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# Making the Case for a National Food Strategy in the United States

LAURIE J. BEYRANEVAND AND EMILY M. BROAD LEIB\*

## INTRODUCTION

Over the past century, the United States' food system<sup>1</sup> has transformed considerably, while laws and policies have struggled to keep pace. On the one hand, these facts are neither unique nor surprising. The development of law and policy is often incremental, lagging behind growth and technological advances. Yet, on the other hand, this problem is particularly acute with regard to law and policymaking related to the food system given its reach. Where the United States was once a primarily agrarian society, in which farmers produced food on small, diversified farms that employed nearly half the country's labor force, America has since transitioned to a highly industrialized nation.<sup>2</sup> Presently, only a small percentage of the American population is engaged with food production.<sup>3</sup> Farms are larger, increasingly specialized, and under highly concentrated ownership.<sup>4</sup> Technological advances in food production and distribution, coupled with consumer demand for constant and

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\* This Article follows from the keynote presentation given by the authors at the Food and Drug Law Journal Annual Symposium on November 4, 2016. The presentation, entitled "Blueprint for a National Food Strategy", was based on a collaborative effort of the same name between the Harvard Law School Food Law and Policy Clinic (FLPC) and the Center for Agriculture and Food Systems (CAFS) at Vermont Law School funded by the W.K. Kellogg Foundation. The authors wish to thank the other contributors to that Project, namely, Emma Clippinger, Laurie Ristino, Ona Balkus, Amber Leasure-Earnhardt, and student clinicians and researchers at the FLPC and CAFS. Laurie J. Beyranevand is a Professor of Law, Senior Faculty Fellow for Food Law and Policy of the Center for Agriculture and Food Systems, and Senior Fellow of the New Economy Law Center at Vermont Law School. Emily M. Broad Leib is an Assistant Clinical Professor of Law, Founding Director of the Harvard Law School Food Law and Policy Clinic, and Deputy Director of the Harvard Law School Center for Health Law and Policy Innovation at Harvard Law School. More detailed explanations of the strategies referenced within this article can be found in the Blueprint for a National Food Strategy report, which is available at <http://foodstrategyblueprint.org>.

<sup>1</sup> The food system can be defined as "all of the processes involved in getting food from farm to table to disposal, including production, processing, distributing, preparing, marketing, accessing, consuming, and disposing. Food systems also involve people, farms, businesses, communities, interventions, policies, and politics." Roni A. Neff et al., *Food Systems and Public Health Disparities*, 4 J. HUNGER & ENVTL. NUTRITION 282, 283 (2009) (citing Jeffery Sobal et al., *A Conceptual Model of the Food and Nutrition System*, 47 SOC. SCI. MED. 853, 853-63 (1998); See also Ludwig von Bertalanffy, *An Outline of General System Theory*, 1 BRIT. J. PHIL. SCI. 134 (1950); Scott J. Leischow et al., *Systems Thinking and Modeling for Public Health Practice*, 96 AM. J. PUB. HEALTH 403 (2006).

<sup>2</sup> Carolyn Dimitri et al., *The 20th Century Transformation of U.S. Agriculture and Farm Policy*, Electronic Report from the U.S. Dep't of Agric., Econ. Res. Serv., [https://www.ers.usda.gov/webdocs/publications/eib3/13566\\_eib3\\_1\\_.pdf?v=41055](https://www.ers.usda.gov/webdocs/publications/eib3/13566_eib3_1_.pdf?v=41055) (June 2005), at 2; see also INST. OF MED. & NAT'L RES. COUNCIL, Committee on a Framework for Assessing the Health, Environmental, and Social Effects of the Food System, ix (Malden C. Nesheim et al. eds. 2015).

<sup>3</sup> *Id.*

<sup>4</sup> Dimitri, *supra* note 2 at 2.

consistent access to diverse food products, have globalized the food system creating long and complex supply chains.<sup>5</sup> In adapting to this highly industrialized system, however, law and policymaking has largely failed to account for other major social priorities,<sup>6</sup> including public health, and environmental and economic sustainability. While all Americans are impacted by the food system, and many stakeholders hold strong opinions about food system issues, there is no clear, identifiable point of entry for participation in food and agricultural law and policymaking.

This journal issue is an outgrowth of a symposium entitled “Law and Food Systems: Institutional Pathways Toward a New Paradigm?,” which provided a forum to address some of these challenges. Specifically, scholars and practitioners discussed a wide range of law and policy measures related to food system challenges in the United States. The articles included in this issue differ in their focus on discrete food system issues, such as food safety or biotechnology. However, common to many of the articles are the authors’ proposed solutions in that they entail increased coordination, consistency, and efficiency. In short, the articles collectively reflect the need to view food and agriculture as part of an integrated system, a topic at the core of this article.

Notably, several of the symposium presentations addressed the issue of food safety from different perspectives. One presentation discussed creating a single food agency,<sup>7</sup> an issue that has recently gained momentum.<sup>8</sup> Congress introduced legislation proposing a single food safety agency in 2015,<sup>9</sup> and the issue was included in President Obama’s 2016 fiscal year budget proposal.<sup>10</sup> Those who seek to consolidate federal food safety efforts point to anticipated benefits in the form of increased efficiency, reduced redundancy, regulatory gap-filling, and an opportunity to provide consistency among regulators and regulated entities.<sup>11</sup>

Another presentation also addressed food system challenges in the context of food safety, examining whether the Food and Drug Administration’s (FDA) and the United States Department of Agriculture’s (USDA) food safety mandates should be interpreted more broadly to incorporate the consideration of environmental impacts

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<sup>5</sup> United States Department of Agriculture, *Food Imports*, <http://www.ers.usda.gov/data-products/us-food-imports.aspx> (last visited February 20, 2016).

<sup>6</sup> *Id.*; see also INST. OF MED. & NAT’L RES. COUNCIL, *supra* note 2 at ix (“To date, most studies that address changes within the food system have taken a relatively narrow approach with limited consideration of the system’s complexity.”).

<sup>7</sup> Kelly Johnston, Vice President of Governmental Affairs, Campbell Soup Co., Address at 2016 *Food and Drug Law Journal* Symposium, *Is It Time to Create a Single Food Agency in the United States* (Nov. 4, 2016).

<sup>8</sup> See Richard A. Merrill & Jeffrey K. Francer, *Organizing Federal Food Safety Regulation*, 31 SETON HALL L. REV. 61 (2000); *Cf. Reforming the Food Safety System: What if Consolidation Isn’t Enough?*, 120 HARVARD L. REV. 1345 (2007) (arguing that any efforts to consolidate the food safety roles of the agencies would be prohibitively expensive).

<sup>9</sup> Safe Food Act of 2015, S. 287, 114th Cong., 1st Sess. (2015).

<sup>10</sup> Lydia Zuraw, *Obama’s 2016 Budget: \$1.6 Billion for Food Safety, Single Food-Safety Agency*, FOOD SAFETY NEWS, <http://www.foodsafetynews.com/2015/02/obama-2016-budget-includes-1-6-billion-for-food-safety/#.VVuHKRcmbW4>.

<sup>11</sup> Merrill & Francer, *supra* note 8.

into regulatory decisions addressing food safety.<sup>12</sup> Underlying this proposal is a concern over fragmented decision-making regarding food and agriculture and an attempt to incorporate additional issues and agencies into food safety decision-making.

Another article considers the efficacy of private sector food safety standards, specifically analyzing the GlobalG.A.P. (Good Agricultural Practices) System.<sup>13</sup> The private sector created this system to address perceived inadequacies with Codex Alimentarius, or the international food safety code developed by the Food and Agriculture Organization of the United Nations.<sup>14</sup> This article considers the efficacy of such private standards and whether they are justified to address gaps in inter-governmental food safety regulations or act as unwarranted, non-transparent market barriers in developing countries, due to the costs associated with certification and compliance.

Other articles in this issue focus on food justice, agricultural biotechnology, and antibiotic use in food-producing animals. One article examines the issue of food justice<sup>15</sup> as a lens to argue for more federal-level coordination to improve policies and decisions that presently fail to ensure beneficial outcomes for all consumers and workers in the food system.<sup>16</sup> This article advocates using the Interagency Working Group for Environmental Justice (EJIWG) as a model to improve federal coordination of food justice issues.

Another article similarly points to the lack of agency coordination, along with insufficient delegated authority, in its examination of agricultural biotechnology regulation in the United States. Specifically, this article questions whether those factors hinder effective regulation of these products and create unclear standards for industry as to which products are regulated and by which agency.<sup>17</sup>

A last article addresses antibiotic use in food producing animals, arguing this issue is particularly suited to “democratic experimentalism” to encourage local innovation, along with centralized evaluation, to determine solutions that best reduce antibiotic use.<sup>18</sup> Although not explicitly addressed in this article, the current regulatory approach to antibiotic use in the United States entails significant tradeoffs. While antibiotic use in food producing animals inexpensively increases food production resulting in cheaper food,<sup>19</sup> it can also cause significant human health issues resulting from antibiotic resistance.<sup>20</sup> However, federal policy has not offered a forum to account for

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<sup>12</sup> Margot Pollans, Assistant Professor of Law, Elisabeth Haub School of Law at Pace University, Address at 2016 *Food and Drug Law Journal* Symposium, *Incorporating Environmental Ethics into Food and Drug Safety Regulation* (Nov. 4, 2016).

<sup>13</sup> Sam Halabi, *Assessing the Relative Influence and Efficacy of Public and Private Food Safety Regulation Regimes: Comparing Codex and GlobalGAP Standards*, *infra* at 262 - 294.

<sup>14</sup> Joint FAO/WHO Codex Alimentarius Commission, Codex Alimentarius (1992).

<sup>15</sup> The author adopts a definition of food justice as “justice for all in the food system, whether producers, farmworkers, processors, workers, eaters, or communities.” Robert Gottlieb & Anupama Joshi, *FOOD JUSTICE* 222 (2010).

<sup>16</sup> Melanie Pugh, *A Recipe for Justice: Support for a Federal Food Justice Interagency Working Group*, *infra* at 341 - 360.

<sup>17</sup> Alison Peck, *Re-Imagining Biotechnology Regulation*, *infra* at 314 - 340.

<sup>18</sup> Emilie Aguirre, *An International Model for Antibiotic Regulation*, *infra* at 295 - 313.

<sup>19</sup> INST. OF MED. & NAT’L RES. COUNCIL, *supra* note 2 at 273.

