks-childrens-health-syngentas-atrazine>.

¹⁶² See Haotang Zhao et al., *Endocrine Toxicity of Atrazine and Its Underlying Mechanisms*, TOXICOLOGY (June 2024), <https://pubmed.ncbi.nlm.nih.gov/38815618/>.

¹⁶³ Tyrone B. Hayes et al., *Hermaphroditic, Demasculinized Frogs After Exposure to the Herbicide Atrazine at Low Ecologically Relevant Doses*, 99 PROC. NAT'L ACAD. SCI. U.S. AM. 5476, 5476 (2002).

¹⁶⁴ *Agricultural Services & Products: Lobbying Profile*, OPEN SECRETS (2024),

attempts to undermine the power of local governments to protect their residents from the harmful effects of agrochemical exposure.

C. MORAL DILEMMA BEHIND INTELLECTUAL PROPERTY RIGHTS TO LIFE

Patents are government-granted temporary monopolies, authorized by Congress under Article 1, Section 8 of the U.S. Constitution.¹⁶⁵ While the legislative authority for patent law lies with Congress, the U.S. Supreme Court has significantly expanded its scope through judicial interpretation, particularly in biotechnology. In *Diamond v. Chakrabarty*, the Court held that micro-organisms are patentable under Section 101 of the Patent Act, which applies to any “new and useful process, machine, manufacture, or composition of matter.”¹⁶⁶ This landmark decision opened the door to patenting life forms and catalyzed a wave of genetic engineering patents.¹⁶⁷ Later, *J.E.M. Ag Supply, et al. v Pioneer Hi-Bred Int’l, Inc.*, the Court further expanded patent protection by allowing utility patents on sexually reproducing plants, including seeds, enabling companies like Monsanto to sue farmers for patent infringement when they resow second-generation seeds.¹⁶⁸ These decisions stand in tension with both statutory text and legislative history.

The original Plant Patent Act of 1930 protected only asexually propagated plants and excluded seeds.¹⁶⁹ Similarly, after the passage of the Patent Act, a 1966 congressional report affirmed that the patent system was not the appropriate mechanism for seed protection—its members “acknowledge[] the valuable contribution of plant and seed breeders, it does not consider the patent system the proper vehicle for the protection of such subject matter”¹⁷⁰ Congress addressed the need for seed protection when it passed the Plant Variety Protection Act in 1970, which originally included a farmer’s exemption allowing seed saving.¹⁷¹ However, after industry lobbying, the PVPA was amended in 1991, restricting farmers’ right to save and resow seeds—legally binding farmers to

<https://www.opensecrets.org/federal-lobbying/industries/summary?id=A07> (reporting that over 50% of Bayer lobbyists have previously held government jobs).

¹⁶⁵ See U.S. CONST. art. I, § 8, cl. 8.

¹⁶⁶ *Diamond v. Chakrabarty*, 447 U.S. 303, 307, 309–10 (1980); see 35 U.S.C. § 101 (2025).

¹⁶⁷ NATIONAL RESEARCH COUNCIL (US) BOARD ON AGRICULTURE, GENETIC ENGINEERING OF PLANTS: AGRICULTURAL RESEARCH OPPORTUNITIES AND POLICY CONCERNS 75 (1984).

¹⁶⁸ *J.E.M. Ag Supply, Inc. v. Pioneer Hi-Bred Int’l, Inc.*, 534 U.S. 124, 144–46 (2001).

¹⁶⁹ *Plant Patent Act of 1930*, ch. 312, 46 Stat. 376 (1930) (codified as amended at 35 U.S.C. §§ 161–164); *Plant Patent Act of 1930*, HIST., ART & ARCHIVES U.S. HOUSE OF REPRESENTATIVES, https://history.house.gov/Historical-Highlights/1901-1950/1930_05_13_Plant_Patent/ (last visited Oct. 17, 2025).

¹⁷⁰ See generally 35 U.S.C. §§ 1–390 (2025) (creating protections for plants but disregards protections for seeds themselves); S. DOC. NO. 5, 90th Cong., 1st sess. (1967).