<sup>20</sup> *Id.*

competing economic and public health concerns—let alone decide on a means by which to prioritize them.<sup>21</sup>

While these articles are not necessarily framed as calls for greater coordination, each includes a proposal to better align laws and policies within a discrete food or agricultural realm, in order to achieve better outcomes, greater efficiency, and more consistency. Fundamentally, these articles reflect the need for more coordinated decision-making, which has not been the traditional approach to food and agricultural law and policymaking in the United States. Rather, law and policymaking that impacts the food system often fails to account for the impacts that regulations in one area may have on other aspects of the food system. While the articles included in this journal issue gesture toward a lack of coordination, they—in addition to countless other individuals advocating for greater coordination in food and agricultural law and policy making<sup>22</sup>—ultimately prescribe targeted reforms to relatively discrete issues. This article, however, proposes a different approach, yet one that can be both foundational and complementary: namely, the creation of a national food strategy, or a coordinated strategic federal approach to food system policy and regulation.

The concept of a national food strategy is not new. Other countries, facing similar food system challenges, have developed national food strategies to address these challenges in a holistic and integrated manner. These strategies represent an acknowledgement that, like the United States, many countries have an uncoordinated set of laws and policies that impact the food system. The creation of a national food strategy is both an effort to understand myriad laws and policies related to the food system, and a means by which to chart a path forward with a clear set of goals and

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<sup>21</sup> *Id.* at 276 (Centers for Disease Control has argued antibiotics for growth promotion should be phased out immediately, but FDA has created only a voluntary program to phase out the use of specific antibiotics in food producing animals).

<sup>22</sup> See generally Maggie Gosselin, *Beyond the USDA: How Other Government Agencies Can Support a Healthier, More Sustainable Food System*, INSTITUTE FOR AGRICULTURE AND TRADE POLICY (Feb. 2010) (calling for “the U.S. Department of Agriculture (USDA), Environmental Protection Agency (EPA) and Department of Health and Human Services (HHS) [to] convene an interdepartmental task force on food policy to bring together the diverse departments and agencies that have bearing on food production and consumption in America. A better understanding of federal oversight of the food system is a prerequisite to a more clear and coordinated approach to food”); Margaret Sova McCabe, *Foodshed Foundations: Law’s Role in Shaping Our Food System’s Future*, 22 FORDHAM ENVTL. L. REV. 563, 595–96 (2011) (advocating for a national coordinating council to “take up an agenda concerned with environmental sustainability, public health including nutrition and food safety, and international trade policy” and “evaluate federal policy, whether it is farm subsidies or food safety, to determine the effects on local, regional, and global food systems” in coordination with FDA and USDA); Mark Bittman et al., *A National Food Policy for the 21st Century: A Memo to the Next President*, <https://medium.com/food-is-the-new-internet/a-national-food-policy-for-the-21st-century-7d323ee7c65f#sxdxlf62k> (“The food system resulting from these policies has created economic and path dependencies that complicate reform, leaving us with a set of institutions and policy vehicles that are incapable of tackling the problems of the food system—problems that go far beyond food and farming. Today, policies are needed that respond to the evolution and actual structure and function of the contemporary food system.”); see also Union Of Concerned Scientists, *Fixing Our Broken Food System: The Plate of the Union Initiative*, <http://www.ucsusa.org/food-agriculture/fixing-our-broken-food-system-plate-of-the-union-initiative#.Vs823JMrJo4> (arguing that the American food system is broken due to “policy choices from a bygone era,” including federal farm subsidies that support the production of “unhealthy” foods at the risk of public health and the environment); see also Susan A. Schneider, *A Reconsideration of Agricultural Law: A Call for the Law of Food, Farming, and Sustainability*, 34 WM. & MARY ENVTL. L. & POL’Y REV. 935, 937 (2010) (calling for a “reconsideration of the framework of agricultural law and the development of an agricultural policy that supports and encourages a sustainable food policy. It calls for a policy that supports the economic welfare of the agricultural industry but only in the context of the universal societal goal that justifies its special treatment—the production of food”).

priorities to guide future decision making. Although the United States does not have a national food strategy, it has developed national strategies in response to other issues of national concern, such as antibiotic-resistant bacteria or HIV/AIDS, where a coordinated response was needed.

Presently, in the United States there is a fair amount of speculation regarding the future of food and agricultural laws and policies, given the recent election of a new president. Based on campaign rhetoric and comments since the election, the next four-to-eight years could signal a dramatic shift in a variety of food policy areas, including specific provisions of the Farm Bill such as the funding structure of the Supplemental Nutrition Assistance Program (SNAP), the Child Nutrition Reauthorization legislation, which provides school meals and other food programs for children), incentives for local food systems and organic farmers, and conservation on farms.<sup>23</sup> Additionally, the new Administration has been exceedingly vocal about immigration reform, which will have significant impacts on the food and farming sectors.<sup>24</sup> While the incoming Administration's food and agricultural policies remain uncertain, the creation of a national strategy can address many existing food system regulatory challenges. Such a strategy could be created in one of two ways. First, the incoming Administration can commit to a national food strategy that may comprehensively address, prioritize, and set goals related to many of the issues important to American voters, including public health, the economy, immigration, the environment, and trade.<sup>25</sup> Alternatively, stakeholders can begin the process—as they have done internationally—to develop their own strategy to present to the next Administration. This Article argues that either of these outcomes is superior to the status quo, yet concludes a national food strategy in the United States will ultimately require governmental engagement to achieve the benefits of long-term, coordinated food system law and policy making.

This Article proceeds in four parts. Part I briefly describes the current piecemeal regulation of the American food system and then addresses the challenges posed by this uncoordinated approach. Part II lays out the case for a national food strategy to address these challenges, briefly summarizing how national food strategies in the global context as well as national strategies on other issues in the domestic context provide models for its creation. In Part III, the authors discuss how a comprehensive national food strategy can respond to a set of issues that took center stage in the most

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<sup>23</sup> See e.g., Ian Kullgren, *Trump Teams Ag Talking Points*, POLITICO (Nov. 14, 2016), <http://www.politico.com/tipsheets/morning-agriculture/2016/11/trump-teams-ag-talking-points-217390> (summarizing the main points of a document created for Trump's Agricultural Advisory Committee, which included "a host of policy pledges—from suggesting a shift back to conventional agriculture, to promises for the Trump White House to be an 'active participant' in writing the next Farm Bill, to fighting the so-called good food movement and undoing Obama-era agricultural and environmental policies."); Julie Kelly, *The Food Movement is Cooked Under the Trump Administration*, NATIONAL REVIEW (Nov. 24, 2016), <http://www.nationalreview.com/article/442463/food-movement-trump-administration-will-frustrate-their-schemes> ("The president-elect said little about food policy on the campaign trail, but there's plenty of reason to believe he will roll back some of the most ineffective policies and stop bad ones from advancing on his watch. The culinary elites were hoping to use food issues to promote their overall agenda of higher taxes and more regulations under a Clinton administration; that agenda is now toast."); Baylen Linnekin, *What Trump Win Means for Food and Agriculture*, REASON.COM (Nov. 14, 2016), <http://reason.com/archives/2016/11/19/what-trump-win-means-for-food-and-agricu>.

<sup>24</sup> See Kullgren, *supra* note 23.

<sup>25</sup> See PEW RESEARCH CENTER, *Top Voting Issues in 2016 Election* (July 7, 2016), <http://www.people-press.org/2016/07/07/4-top-voting-issues-in-2016-election/>.

recent presidential campaign, focusing specifically on reducing inefficiencies and unnecessary, overly burdensome regulations, promoting economic development, and reconnecting stakeholders outside the beltway to policymaking within it. Finally, Part IV concludes by articulating a set of principles gleaned from the international and domestic models that should guide the creation of a national food strategy in the United States. This last section also considers how stakeholders, either in the absence of such a strategy or to respond to dissatisfaction with their own governments' national food strategies, have created their own processes to develop one independently, and what these models can teach us.

## I. FOOD SYSTEM CHALLENGES AND OPPORTUNITIES: THE NEED FOR A NATIONAL FOOD STRATEGY

The United States' food and agricultural system impacts many vital issues of national concern, including the economy, public health, the environment, and trade. The food and agricultural sectors are major components of the national economy, wherein the agricultural and related sectors represent approximately 5.7 percent of total GDP and 10 percent of total national employment.<sup>26</sup> Obesity and diet-related diseases are the biggest health issues facing the United States, where more than one third of adults (36.5 percent) are obese,<sup>27</sup> thereby increasing risk of other serious chronic health conditions, such as coronary heart disease, high blood pressure, stroke, type II diabetes and cancer.<sup>28</sup> The health care costs associated with obesity are estimated to be a staggering \$147 billion per year, according to 2010 data.<sup>29</sup> In reality, the total cost of these diseases to our society is likely much higher.<sup>30</sup> Regarding environmental health, agriculture accounts for 80–90 percent of America's "consumptive water use"<sup>31</sup> and is a leading cause of water quality impairment.<sup>32</sup> Further, substantial gains in agricultural productivity over the past 50 years are, in part, due to the use of chemical inputs that emit harmful environmental contaminants, which may significantly impact human health.<sup>33</sup>

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<sup>26</sup> U.S. DEP'T AGRIC., Econ. Res. Serv., *Ag and Food Sectors and the Economy*, <https://www.ers.usda.gov/data-products/ag-and-food-statistics-charting-the-essentials/ag-and-food-sectors-and-the-economy.aspx> (the output of America's farms contributed \$177.2 billion of this sum—about 1 percent of GDP. The overall contribution of the agriculture sector to GDP is larger than this because sectors related to agriculture—forestry, fishing, and related activities; food, beverages, and tobacco products; textiles, apparel, and leather products; food and beverage stores; and food service and drinking places—rely on agricultural inputs in order to contribute added value to the economy.”).

<sup>27</sup> Ctr. for Disease Control & Protection, *Adult Obesity Facts*, <https://www.cdc.gov/obesity/data/adult.html>.

<sup>28</sup> U.S. DEP'T OF HEALTH & HUMAN SERVICES, Nat'l Heart, Lung, and Blood Inst., *What Are The Health Risks of Overweight and Obesity*, <https://www.nhlbi.nih.gov/health/health-topics/topics/obe/risks>.

<sup>29</sup> Eric A. Finkelstein et al., *Annual Medical Spending Attributable to Obesity: Payer- and Service-Specific Estimates*, 28 HEALTH AFF. 822, 822 (2009).

<sup>30</sup> See Barry M. Popkin et al., *Measuring the Full Economic Costs of Diet, Physical Activity and Obesity-Related Chronic Diseases*, 7 OBESITY REV. 271, 272 (2006).

<sup>31</sup> U.S. DEP'T AGRIC., Econ. Res. Serv., *How Important is Irrigation to U.S. Agriculture?*, <https://www.ers.usda.gov/topics/farm-practices-management/irrigation-water-use/background/>.

<sup>32</sup> ENVTL. PROT. AGENCY, *Protecting Water Quality from Agricultural Runoff*, [https://www.epa.gov/sites/production/files/2015-09/documents/ag\\_runoff\\_fact\\_sheet.pdf](https://www.epa.gov/sites/production/files/2015-09/documents/ag_runoff_fact_sheet.pdf).

<sup>33</sup> INST. OF MED. AND NAT'L RES. COUNCIL, *supra* note 2 at 130.