¹⁷¹ Plant Variety Protection Act, Pub. L. No. 91-577, 84 Stat. 1542 (1970) (codified as amended at 7 U.S.C. §§ 2321–2583); Plant Variety Protection Act Amendments of 1994, Pub. L. No. 103-349, 108 Stat. 3136 (1994); Hope Shand, *U.S. Congress Restricts Farmers’ Rights*, GRAIN (Oct. 28, 1994), <https://grain.org/en/article/513-u-s-congress-restricts-farmers-rights>.

purchase new seeds annually. This amendment usurped traditional farming practices and imposed a dependent relationship between farmers and the highly consolidated seed industry, creating a legal risk for farmers. The expansion of utility patent law to cover self-replicating seeds stretches the meaning of Section 101 beyond its original textual limits.¹⁷² Second-generation seeds, produced by natural processes, do not constitute a “new manufacture” or “composition of matter.”¹⁷³ While patenting the biotechnological process behind genetic modification may be justifiable, extending those rights to naturally occurring offspring creates legal risk for farmers and undermines traditional agricultural practices.

The *J.E.M.* decision granted seed companies dual enforcement powers under both the PVP and utility patent laws, intensifying legal exposure of farmers and resulting in aggressive litigation.¹⁷⁴ Monsanto has weaponized these Supreme Court decisions to collect millions from hundreds of farmers, often not for engineering theft, but for the natural act of resowing harvested seeds.¹⁷⁵ This legal framework reflects a broader power imbalance, where courts and agencies have increasingly favored consolidated agribusiness interests at the expense of producers, biodiversity, and public control of the food system.

V. PATH TO FOOD JUSTICE

The systemic failures in U.S. nutrition and agricultural policy are not merely the result of scientific disagreement—they are a manifestation of regulatory capture, where federal agencies charged with protecting public health have become deeply entangled with the industries they are supposed to regulate. Regulatory capture happens when policymaking is driven less by genuine public interests and more by corporate agendas, leading to compromised standards, selective science, and entrenched policy positions that benefit private actors at public expense. The longstanding influence of Big Food and agrochemical companies on agencies like the USDA, FDA, and EPA exemplifies this dynamic. Industry funding of research, manipulation of advisory committees, and revolving door employment between agencies and corporations undermine the legitimacy of public health guidance and erode public trust.

If the USDA, FDA, and advisory bodies like the Dietary Guidelines Advisory Committee are to serve the public interest, they must be insulated from industry capture through transparency reforms, conflict-of-interest safeguards, and independent scientific oversight. One pathway forward is the widespread adoption and subsidization of Regenerative Agriculture, which prioritizes soil

¹⁷² See S. DOC. NO. 5, 90th Cong., 1st sess. (1967).

¹⁷³ *Id.*

¹⁷⁴ See *J.E.M. Ag Supply, Inc.*, 534 U.S. at 145.

¹⁷⁵ Francesca Levi, *Monsanto's History of Lawsuits: Implications for Farmers and Biotech Companies*, THE KINGFISHER (Feb. 8, 2022), https://www.the-kingfisher.org/people/communities/monsanto_lawsuits.html.

health, biodiversity, and human well-being. To achieve this, Congress must revise the Farm Bill to defund conventional agricultural practices that harm our health and the environment and incentivize Regenerative Agriculture. Nutrition policy reform must accompany agrarian reform. USDA guidelines, SNAP, and NSLP provisions must be updated to reflect modern science and prioritize chronic disease prevention. For example, aligning SNAP benefits with dietary goals—such as allowing access to hot, nutritious meals rather than ultra-processed snacks—would address the metabolic health crisis that disproportionately affects low-income populations.¹⁷⁶

Addressing regulatory capture also means confronting the legal and structural mechanisms that allow corporate actors to evade accountability. To this end, the revolving door between government and industry must be closed. Penalties for corporate-government collusion must be severe, public, and deterrent. Lawyers and judges must rein in their overreliance on consent decrees in resolving corporate malfeasance and instead pursue vigorous enforcement and structural remedies to ensure meaningful accountability. State laws must work in concert with federal regulations to restore market accountability. Congress and courts must preserve state failure-to-warn laws and antitrust enforcement as essential tools in exposing and restraining corporate misconduct. Courts should not engage in legislation where Congress's original intent was not to allow self-replicating life forms, such as seeds, to be patent protected, which contributes to the power imbalance between farmers and corporations. Regulatory agencies must adopt a science-based approach, ensuring that independent academic voices and third-party scientific reviewers, not industry scientists, play a central role in shaping public policy.

The right to food sovereignty must be enshrined as a constitutional protection. Maine was the first to pass a right-to-food amendment, setting a vital precedent.¹⁷⁷ A federal amendment should follow, limiting federal overreach and affirming consumer and producer autonomy. I propose the following language for the 28th Amendment of the United States Constitution: The right of the people to buy and grow food from the source of their choice shall not be infringed.

This amendment would reinforce the principle of food freedom, informed consent in food sourcing, and challenge the concentrated control of our food supply by corporate monopolies. It would essentially overturn *Wickard v. Filburn*, the 1942 Supreme Court decision that vastly expanded the federal government's authority under the Commerce Clause by permitting regulation of food grown for personal use.¹⁷⁸ Overturning or limiting the scope of *Wickard*

¹⁷⁶ See Felicia Hill-Briggs et al., *Social Determinants of Health and Diabetes: A Scientific Review*, 44 AM. DIABETES ASS'N 258 (Jan. 2021), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7783927/>.

¹⁷⁷ ME. CONST. art. I, § 25.

¹⁷⁸ *Wickard v. Filburn*, 317 U.S. 111, 118–19 (1942) (holding that Congress may regulate wheat grown for personal use under the Commerce Clause).

would decentralize power over food systems, restore states' rights to protect health, and encourage direct producer-to-consumer relationships. Combating regulatory capture and restoring public health requires realigning food and agricultural policy with healing health objectives, scientific integrity, and constitutional accountability. Only then can we reclaim control over what ends up on our plates—and what kind of future we are cultivating for generations to come.

Aristotle's theory of justice, articulated in Book V of the *Nicomachean Ethics*, distinguishes between two types of justice: distributive justice and corrective justice.¹⁷⁹ Distributive justice concerns the equitable allocation of goods, honors, or burdens within a community, while corrective justice addresses the rectification of wrongs or imbalances caused by human actions.¹⁸⁰ Applying Aristotle's concepts of justice to the modern food system reveals profound deficits. In the context of distributive justice, the industrial food system fails to justly distribute healthy food. Access to nutritious, affordable, nonadulterated food is heavily skewed by income, geography, and race—often a direct result of market consolidation and policy capture by powerful agribusinesses.¹⁸¹ This cronyism distorts public food policy in ways that reward corporate interests over public well-being, resulting in a society where some communities suffer from chronic disease and food insecurity while others profit from its causes.

Through the lens of corrective justice, the harms inflicted by these corporations—through the promotion of ultra-processed foods, environmental degradation, manipulation of science, and regulation—go largely unremedied. Regulatory agencies, intended to correct such imbalances, have become entangled in a revolving door with the industries they are meant to regulate. The absence of accountability mechanisms and the erosion of state and individual rights reinforce systemic food injustice, leaving individuals and communities without meaningful redress. The status quo of our food system fails to serve the *telos* of the community, which is the cultivation of human flourishing. Thus, true food justice requires restoring both distributive and corrective balance, effectively reclaiming the food system as a public good aligned with the moral and civil aims of justice itself.

¹⁷⁹ ARISTOTLE, *NICOMACHEAN ETHICS* 34 (W.D. Ross trans., Oxford Univ. Press rev. ed. 1998).

¹⁸⁰ *Id.*

¹⁸¹ Efitan Y. Akam et al., *Racial Disparities and Cardiometabolic Risk: New Horizons of Intervention and Prevention*, 22 *CURRENT DIABETES REP.* 129, 131 (2022), <https://link.springer.com/article/10.1007/s11892-022-01451-6>.