Due to the broad reach of the food and agricultural system, myriad federal laws and dozens of federal agencies impact this system.<sup>34</sup> Regarding food safety alone, there are “as many as 15 federal agencies, including the FDA and the [USDA’s Food Safety Inspection Service (FSIS)], [] collectively administering at least 30 laws related to food safety.”<sup>35</sup> The chief divide in federal food safety regulation is between FDA and USDA. FDA oversees approximately 80 percent of the American food supply,<sup>36</sup> monitoring safety and labeling of most foods other than meat, and approving the use of chemicals other than pesticides for use in food.<sup>37</sup> USDA’s FSIS regulates safety of approximately 20 percent of the food supply, overseeing the safety of meat, poultry and unshelled egg products.<sup>38</sup> The bifurcated system of food safety dates back to the early 1900s, when Congress divided jurisdiction between FDA (then, the Bureau of Chemistry within USDA) and USDA (then, USDA Bureau of Animal Industry).<sup>39</sup> This bifurcation has persisted, while additional food safety activities have been directed to various other agencies through subsequent legislation and executive directives.<sup>40</sup> The Government Accountability Office (GAO) reports that the division of responsibility for food safety regulation among different agencies has resulted in “inconsistent oversight, ineffective coordination, and inefficient use of resources.”<sup>41</sup>

Beyond food safety, laws and regulations addressing other topics also impact the food system, both directly and indirectly. USDA plays a broad role in the food system, helping to develop the Dietary Guidelines for Americans, overseeing the farm support programs included in the Farm Bill, and implementing many nutrition safety net programs for individuals, families, and schoolchildren.<sup>42</sup> Additionally, federal immigration policy directly affects food production, as approximately half of the

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<sup>34</sup> See e.g., Gosselin, *supra* note 22 (citing myriad governmental departments and agencies beyond FDA and USDA with a role in regulating the food system, including EPA, Department of Interior, Department of Defense, Department of Commerce, Department of Transportation, Department of Housing and Urban Development, Department of Energy, Department of Homeland Security, and the Department of Labor, among others).

<sup>35</sup> Rénee Johnson, *The Federal Food Safety System: A Primer*, Cong. Res. Serv., <https://fas.org/sgp/crs/misc/RS22600.pdf>.

<sup>36</sup> INST. OF MED. AND NAT’L RES. COUNCIL, *supra* note 2 at 21.

<sup>37</sup> See Merrill, *supra* note 8 at 90.

<sup>38</sup> *Id.*

<sup>39</sup> Johnson, *supra* note 35 at 2.

<sup>40</sup> *Id.*

<sup>41</sup> U.S. GOV’T ACCOUNTABILITY OFFICE, GAO-15-290, High Risk Series: An Update 262 (Feb. 2015), <https://www.gao.gov/assets/670/668425.pdf> (hereinafter *GAO High Risk Series*) (GAO has been reporting on the fragmented nature of food safety regulation for over a decade suggesting that Congress and the Executive Branch work together to create a “government wide performance plan for food safety.” Despite the existence of interagency coordination mechanisms, “to understand what its government is doing to ensure the safety of the food supply, Congress, program managers, other decision-makers, and the public must access and attempt to make sense of and reconcile individual documents across the fifteen federal food safety federal agencies.”). In January 2017, GAO called for the creation of a national strategy to address this fragmentation and lack of coordination regarding food safety regulation. U.S. GOV’T ACCOUNTABILITY OFFICE, GAO-17-74, Food Safety: A National Strategy Is Needed to Address Fragmentation in Federal Oversight (January 2017), <http://www.gao.gov/assets/690/682095.pdf>.

<sup>42</sup> See generally U.S. DEP’T AGRIC., Agencies & Offices, [https://www.usda.gov/wps/portal/usda/usdahome?navid=AGENCIES\\_OFFICES\\_C](https://www.usda.gov/wps/portal/usda/usdahome?navid=AGENCIES_OFFICES_C) (last visited Mar. 2, 2017).

workers employed in the agricultural sector are undocumented.<sup>43</sup> Regarding the environment, both the Environmental Protection Agency (EPA) and USDA implement regulations and policies to support environmental protection that profoundly implicate the food system, as they affect the types of practices that may be used in food production.<sup>44</sup> The range of federal, state, and local environmental laws and regulations applicable to agriculture and food operations have been criticized for their complexity, ambiguity, and inconsistency.<sup>45</sup> Energy policy also affects the food system. For example, the Energy Policy Act of 2005 and the Energy Independence and Security Act of 2007 helped drive a surge in grain ethanol production in the last decade, meaning more farmland dedicated to ethanol production and less to food production.<sup>46</sup> Regarding trade and marketing, the Federal Trade Commission enforces consumer protection laws that relate to food advertising and marketing, as well as federal antitrust laws.<sup>47</sup> Beyond the federal level, state and local agencies also engage in the regulation of food and agriculture, implementing a patchwork of laws and policies at those different levels.<sup>48</sup>

Even with the proliferation of such laws, regulations, and authorities that shape our food system, policymakers rarely account for the food system as a whole when making decisions. This leads to fragmented and piecemeal law and policy making that can be contradictory—or simply inefficient—due to its failure to account for the fact that food exists as part of a complex, interconnected system.<sup>49</sup> By way of example, the United States' Dietary Guidelines for Americans (DGA), which provide guidance for consumption and set the standards for federal nutrition assistance programs, stand in stark contrast to agricultural policies that influence production. The DGA are created every five years as a joint effort by USDA and the Department of Health and Human

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<sup>43</sup> Steven Zahniser et al., *The Potential Impact of Changes in Immigration Policy on U.S. Agriculture and the Market for Hired Farm Labor: A Simulation Analysis 1* (May 2012), [https://www.ers.usda.gov/webdocs/publications/err135/20514\\_err135\\_1\\_.pdf](https://www.ers.usda.gov/webdocs/publications/err135/20514_err135_1_.pdf) (“Hired labor (including contract labor) is an important input to U.S. agricultural production, accounting for about 17 percent of variable production expenses and about 40 percent of such expenses for fruits, vegetables, and nursery products. Over the past 15 years, roughly half of the hired laborers employed in U.S. crop agriculture have lacked the immigration status needed to work legally in the United States. Thus, changes in immigration laws or policies could lead to markedly different economic outcomes in the agricultural sector and the market for hired farm labor.”); NAT'L FARM WORKER MINISTRY, *Farm Worker Issues*, <http://nfwfm.org/education-center/farm-worker-issues/> (last visited Jan. 8, 2016); NAT'L FARM WORKER MINISTRY, *Farm Workers and Immigration*, <http://nfwfm.org/education-center/farm-worker-issues/farm-workers-immigration/> (last visited Jan. 8, 2016).

<sup>44</sup> INST. OF MED. AND NAT'L RES. COUNCIL, *supra* note 2 at 65 (“USDA’s approach has focused on voluntary programs and public investments that provide technical and financial assistance to encourage farmers to adopt practices that minimize soil erosion and other environmental impacts.”).

<sup>45</sup> GUIDE TO U.S. FOOD LAWS AND REGULATIONS 138, (Patricia A. Curtis ed., 2d ed. 2013) (“Federal, state, and local regulations may have inconsistent or contradictory requirements. Enforcement is often uneven at best. Given such an environment of uncertainty every business must formulate an environmental risk management strategy as part of its overall compliance plan.”).

<sup>46</sup> INST. OF MED. AND NAT'L RES. COUNCIL, *supra* note 2 at 69 (“Prompted by concerns about dependence on oil imports and risks from climate change, the Energy Policy Act of 2005<sup>26</sup> and the subsequent Energy Independence and Security Act of 2007<sup>27</sup> mandated the blending of renewable fuels (especially ethanol) into the national automobile fuel supply. Associated farm policy added subsidies and tariffs to favor domestic U.S. ethanol production.”).

<sup>47</sup> GUIDE TO U.S. FOOD LAWS AND REGULATIONS, *supra* note 45 at 161.

<sup>48</sup> In addition to the many federal agencies, “The FDA also cooperates with over 400 state agencies across the nation that carry out a wide range of food safety regulatory activities.” Johnson, *supra* note 35.

<sup>49</sup> INST. OF MED. AND NAT'L RES. COUNCIL, *supra* note 2, at ix.

Services.<sup>50</sup> The most recent DGA recommends consumption of fruits and vegetables as a substantial portion of a healthy diet.<sup>51</sup> According to USDA's MyPlate, these items should make up half of our daily consumption.<sup>52</sup> Yet, the United States Farm Bill, which is enacted by Congress every five to seven years and provides funding and support for food and agriculture across the nation, allocates far more resources to commodity crops (like cotton, corn, soybeans, wheat, and rice) as compared to "specialty crops,"<sup>53</sup> Farm Bill parlance for fruits and vegetables. Specifically, under the 2014 Farm Bill, \$72.5 million per year (\$85 million starting in 2018) is allocated for specialty crop block grants, the primary method of supporting specialty crop producers.<sup>54</sup> This stands in contrast to mandatory annual spending for commodity crops, estimated by the Congressional Research Service to be \$4.7 billion per year, not including federally-subsidized crop insurance.<sup>55</sup> These commodity crops often become components of highly processed and unhealthy foods, with high amounts of added sugar, sodium, and fat—the very foods the DGA recommend limiting.<sup>56</sup> Under current agricultural policies and incentive programs, the United States does not grow enough fruits and vegetables to support healthy diets for the whole population. A USDA study found that 13 million more acres of fruits and vegetables must be planted to produce the DGA-recommend fruit and vegetable amount for American consumption.<sup>57</sup> This illustrates just one example of uncoordinated food system policymaking.

Recognition of the impact of this lack of coordination on food safety spurred attempts to achieve greater coordination; however, these attempts have been short-lived and have failed to incorporate a broader set of food system regulations. To illustrate, President Obama established the Food Safety Working Group (FSWG) in

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<sup>50</sup> U.S. DEP'T OF HEALTH & HUMAN SERV. & U.S. DEP'T OF AGRIC., *2015–2020 Dietary Guidelines for Americans* (8th ed. 2015) (hereinafter *Dietary Guidelines*), <https://health.gov/dietaryguidelines/2015/guidelines/>.

<sup>51</sup> *See id.* at 47–48 (“For most individuals, following a healthy eating pattern would include an increase in total vegetable intake from all vegetable subgroups, in nutrient-dense forms, and an increase in the variety of different vegetables consumed over time . . . . To help support healthy eating patterns, most individuals in the United States would benefit from increasing their intake of fruits, mostly whole fruits, in nutrient-dense forms.”).

<sup>52</sup> *See* U.S. DEP'T OF AGRIC., *My Plate*, <https://www.choosemyplate.gov/MyPlate>.

<sup>53</sup> Defined in the Specialty Crops Competitiveness Act of 2004, 7 U.S.C. 1621 § 3, as amended by the Food, Conservation, and Energy Act of 2008, Pub. L. 110-234, 122 Stat. 923-1551 (2008). *See* U.S. DEP'T OF AGRIC., *USDA Definition of Specialty Crop*, <http://www.ams.usda.gov/AMSV1.0/getfile?dDocName=STELPRDC5082113>.

<sup>54</sup> Renee Johnson, *Fruits, Vegetables and Other Specialty Crops: Selected Farm Bill and Federal Programs*, Cong. Res. Serv. (July 11, 2014), <http://nationalaglawcenter.org/wp-content/uploads/assets/crs/R42771.pdf>. A more generous estimate puts the total spending on specialty crops and organics at \$773 million, but some programs included in that estimate do not clearly accrue to specialty crops alone.

<sup>55</sup> *Id.* at 5. Other estimates put commodity crop spending even higher. Secretary Vilsack reported that due to low 2015 crop prices, \$7 billion would be paid to farmers under the Commodities Title of the Farm Bill alone, not including the many billions of dollars spent on premium subsidies and payouts for federal crop insurance. U.S. DEP'T OF AGRIC., *News Release: USDA Issues Safety-Net Payments to Farmers in Response to 2015 Market Downturn* (Oct. 4, 2016) <http://www.usda.gov/wps/portal/usda/usdahome?contentid=2016/10/0214.xml&contentidonly=true>.

<sup>56</sup> *Dietary Guidelines*, *supra* note 50, at xiii.

<sup>57</sup> Jean C. Buzby et al., *Possible Implications for U.S. Agriculture from Adoption of Select Dietary Guidelines*, U.S. Dep't of Agric., Econ. Res. Serv., Economic Research Report No. 35 (Nov. 2006), <https://www.ers.usda.gov/publications/pub-details/?pubid=45694>.

2009 to provide a forum in which the different agencies engaged in food safety regulation could develop a set of shared goals.<sup>58</sup> The group met over three years and then dissolved, because agency officials suggested it was no longer necessary due to the existence of other collaborative mechanisms.<sup>59</sup> However, GAO noted these collaborative mechanisms focused on discrete issues and failed to provide opportunities for “broad-based, centralized collaboration” and goal setting.<sup>60</sup> Moreover, without a centralized interagency working group, like the FSWG, relevant agencies fail to engage in collective consideration of how individual regulations may combine to meet agreed-upon food safety goals.<sup>61</sup> Food safety represents just one aspect of food system regulation involving a relatively discrete issue with a specified number of responsible agencies, and yet, even in this discrete area, coordination remains elusive.

These examples illustrate that the United States’ food system comprises many interrelated components whose unique relationships cannot be fully appreciated by approaching each piece separately.<sup>62</sup> Countless decisions about the food system, including increasing productivity, supporting research and development of specific technologies, and protecting the environment, may affect the food system in some manner given its broad reach. Often, the impact may be sweeping and completely unanticipated.<sup>63</sup> Experts agree that some current food system problems are the result of decision-making that considered potential impacts too narrowly, failing to consider the “potential trade-offs” in other areas of the system.<sup>64</sup> In both domestic and international contexts, however, there are examples of comprehensive strategies, specifically designed to address opportunities and challenges through a holistic approach to law- and policy-making.

## II. PROVIDING COORDINATION THROUGH A NATIONAL FOOD STRATEGY—GLOBAL AND DOMESTIC MODELS

A national food strategy—or, a coordinated, strategic federal approach to food system policy and regulation—can provide a framework to better acknowledge and address the mismatch between the vital importance of our food system and the lack of attention and coordination given to this system. Moreover, a national food strategy offers a much-needed opportunity to modernize our food and agricultural policies. Such an approach can provide a platform to engage the various agencies and stakeholders implicated by the food system, identify food system goals as well as

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<sup>58</sup> *GAO High Risk Series*, *supra* note 41 at 264.

<sup>59</sup> *Id.* at 265 (“FDA and FSIS are involved in numerous mechanisms to facilitate interagency coordination on food safety; however, existing mechanisms focus on specific issues and none provides for broad-based, centralized collaboration. For example, FDA and FSIS are collaborating with CDC through the Interagency Food Safety Analytics Collaboration to improve estimates of the most common sources of foodborne illnesses. However, this and other mechanisms do not allow FDA, FSIS, and other agencies to look across their individual programs and determine how they all contribute to federal food safety goals.”).

<sup>60</sup> *Id.* at 265.

<sup>61</sup> *Id.*

<sup>62</sup> INST. OF MED. & NAT’L RESEARCH COUNCIL, *supra* note 2 at 243.

<sup>63</sup> *Id.* at x.

<sup>64</sup> *Id.* at 83.

tradeoffs, prioritize among them, and build a strategic plan for the food system to achieve these goals and address trade-offs, as necessary.

The authors of this Article have engaged in an extensive and holistic examination of domestic and international resources to identify a set of tools and mechanisms to address the lack of coordination for agricultural and food policy in the United States. This research confirmed that the creation of a national food strategy is both feasible and beneficial. Other countries created national food strategies to better coordinate among competing agencies, interests, and priorities. Moreover, the concept of a national strategy is familiar within the United States, as the federal government has created national strategies to address a wide variety of other pressing issues of national concern. This section will briefly describe those sets of models in turn.

### A. *International Models*

Other countries, in the face of challenges similar to those facing our country, have utilized national food strategies to address these challenges in a coordinated manner. The experiences of these countries illustrate how a national food strategy involves formidable procedural and substantive challenges, including: defining which actors and stakeholders should be engaged in the process and to what extent; determining how to structure and organize the strategy's creation; narrowing the scope of substantive issues or areas addressed; and, integrating the public in shaping priorities, content, and outcomes. However, those difficulties have not proven insurmountable, as countries like the United Kingdom,<sup>65</sup> Wales,<sup>66</sup> Scotland,<sup>67</sup> Brazil,<sup>68</sup> and Australia<sup>69</sup> are among those with comprehensive national food strategies. In some instances, countries have developed food strategies to address diet-related illness by linking agriculture, food, and nutrition.<sup>70</sup> In other instances, food strategies have been a means to address severe malnutrition and food insecurity.<sup>71</sup> Alternately, countries have

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<sup>65</sup> HM GOV'T, *Food 2030*, <http://nourisheu.com/wp-content/uploads/2015/02/food2030strategy.pdf>.

<sup>66</sup> WELSH ASSEMBLY GOV'T, *Food for Wales, Food from Wales 2010/2020: Food Strategy for Wales*, <http://www.physicalactivityandnutritionwales.org.uk/Documents/740/Food%20Strategy%202010-2020-eng.pdf>.

<sup>67</sup> SCOTTISH GOV'T, *Recipe for Success: Scotland's National Food and Drink Policy*, <http://www.gov.scot/resource/doc/277346/0083283.pdf>.

<sup>68</sup> PRESIDÊNCIA DA REPÚBLICA CASA CIVIL SUBCHEFIA PARA ASSUNTOS JURÍDICOS [PRESIDENCY OF THE REPUBLIC, CIVIL HOUSE, LEGAL SUB-OFFICE], Decreto N° 7.272, de 25 de Agosto de 2010 [Decree No. 7.272 of August 2010] (Aug. 25, 2010), <http://extwprlegs1.fao.org/docs/texts/bra130852.doc>.

<sup>69</sup> Australian Government, *National Food Plan: Our Food Future*, [http://www.agriculture.gov.au/style%20library/images/daff/\\_data/assets/pdffile/0011/2293328/national-food-plan-white-paper.pdf](http://www.agriculture.gov.au/style%20library/images/daff/_data/assets/pdffile/0011/2293328/national-food-plan-white-paper.pdf).

<sup>70</sup> In 1975, Norway adopted the world's first national food policy that connected agriculture, food, and nutrition. Knut-Inge Klepp & Jean L. Forster, *The Norwegian Nutrition and Food Policy: An Integrated Policy Approach to a Public Health Problem*, 6 J. PUB. HEALTH POL'Y, 447 (1985) ("The Norwegian Nutrition and Food Policy, unique among health behavior change efforts, recognizes the larger social, political, and economic determinants of health."). The country's most recent version is focused largely on diet and exercise, but explicitly recognizes the connections between those issues and other policy areas like "environment, agriculture forestry." Nordic Council of Ministers, Nordic Council of Ministers Secretariat, *A better life through diet and physical activity: Nordic Plan of Action on better health and quality of life through diet and physical activity 13*, <http://norden.diva-portal.org/smash/record.jsf?pid=diva2%3A701045&dswid=7129>.

<sup>71</sup> Decree No. 7.272 regulating Law No. 11.346 creating the National System for Food and Nutrition Security (SISAN), [http://www.planalto.gov.br/ccivil\\_03/\\_Ato2007-2010/2010/Decreto/D7272.htm](http://www.planalto.gov.br/ccivil_03/_Ato2007-2010/2010/Decreto/D7272.htm) (last visited Mar. 2, 2017).

crafted national food strategies to optimize economic and market placement opportunities for the food and agricultural sectors.<sup>72</sup>

These national food strategies vary in terms of goals, key players, and overall format. Yet, they typically revolve around the same general themes: health and nutrition; food access and food security; sustainability and environmental resilience; and, economic prosperity and success of the food and agricultural sectors.<sup>73</sup> For developed countries similar to the United States, emphasis has largely been placed on growth of the food and agriculture sectors. For example, the United Kingdom's national food strategy *Food 2030* prioritized goals related to "ensuring a resilient, profitable and competitive food system" and "increasing food production sustainably."<sup>74</sup> Australia's *National Food Plan* also focused on growth, identifying goals "to grow [the country's] domestic industry and increase the value of [its] food exports."<sup>75</sup> These strategies have provided mechanisms for strategic growth to support more economically and environmentally sustainable food systems to respond to consumer preferences and position the countries as global marketplace leaders.<sup>76</sup>

Regardless of the differences in impetus, substance, and goals, what is common to all comprehensive national food strategies is the recognition that food systems issues

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<sup>72</sup> See generally, HM GOV'T, *supra* note 65; WELSH ASSEMBLY GOV'T, *supra* note 66; SCOTTISH GOV'T, *supra* note 67; AUSTRALIAN GOV'T, *supra* note 69.

<sup>73</sup> See generally, Decree No. 7.272 regulating Law No. 11.346 creating the National System for Food and Nutrition Security (SISAN), [http://www.planalto.gov.br/ccivil\\_03/\\_Ato2007-2010/2010/Decreto/D7272.htm](http://www.planalto.gov.br/ccivil_03/_Ato2007-2010/2010/Decreto/D7272.htm); HM GOV'T, *supra* note 65; Welsh Assembly Government, *supra* note 66; SCOTTISH GOV'T, *supra* note 67; AUSTRALIAN GOV'T, *supra* note 69.

<sup>74</sup> HM GOV'T, *supra* note 65 at 9. "The main points of note include a strong call to increase food production in the UK (so long as it is healthy food, sustainably produced), and bolder than previous statements in support of contentious issues such as nanotechnology, agricultural biotechnology, and consumer product labeling." USDA Foreign Agricultural Service, *Food 2030: A UK Vision for a Secure Sustainable Food Supply 2* (2010), [http://gain.fas.usda.gov/Recent%20GAIN%20Publications/Food%202030%20a%20UK%20vision%20for%20a%20secure%20sustainable%20food%20supply\\_London\\_United%20Kingdom\\_1-21-2010.pdf](http://gain.fas.usda.gov/Recent%20GAIN%20Publications/Food%202030%20a%20UK%20vision%20for%20a%20secure%20sustainable%20food%20supply_London_United%20Kingdom_1-21-2010.pdf).

<sup>75</sup> AUSTRALIAN GOV'T, *supra* note 69 ("Australia's food industry stands at a gateway to new opportunities. To take advantage of these, the National Food Plan sets out a framework that will guide the food industry, the community and governments for years to come.").

<sup>76</sup> See, e.g., *id.* ("Consumers now have more choice and a wider appreciation of different and diverse foods than at any other time in our history. There is increased demand for food across the world and Asia's growing middle-classes continue to seek higher value food products and services. Australian food is recognized as high-quality, safe and sustainable, all qualities in high demand."); SCOTTISH GOV'T, *supra* note 67 ("The Scottish Government is working with the Enterprise Agencies and local authorities to create the right environment for business competitiveness and growth. We are identifying opportunities for high-growth potential and supporting capacity to boost productivity, contributing to sustainable economic growth. Scotland's food and drink producers, processors and retailers are critical to the future of the nation and the success of this agenda."); WELSH ASSEMBLY GOV'T, *supra* note 66 ("Wales is rapidly gaining a credible, national and international reputation for its innovative food and drink and hospitality sector. Thanks to our producers, our unique geography, climate and farming practices, Wales can boast of a range of high quality foods, from our iconic Welsh lamb and beef to cheeses and Welsh seafood. The food and drink industry is important to the economy and the people of Wales; the UK agri-food sector contributes up to 7% (£79.4 billion) of UK Gross Value Added. Through careful informed planning and working together it is vital that we increase this and I have every confidence that we can build on our success achieved so far to ensure a thriving, developing industry in the years to come."); HM GOV'T, *supra* note 65 ("This strategy sets out the Government's vision for a sustainable and secure food system for 2030, and the steps we will take to get there. Working together, we can make Britain a world leader in food policy and production, and we can help to ensure that everybody has the chance to eat safe, healthy, affordable and sustainable food, now and in the future.").

are multidimensional and interrelated, meaning laws and policies addressing only one segment of the food system may result in unintended negative consequences throughout the whole system. Consequently, regardless of scope, other countries' national food strategies typically share the underlying goal of creating policies that take the whole system into account, either through either harmonizing existing laws and policies or developing new ones to address food and agricultural issues within the broader context of the food system.

### B. Domestic Models

Other coordinated strategy models emerge from the domestic context. At the state level, many governments, agencies, or stakeholder groups have devoted time and resources to the creation of food strategies, often called “food system plans” or “food charters.” Within the past few years, states like Massachusetts,<sup>77</sup> Vermont,<sup>78</sup> Maine,<sup>79</sup> Minnesota,<sup>80</sup> Illinois,<sup>81</sup> and Virginia<sup>82</sup> have coordinated food system priorities and policies at the state level. These examples point to a growing consciousness that the food and agricultural system is complex and deserving of strategic planning efforts.

At the national level, the United States has a rich history of utilizing coordinated strategies to address a host of complex issues. An examination of these strategies demonstrates that the federal government possesses requisite tools to coordinate across federal agencies as well as at the federal, state, and local levels, when addressing issues that span myriad governing bodies. Creation of a national strategy also signals the importance of the issue, making it worthy of coordination and goal setting. Food is as, if not more, important as other issues subject to national strategies. Some might suggest it is more foundational as it represents a core human need, impacting every individual daily. Moreover, as previously discussed, the food system sits at the nexus of our environment and health, making the success of the food system key to meeting other important national goals.

The United States has created countless national strategies on myriad topics, the titles of which help to illustrate their breadth: the National Strategy for Combating Antibiotic-Resistant Bacteria,<sup>83</sup> the National Strategy for HIV/AIDS,<sup>84</sup> the National

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<sup>77</sup> MASS. FOOD POLICY COUNCIL, *Massachusetts Local Food Action Plan* (Dec. 4, 2015), <http://www.mapc.org/sites/default/files/MLFAPFull.pdf>.

<sup>78</sup> VT. SUSTAINABLE JOBS FUND, *Vermont Farm to Plate Strategic Plan* (2017), <http://www.vtfarmtoplate.com/plan/chapter/appendix-a-enabling-legislation>.

<sup>79</sup> THE ME. FOOD STRATEGY, *The Maine Food Strategy Framework: A Tool for Advancing Maine's Food System* (2016), [http://mainefoodstrategy.org/wp-content/uploads/2016/06/Maine-Food-Strategy-Framework\\_final.pdf](http://mainefoodstrategy.org/wp-content/uploads/2016/06/Maine-Food-Strategy-Framework_final.pdf).

<sup>80</sup> MINN. FOOD CHARTER NETWORK, *Minnesota Food Charter* (2014), <http://mnfoodcharter.com/wp-content/uploads/2014/10/MNFoodCharterSNGLFINAL.pdf>.

<sup>81</sup> FARM ILL., *A Food and Agricultural Roadmap for Illinois* (May 2015), [http://farmillinois.org/wp-content/uploads/2015/06/FARM-IL-Report-2015\\_FULL\\_vF3.pdf](http://farmillinois.org/wp-content/uploads/2015/06/FARM-IL-Report-2015_FULL_vF3.pdf).

<sup>82</sup> VA. FARM TO TABLE, *A Strategic Plan for Strengthening Virginia's Food System and Economic Future* (2012), [http://pubs.ext.vt.edu/CV/CV-3/CV-3\\_hirez\\_pdf.pdf](http://pubs.ext.vt.edu/CV/CV-3/CV-3_hirez_pdf.pdf).

<sup>83</sup> WHITE HOUSE, *National Strategy for Combating Antibiotic-Resistant Bacteria* (Sept. 2014), [https://obamawhitehouse.archives.gov/sites/default/files/docs/carb\\_national\\_strategy.pdf](https://obamawhitehouse.archives.gov/sites/default/files/docs/carb_national_strategy.pdf).

<sup>84</sup> WHITE HOUSE, *National HIV/AIDS Strategy for the United States* (Jul. 2015), [https://obama.whitehouse.archives.gov/sites/default/files/docs/national\\_hiv\\_aids\\_strategy\\_update\\_2020.pdf](https://obama.whitehouse.archives.gov/sites/default/files/docs/national_hiv_aids_strategy_update_2020.pdf).

Strategy for Pandemic Influenza,<sup>85</sup> the National Strategy for Suicide Prevention,<sup>86</sup> the Presidential Council on Jobs and Competitiveness,<sup>87</sup> the Presidential Global Development Council,<sup>88</sup> the National Commission on Terrorist Attacks Upon the United States (“9/11 Commission”),<sup>89</sup> and the National Environmental Policy Act,<sup>90</sup> among many others. In the past few years alone, the country has launched over a dozen new national strategies, including the Comprehensive National Cyber Security Strategy,<sup>91</sup> the National Drug Control Strategy,<sup>92</sup> the National Strategy to Promote the Health of Honeybees and Pollinators,<sup>93</sup> the National Strategy for Modernizing the Regulatory System for Biotechnology Products,<sup>94</sup> and even the Cancer Moonshot<sup>95</sup> (which has not been called a strategy, but mimics the structure of other national strategies).

Though these national strategies address a broad range of topics, implicate a variety of different agencies, and employ diverse structures,<sup>96</sup> they utilize a strikingly similar set of tools. All national strategies generally give authority to a specific office either within the White House or an administrative agency, or to an individual (sometimes colloquially known as a “czar”), to lead creation and implementation. Many strategies call for the creation of an interagency working group or task force comprising the relevant agency officials to tackle complex challenges and coordinate the governmental response. These strategies also generally provide opportunities to include outside perspectives. Specifically, some include an advisory council composed

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<sup>85</sup> HOMELAND SECURITY COUNCIL, *National Strategy for Pandemic Influenza* (Nov. 2005), <https://www.cdc.gov/flu/pandemic-resources/pdf/pandemic-influenza-strategy-2005.pdf>.

<sup>86</sup> U. S. SURGEON GENERAL, *2012 National Strategy for Suicide Prevention: Goals and Objectives for Action* (2012), <https://www.surgeongeneral.gov/library/reports/national-strategy-suicide-prevention/full-report.pdf>.

<sup>87</sup> See generally WHITE HOUSE, *The President’s Council on Jobs and Competitiveness*, <https://obamawhitehouse.archives.gov/administration/advisory-boards/jobs-council>.

<sup>88</sup> WHITE HOUSE, *The President’s Global Development Council*, <https://obamawhitehouse.archives.gov/administration/advisory-boards/global-development-council/about-the-council> (“The President’s Global Development Council was created to provide advice to the President and other senior U.S. officials on issues including: U.S. global development policies and practices, supporting new and existing public-private partnerships, and increasing awareness and action in support of development by soliciting public input on current and emerging issues in the field of global development.”).

<sup>89</sup> 9/11 Commission Report, *National Commission on Terrorist Attacks on the United States*, <http://govinfo.library.unt.edu/911/report/911Report.pdf> (includes a global strategy for countering terrorism).

<sup>90</sup> 42 U.S.C. §4321 (1969).

<sup>91</sup> WHITE HOUSE, *The Comprehensive National Cybersecurity Initiative*, <https://obamawhitehouse.archives.gov/sites/default/files/cybersecurity.pdf>.

<sup>92</sup> WHITE HOUSE, *The National Drug Control Strategy* (2015), [https://www.obamawhitehouse.gov/sites/default/files/ondcp/policy-and-research/2015\\_national\\_drug\\_control\\_strategy\\_0.pdf](https://www.obamawhitehouse.gov/sites/default/files/ondcp/policy-and-research/2015_national_drug_control_strategy_0.pdf).

<sup>93</sup> WHITE HOUSE, *National Strategy to Promote the Health of Honeybees and Pollinators* (2015), <https://www.obamawhitehouse.gov/sites/default/files/microsites/ostp/Pollinator%20Health%20Strategy%202015.pdf>.

<sup>94</sup> WHITE HOUSE, *National Strategy for Modernizing the Regulatory System for Biotechnology Products*, Product of the Emerging Technologies Interagency Policy Coordination Committee’s Biotechnology Working Group (Sept. 2016), [https://www.obamawhitehouse.gov/sites/default/files/microsites/ostp/biotech\\_national\\_strategy\\_final.pdf](https://www.obamawhitehouse.gov/sites/default/files/microsites/ostp/biotech_national_strategy_final.pdf).

<sup>95</sup> WHITE HOUSE, *Cancer Moonshot Report* (2015), <https://medium.com/cancer-moonshot>.

<sup>96</sup> Comprehensive coordinated national strategies have been created by both the President through executive orders, and Congress through legislation, which has often been the result of a bipartisan effort.

of experts outside government, and most provide opportunities for public participation to set the strategy's priorities or goals. While not all strategies produce a written document, many enshrine goals, objectives, and planned activities in a publicly accessible written format and thereby provide accountability for implementation. Finally, national strategies utilize methods for ongoing reporting and updating of their goals and implementation measures.

These models, whether global or domestic, state or federal, illustrate opportunities to coordinate and streamline governmental approaches to a variety of issues, including those related to the food system. Given the range of food system issues facing the new administration, the many food policy decisions needed in the coming years, and the rising concern over national issues of health and environment, a national food strategy is more urgent and relevant than ever.

### III. A NATIONAL FOOD STRATEGY ADDRESSES CURRENT POLITICAL PRIORITIES

Due to the complexity of the issues facing the food system and its regulation, a United States national food strategy can achieve greater coordination, while helping policymakers identify national priorities and recognize that decisions related to the food system may involve tradeoffs in related areas. In the past few years, advocates have pushed for the creation of a national food strategy (sometimes called a “national food policy,” “national food council,” or “White House food council”). In 2014, leading food system thinkers Mark Bittman, Michael Pollan, Ricardo Salvador, and Olivier De Schutter wrote an op-ed advocating for a national food policy and followed with a longer essay in support of their proposal a year later.<sup>97</sup> In September 2016, USDA Secretary Vilsack called on the next President to create a White House Food Policy Council noting, “We have the Council on Environmental Quality, the Rural Council . . . I think the time has come for the administration to strongly consider a food council.”<sup>98</sup> Other commentators have echoed that sentiment, advocating for a more coordinated, interagency approach to our food and agricultural system.<sup>99</sup>

Many of these calls, particularly the most recent ones, likely anticipated a Hillary Clinton presidency and were hopeful that appeals for such a strategy would be favorably received, given their alignment with her stated priorities.<sup>100</sup> Despite the election outcome, this policy proposal remains relevant and worthwhile, in part,

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<sup>97</sup> Mark Bittman et al., *How a National Food Policy Could Save Millions of American Lives*, WASHINGTON POST (Nov. 7, 2014), [https://www.washingtonpost.com/opinions/how-a-national-food-policy-could-save-millions-of-american-lives/2014/11/07/89c55e16-637f-11e4-836c-83bc4f26eb67\\_story.html](https://www.washingtonpost.com/opinions/how-a-national-food-policy-could-save-millions-of-american-lives/2014/11/07/89c55e16-637f-11e4-836c-83bc4f26eb67_story.html); Mark Bittman et al., *Why the Next President Will Need a National Food Policy*, MEDIUM (Oct. 6, 2015), <https://medium.com/@michaelpollan/why-the-next-president-will-need-a-national-food-policy-a4e551c44cb3#.7y39138pn>; Mark Bittman et al., *A National Food Policy for the 21st Century*, MEDIUM (Oct. 6, 2015), <https://medium.com/food-is-the-new-internet/a-national-food-policy-for-the-21st-century-7d323ee7c65f#.f3qt13niv>.

<sup>98</sup> Jenny Hopkinson, *Vilsack: The White House Needs a Food Council*, POLITICO PRO (Sept. 8, 2016), <https://www.politicopro.com/agriculture/whiteboard/2016/09/vilsack-food-council-needed-at-the-white-house-076742>.

<sup>99</sup> See, e.g., Maggie Gosselin, *supra* note 22; Eric Kessler, “Achieving Clinton Policy Priorities Through a Comprehensive Food Policy Strategy,” POLITICO PRO (Sept. 8, 2016), <https://www.politicopro.com/f?id=00000158-3123-dac2-a15c-bb2bcf950001>.

<sup>100</sup> See e.g., *id.*; Hopkinson, *supra* note 98.

because of its responsiveness to key issues raised by both parties on the campaign trail. Many of these issues may be addressed by a more coordinated approach to food system regulation, specifically, by comprehensively addressing those issues holistically through the creation of a national food strategy.

President Trump repeatedly called for increased efficiency of government and a reduction in unnecessary regulations that hinder the activities of farmers and businesses.<sup>101</sup> The 2016 Republican Platform echoed these sentiments.<sup>102</sup> There is little doubt that the new Congress and Administration will prioritize governmental efficiency and a reduction of overly burdensome regulations. Agencies regulating the food and agricultural system are not coordinated, leading to such inefficiencies and potentially conflicting regulations that could be addressed by a national food strategy.

Likewise, economic development was front and center in this election cycle. Many news outlets agree that the economy was the biggest issue motivating voters.<sup>103</sup> As a candidate, Donald Trump pledged to increase GDP by 1.5 percent to create 25 million new jobs.<sup>104</sup> Indeed, the agricultural and food system plays a large role in the economy, comprising 5.7 percent of the GDP and 10 percent of total employment.<sup>105</sup> Further, in terms of individual household economies, Americans spend between 8–34 percent of their household income on food (with the highest proportion spent on food in the lowest income households),<sup>106</sup> meaning food plays a vital role in the micro-economy of each household. Targeted investment in the food and agricultural sectors can provide a means to support more and better jobs, reduce unnecessary food-related public health costs, and spur overall economic growth.

Finally, the election demonstrated the discontent of many voters, who feel left behind by the United States' federal laws and policies. This dissatisfaction was clear in the calls by Trump and his supporters to "Drain the Swamp"<sup>107</sup> and in the strong opposition to candidates on both sides of the aisle who were considered

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<sup>101</sup> DONALD J. TRUMP FOR PRESIDENT, INC., Regulations, <https://web.archive.org/web/20161201082528/https://www.donaldjtrump.com/policies/regulations/> (last visited 12/1/2016) (noting that they would "Ask all Department heads to submit a list of every wasteful and unnecessary regulation which kills jobs, and which does not improve public safety, and eliminate them." and would "Decrease the size of our already bloated government after a thorough agency review.").

<sup>102</sup> COMM. ON ARRANGEMENTS FOR THE 2016 REPUBLICAN NAT'L CONVENTION, *Republican Platform 2016*, [https://prod-cdn-static.gop.com/media/documents/DRAFT\\_12\\_FINAL\[1\]-ben\\_1468872234.pdf](https://prod-cdn-static.gop.com/media/documents/DRAFT_12_FINAL[1]-ben_1468872234.pdf) (regarding the agricultural system, noting that "we must [] ensure that domestic policies do not compromise our global competitiveness through overregulation and undue interference in the marketplace"; calling for "a fundamental restructuring of the regulatory process"; and positing that the "Democratic Administration's sustained support for additional regulation of agriculture has directly resulted in higher costs of production for those who produce the food we eat").

<sup>103</sup> See, e.g., Larry Light, *For Voters, it Still Comes Down to the Economy*, CBS MONEYWATCH, Nov. 7, 2106, <http://www.cbsnews.com/news/for-voters-it-still-comes-down-to-the-economy/> ("An economy stuck in second gear is the paramount single issue before the voters."); Stephen Gandel, *The Economy Was More Important Than Anything, Exit Polls Say*, FORTUNE, Nov. 8, 2106, <http://fortune.com/2016/11/08/election-economy-exit-polls/>.

<sup>104</sup> DONALD J. TRUMP FOR PRESIDENT, INC., Economy, <https://web.archive.org/web/20161201020809/https://www.donaldjtrump.com/policies/economy> (last visited 12/1/2016).

<sup>105</sup> U.S. DEP'T AGRIC., *supra* note 26.

<sup>106</sup> *Id.*

<sup>107</sup> John Kelly, *What's With All Trump's Talk About 'Draining the Swamp'?*, SLATE, Oct. 26, 2016, [http://www.slate.com/blogs/lexicon\\_valley/2016/10/26/why\\_do\\_trump\\_and\\_his\\_supports\\_keep\\_talking\\_about\\_draining\\_the\\_swamp.html](http://www.slate.com/blogs/lexicon_valley/2016/10/26/why_do_trump_and_his_supports_keep_talking_about_draining_the_swamp.html);

“establishment” candidates.<sup>108</sup> The wave of populism, evidenced by the strong support for Senator Bernie Sanders and President Trump, reflects the sentiment that the federal government is not working for the people but instead operates as a revolving door, serving the interests of disconnected elites.<sup>109</sup> While this wave of populism is an extreme response, the federal government is susceptible to the critique that it is disconnected from the lives of many Americans.<sup>110</sup> The government’s efforts to offer average Americans a voice in policymaking are largely insufficient. This critique is certainly true in the context of the food system. As noted above, 10 percent of Americans are employed in the food system, and 100 percent participate as consumers, yet there are few efforts to engage the public in food system policy making. This Section analyzes each of these key campaign issues in turn, using specific international and domestic examples of food strategies, as well as a set of United States national strategies addressing other issues, to illustrate how a national food strategy can address the American electorate’s concerns and meet the stated priorities of the incoming Congress and administration.

### A. Reducing Inefficiencies

The incoming Administration campaigned heavily on the issue of dramatically reforming government. Specifically, it advocated for reducing the size of government and reforming the administrative state to prevent unnecessary and “intrusive” government regulations.<sup>111</sup> During the election, President Trump called for agency

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<sup>108</sup> See, e.g., Susan Page & Brad Heath, *How Anti-Establishment Outsider Donald Trump was Elected the 45th President of the United States*, USA TODAY, Nov. 9, 2016, <http://www.usatoday.com/story/news/politics/elections/2016/11/09/election-analysis-hillary-clinton-donald-trump/93198882/> (“Donald Trump was shunned by much of the Republican establishment, but he forged a message of economic grievance and political change that resonated with white voters in rural areas and small towns.”).

<sup>109</sup> See, e.g., Alexander W. Slater, *Irresponsible Populist Power*, U.S. NEWS, May 9, 2016, <http://www.usnews.com/opinion/articles/2016-05-09/be-wary-of-the-anti-establishment-wave-trump-and-sanders-are-riding>; Victor Davis Hanson, *Class, Trump, and the Election*, May 31, 2016, <http://www.nationalreview.com/article/436015/trump-and-anti-establishment-vote> (Trump’s success will be based on “turning 2016 into a referendum on class and a collective national interest that transcends race and gender—and on emphasizing the sad fact that America works now mostly for an elite . . .”).

<sup>110</sup> See, e.g., Wendell Potter & Nick Penniman, “U.S. Elections 2016: *The System is Rigged, The Government Coin Operated*,” THE GUARDIAN, Apr. 10, 2016, <https://www.theguardian.com/books/2016/apr/10/nation-on-the-take-wendell-potter-nick-penniman-extract> (“We, the people, are losing our faith in the dream of democracy. As our collective power is increasingly eclipsed by a rigged system of politics and governance dominated by a handful of billionaires and a phalanx of well-financed special interests, we are growing sceptical [sic] that the promises will come true. Right now there is no credible outside threat to our American way of life. No other nation is sounding the death knell of ours. But the rapid proliferation of a system akin to oligarchy—within our own country—threatens to cripple our march forward.”); and Jonathan Rauch, “*How American Politics Went Insane*,” THE ATLANTIC, July/Aug. 2016, <http://www.theatlantic.com/magazine/archive/2016/07/how-american-politics-went-insane/485570/> (“Populism, individualism, and a skeptical attitude toward politics are all healthy up to a point, but America has passed that point. Political professionals and parties have many shortcomings to answer for—including, primarily on the Republican side, their self-mutilating embrace of anti-establishment rhetoric—but relentlessly bashing them is no solution. You haven’t heard anyone say this, but it’s time someone did: Our most pressing political problem today is that the country abandoned the establishment, not the other way around.”).

<sup>111</sup> DONALD J. TRUMP FOR PRESIDENT, INC., *supra* note 101; Helena Bottemiller Evich, *What Trump Win Means for Agriculture*, POLITICO, Nov. 9, 2016, <http://www.politico.com/tipsheets/morning-agriculture/2016/11/what-trump-win-means-for-agriculture-217319> (“We are going to end the EPA intrusion into your family homes and into your family farms for no reason. What they are doing to you is a

heads to develop a list of “wasteful and unnecessary regulation[s]” and rescind those that reduce jobs and fail to benefit public safety; a temporary moratorium on the issuance of any new regulations that have not been mandated by Congress or serve to benefit public safety; and, the repeal of new federal environmental regulations, such as the Waters of the United States Rule, and the Clean Power Plan.<sup>112</sup> The Republican Party Platform echoed a similar sentiment suggesting “Congress should consider a regulatory budget that would cap the costs federal agencies could impose on the economy in any given year.”<sup>113</sup>

Many would agree these proposals reflect a legitimate underlying goal to reduce government inefficiency, even if they disagree with the specifics. GAO’s 2016 Annual Report to Congress noted that, in the long-term, government spending at its present levels is unsustainable.<sup>114</sup> Yet, GAO pointed to reducing inefficiencies, not regulations, as the solution, identifying over 544 actions spanning 200 areas where government could improve its effectiveness in the short-term, simply by addressing areas where government programs were “fragmented, overlapping, or duplicative.”<sup>115</sup> Food and agriculture programs and activities were among those cited.<sup>116</sup>

As previously discussed, while there are laws and regulations at the federal, state, and local levels that apply to discrete or isolated aspects of the food system, they largely fail to coordinate meaningfully, which generates not only potential for conflict, but also tremendous inefficiencies. A comprehensive national food strategy can coordinate to address these inefficiencies, as well as prevent future conflicts or redundancies. In both the international and domestic contexts, many strategies explicitly address coordination and efficiency. For example, the Australian *National Food Plan* identifies several existing strategies within the country that relate to food.<sup>117</sup> Regarding regulations, the Plan states that it will attempt to regulate in the least burdensome manner and will “aim to harmonise [sic] regulation where it is appropriate and there is a national interest and/or shared responsibilities between jurisdictions.”<sup>118</sup> Similarly, domestic strategies addressing a variety of topics aim to increase efficiency. For example, the National Strategy for Modernizing the Regulatory System for Biotechnology Products encourages federal agencies that regulate biotechnology products “to improve predictability, increase efficiency, and reduce uncertainty in their regulatory processes and requirements.”<sup>119</sup> The ultimate goal of the strategy is to

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disgrace. We are going to get rid of a lot of those regulations that don’t mean anything except cost you a lot of money and a lot of time and, in many cases, you lose your farms over the regulations.”).

<sup>112</sup> DONALD J. TRUMP FOR PRESIDENT, INC., *supra* note 101.

<sup>113</sup> COMM. ON ARRANGEMENTS FOR THE 2016 REPUBLICAN NAT’L CONVENTION, *supra* note 102.

<sup>114</sup> U.S. GOV’T ACCOUNTABILITY OFFICE, *2016 Annual Report: Additional Opportunities to Reduce Fragmentation, Overlap, and Duplication and Achieve Other Financial Benefits* (Apr. 2016), <http://www.gao.gov/assets/680/676473.pdf>.

<sup>115</sup> *Id.*

<sup>116</sup> *Id.* (Includes crop insurance as an issue area where significant progress could be made. “To achieve up to \$2 billion annually in cost savings in the crop insurance program, Congress could consider limiting the subsidy for premiums that are provided on behalf of individual farmers, reducing the subsidy, or some combination of limiting and reducing these subsidies.”).

<sup>117</sup> AUSTL. GOV’T, *supra* note 69 at 1, 15.

<sup>118</sup> *Id.* at 19.

<sup>119</sup> *National Strategy for Modernizing the Regulatory System for Biotechnology Products*, *supra* note 94 at 1, 4.

increase efficiency in biotechnology regulation and to avoid unnecessary costs and burdens.<sup>120</sup>

The examples below offer an in-depth analysis of models designed to address inefficiencies in both the international and domestic contexts. Internationally, the United Kingdom's Food Strategy provides a strong analog because of the nation's similarities to the United States. As a key goal, the UK's strategy aims to strengthen coordination. Domestically, the National Environmental Policy Act (NEPA) (while not a conventional coordinated strategy for reasons explained in more detail below) provides a compelling model of a procedural mechanism to bring more coordination and efficiency to a complex system.

### 1. *The United Kingdom's Strategy Unit*

The United Kingdom's creation of a national food strategy demonstrates an effort to achieve greater coordination among different policy sectors.<sup>121</sup> The UK's national food strategy, *Food 2030*, called for better integration of food policy across government to respond to the "big food challenges—sustainability, security, and health."<sup>122</sup> *Food 2030* was the culmination of a process that began within the Strategy Unit, a cabinet-level office created to provide cross-departmental advice and support for policy making across different areas.<sup>123</sup> The Strategy Unit first researched and analyzed the UK's existing food policy approach and developed a white paper, entitled *Food Matters*, that outlined a policy framework for decisions about the country's food system, including a set of action steps for the government.<sup>124</sup> The paper acknowledged that the United Kingdom already had many of the pieces required for a comprehensive food strategy—food safety systems, legislation, long-term strategies and policies addressing food systems issues—but lacked integration and coordination.<sup>125</sup>

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<sup>120</sup> *Id.* at 5.

<sup>121</sup> David Barling et al., *Joined Up Food Policy? The Trials of Governance, Public Policy and the Food System*, 36 SOCIAL POL'Y & ADM. 556, 557 (2002) (for decades, food policy in the United Kingdom was perceived as "malfunctioning within a number of [] policy sectors including agriculture, health, environment, social and competition policy.").

<sup>122</sup> HM GOV'T, *supra* note 65 at 1, 4. (The strategy is centered around six core issues: (1) Encourage people to eat a healthy, sustainable diet; (2) Ensuring a resilient, profitable and competitive food system; (3) Increasing food production sustainably; (4) Reducing the food system's greenhouse gas emissions; (5) Reducing, reusing and reprocessing waste; and (6) Increasing the impact of skills, knowledge, research and technology).

<sup>123</sup> The Strategy Unit was created to serve three main functions: "(1) to carry out strategy reviews and provide policy advice in accordance with the Prime Minister's policy priorities; (2) to support government departments in developing effective strategies and policies, including helping them to build their strategic capability; and (3) to identify and effectively disseminate thinking on emerging issues and challenges for the UK Government e.g. through occasional strategic audits." NAT'L ARCHIVES, *Prime Minister's Strategy Unit*, <http://webarchive.nationalarchives.gov.uk/20031220221857/cabinetoffice.gov.uk/strategy/>.

<sup>124</sup> CABINET OFFICE, Strategy Unit, *Food Matters: Towards a Strategy for the 21<sup>st</sup> Century*, 1, 1 (2008), <http://www.ifr.ac.uk/waste/Reports/food%20matters,%20Towards%20a%20Strategy%20for%20the%2021st%20Century.pdf>. Gordon Brown's first request to the Cabinet Strategy Unit was to assess food policy in the UK due to food safety concerns, the environmental impacts of food production, and a public health epidemic. David Barling & Tim Lang, *Food Policy in the UK: Reflections on Food 2030: Before and After*, 5 FOOD ETHICS 1, 2–3 (2010), <http://openaccess.city.ac.uk/12916/3/FEC%20Barling%20Lang%20Intro%20FdPolUK%20v5%2029%2004%2010.pdf>.

<sup>125</sup> *Id.* at 4–5. Additionally, the document detailed the major challenges facing the food and agricultural sector, including: a changing food culture; differing challenges faced by the food and drink supply chain; increasing food prices due to increases in global commodity prices; food safety; poor diet;

Moreover, the report recognized many of the key issues affecting the UK—“poverty, public health, climate change and others”—are related to the food system.<sup>126</sup> Because of the complex and interrelated nature of the food system, the Strategy Unit acknowledged that an intervention focused solely on one discrete aspect or issue would not necessarily resolve underlying problems.<sup>127</sup> The report explicitly noted that the Strategy Unit’s work was not intended to replace, duplicate, or somehow interfere with existing strategies and actions.<sup>128</sup> Rather, the work would enable greater integration across existing mechanisms to achieve more efficient outcomes.<sup>129</sup>

The report recommended measures to integrate and coordinate “key departments” to better manage food policy issues across government.<sup>130</sup> To facilitate, the Strategy Unit recommended that government create an intergovernmental food strategy task force to meet regularly with members of different governmental departments.<sup>131</sup> The Strategy Unit also noted that governmental departments frequently requested research from academic institutions and others regarding specific food systems issues in the UK, but that coordination was necessary to ensure the effective use of resources and to support research focused on connections between and the “tensions” of food systems goals.<sup>132</sup> The report, therefore, recommended a “cross departmental strategy” including a set of research priorities related to safe, sustainable, and healthy foods.<sup>133</sup> Finally, the report recommended that specific agencies “publish a joint statement” clarifying their roles and responsibilities with regard to each other, as well as to the public, to ensure efficiency and effectiveness.<sup>134</sup>

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environmental impacts associated with the food system; global and national food security; and food waste.  
*Id.* at v–x.

<sup>126</sup> *Id.* at x.

<sup>127</sup> *Id.*

<sup>128</sup> At the time it developed *Food 2030*, the UK had in place several other strategies and actions related to food. Specifically, government created “Healthy Weight, Healthy Lives”, a strategy to address obesity in England. Other strategies and actions included: The Government’s Sustainable Farming and Food Strategy; the Food Industry Sustainability Strategy, “under which targets have been set to reduce the overall environmental impacts of waste, transport, water use and energy in the food chain”; The Food Standards Agency’s Strategic Plan for 2007–2010 to address food safety and nutrition; and the UK’s Manufacturing Strategy. *Id.* at 6.

<sup>129</sup> *Id.* at 7.

<sup>130</sup> *Id.* at 111.

<sup>131</sup> *Id.* at 47, 112 (The Task Force was intended to: “oversee and coordinate work on food issues across government”; “drive forward the delivery measures” announced in the strategy; “join up food policy through improved coordination and communication of relevant activities in different government departments”; “ensure that common positions are reached on issues relevant to supporting delivery of low-impact, healthy, safe food and that those positions are properly disseminated.” Additionally, specific sub-groups (developed inter-departmentally) were to be created and tasked with specific action items from the strategy. Over a longer period, government was to “consider the arrangements needed to incentivize the effective delivery of its food policy objectives.”).

<sup>132</sup> *Id.* at 113. (By way of example, the Strategy Unit suggested “research into what a healthy low-impact diet looks like for different parts of the food chain, the links between food production and biodiversity, and the links between seasonal food and healthy eating are just some of the areas that a joined-up research agenda could focus on in the future.”).

<sup>133</sup> *Id.*

<sup>134</sup> *Id.* at 115. (Specifically, the Department of Health and the Food Standards Agency were directed to create a “concordat” detailing how the agencies are to work together and the responsibilities of each department for clarity among stakeholders and the agencies themselves.).

The Strategy Unit's *Food Matters* report served as a first step in the creation of the United Kingdom's comprehensive national food strategy. *Food 2030* in large part represents the implementation of *Food Matters*' recommended action to develop an overall "vision and strategy for food."<sup>135</sup> The Strategy Unit's work specifically addresses regulatory inefficiency in a few ways. First, it comprehensively analyzes existing food policy in the UK to address gaps, reduce inefficiencies, and create synergies. Second, it creates a specific vision, with a set of goals and priorities designed to guide future decision making in a manner that avoids redundant or conflicting laws and policies. Finally, it develops a framework for agency coordination to achieve greater communication across governmental departments to allow for more integrated decision-making.

## 2. *The National Environmental Policy Act*

Congress enacted the National Environmental Policy Act (NEPA)<sup>136</sup> primarily as an environmental protection statute, requiring agencies to consider the environment in decision making, but also to address incongruous agency action and inefficiency with regard to the environment. As a procedural statute, the law requires all agencies to submit a "detailed statement" about potential environmental impacts before implementing any "major federal action."<sup>137</sup> While not a national strategy in the conventional sense, NEPA presents an example of a statute with a broad procedural mandate that serves a coordinating function because it announces a national priority that must be reflected in certain types of federal agency decision making.<sup>138</sup> Agencies are also required to consider potential conflicts among programs, activities, and regulations and to resolve them through a statutorily mandated process to avoid adverse environmental consequences and reduce inefficiencies produced by conflicting, redundant or overlapping agency action.<sup>139</sup> While many question whether NEPA's procedural requirements achieve favorable environmental outcomes, the statute has been used "as authority to issue environmentally protective executive orders, policy statements and directives to heads of agencies."<sup>140</sup>

Senator Henry M. Jackson was largely responsible for NEPA's enactment.<sup>141</sup> For many years, Jackson prioritized creation of a comprehensive environmental statute, as he was frustrated by federal agencies working at odds with one another.<sup>142</sup> Through his legislative committee, he witnessed as an example different federal agencies'

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<sup>135</sup> DEP'T FOR ENV'T, FOOD, & RURAL AFFAIRS, *Food Matters: One Year On*, Annex A, 3 (August 2009).

<sup>136</sup> 42 U.S.C. § 4321 (1969).

<sup>137</sup> *Id.*

<sup>138</sup> *See generally* 42 U.S.C. § 4331(b) (1969) ("In order to carry out the policy set forth in this chapter, it is the continuing responsibility of the Federal Government to use all practicable means, consistent with other essential considerations of national policy, to improve and coordinate Federal plans, functions, programs, and resources . . .").

<sup>139</sup> *See generally* 42 U.S.C. § 4332.

<sup>140</sup> Dinah Bear, *The National Environmental Policy Act: Its Origins and Evolutions*, NAT. RESOURCES & ENV'T, Fall 1995.

<sup>141</sup> Jim Kershner, *NEPA, The National Environmental Policy Act* (Aug. 27, 2011), <http://www.historylink.org/File/9903>.

<sup>142</sup> *Id.*

conflicting projects in the Florida Everglades.<sup>143</sup> While the Department of Interior sought to acquire more land for Everglades National Park, the Army Corps of Engineers intended to use the land for agricultural purposes, and the Department of Transportation proposed developing an airport adjacent to the Park.<sup>144</sup> Jackson called the heads of the three agencies to testify at a hearing regarding their proposals, and it became clear “that they had little or no recognition that their programs were in direct conflict with one another.”<sup>145</sup> Soon after, Jackson set to work, devising a comprehensive environmental policy designed to address the problem he had witnessed and to force federal actors to assess objectives and potential conflicts prior to irretrievably committing resources.<sup>146</sup>

Given this context, Congress enacted NEPA in response to limited effective environmental policy making at the federal level due to “conflicting priorities that . . . worked at cross-purposes, resulting in interagency conflict and waste of effort and public money.”<sup>147</sup> NEPA’s scope was intentionally broad to avoid confusing environmental policy “with narrow, single-purpose efforts,” such as preservation or conservation.<sup>148</sup> Instead, it was intended to account for the “total environmental needs of man—ethical, esthetic, physical, and intellectual as well as economic” and to provide a framework to view the environment holistically, by comparing and balancing those needs.<sup>149</sup>

The debates, challenges, and conditions regarding environmental policy at the time of NEPA’s enactment mirror those around food policy: lack of agency communication and coordination,<sup>150</sup> a perceptible shift in the public’s perception of the issue,<sup>151</sup> an understanding that advances in technology produced adverse and unwanted effects,<sup>152</sup> and the need for long-range decision- and policy making.<sup>153</sup> To address those issues, the statute included specific statutory directives to increase coordination among agencies and also created the Council on Environmental Quality (CEQ), consisting of three members appointed by the President.<sup>154</sup> One of the CEQ’s main functions is to coordinate federal environmental policies through interagency working groups and to facilitate communication among agencies as well as the White House.<sup>155</sup> As a coordinating entity, the CEQ attempts to “foster consensus on the ultimate goals of

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<sup>143</sup> ROBERT GORDON KAUFMAN, HENRY M. JACKSON: A LIFE IN POLITICS 203 (2011).

<sup>144</sup> *Id.*

<sup>145</sup> *Id.*

<sup>146</sup> Kershner, *supra* note 141.

<sup>147</sup> LYNTON KEITH CALDWELL, THE NATIONAL ENVIRONMENTAL POLICY ACT 74 (1998).

<sup>148</sup> Henry Jackson, *Environmental Policy and the Congress*, 11 NAT. RES. J. 403, 413–14 (1971), [http://lawschool.unm.edu/nrj/volumes/11/3/02\\_jackson\\_environmental.pdf](http://lawschool.unm.edu/nrj/volumes/11/3/02_jackson_environmental.pdf).

<sup>149</sup> *Id.* at 414.

<sup>150</sup> *Id.* at 407.

<sup>151</sup> *Id.* at 403.

<sup>152</sup> *Id.* at 405.

<sup>153</sup> *Id.* at 406.

<sup>154</sup> 42 U.S.C. § 4342.

<sup>155</sup> WHITE HOUSE, Council on Environmental Quality—About, <https://obamawhitehouse.archives.gov/administration/eop/ceq>.

[the] interrelated environmental programs” of different federal agencies leading to its recognition as a “facilitator of communications among agencies.”<sup>156</sup>

### B. Encouraging Economic Development

Polling revealed that voters ranked the economy as their primary policy concern, regardless of which candidate they intended to support in the 2016 election.<sup>157</sup> However, there were wide variations in voter attitudes about specific economic issues.<sup>158</sup> A large percentage of Trump supporters, including those with high incomes, felt their incomes were not keeping pace with the cost of living, compared to a smaller percentage of Clinton voters.<sup>159</sup> While there is strong support for restoring economic health and prosperity, especially in rural America, some question whether the incoming Administration’s promises to restore manufacturing jobs, rendered obsolete by technological advances, present the right solution.<sup>160</sup>

The food and agricultural sectors represent substantial components of our national economy. As mentioned previously, agricultural and related industries contributed \$985 billion to the national gross domestic product (GDP) in 2014, representing 5.7 percent of the total GDP and 10 percent of total employment in the United States.<sup>161</sup> In the name of economic development, the new Administration has suggested it will shift emphasis back to conventional, large-scale industrialized agriculture, undoing many of the environmental protection measures and supports for organic agriculture included in the last Farm Bill.<sup>162</sup> Economic analyses, however, demonstrate that the very food and agricultural programs and markets currently thriving would see reduced support under such shifted priorities. By way of example, organic food is “one of the fastest growing segments of American agriculture” according to the USDA.<sup>163</sup> In part, the growth of this sector represents the result of targeted investments by USDA in rural America.<sup>164</sup> Studies demonstrate that organic agriculture has significantly greater profit margins than conventional agriculture,<sup>165</sup> leading to a fair conclusion that investments in organic and sustainable agriculture represent more than a response to the “food movement.” They are smart economic development measures.

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<sup>156</sup> Report by the Comptroller General of the United States, *The Council on Environmental Quality: A Tool in Shaping National Policy* 12 (Mar. 18, 1981).

<sup>157</sup> PEW RESEARCH CTR., *2016 Campaign: Strong Interest: Widespread Dissatisfaction*, 1, 31 (Jul. 7, 2016), <http://assets.pewresearch.org/wp-content/uploads/sites/5/2016/07/07-07-16-Voter-attitudes-release.pdf>.

<sup>158</sup> *Id.* at 61.

<sup>159</sup> *Id.*

<sup>160</sup> Mark Muro & Sifan Liu, *Another Clinton-Trump Divide: High Output America v. Low Output America*, BROOKINGS INST., Nov. 29, 2016, <https://www.brookings.edu/blog/the-avenue/2016/11/29/another-clinton-trump-divide-high-output-america-vs-low-output-america/>.

<sup>161</sup> U.S. DEP’T OF AGRIC., *supra* note 26.

<sup>162</sup> See e.g., Kullgren, *supra* note 23; Kelly, *supra* note 23; Linnekin, *supra* note 23.

<sup>163</sup> U.S. DEP’T OF AGRIC., *USDA Reports Growth in U.S. Organic Producers*, Apr. 4, 2016, <http://www.usda.gov/wps/portal/usda/usdahome?contentid=2016/04/0084.xml>.

<sup>164</sup> *Id.*

<sup>165</sup> David W. Crowder & John P. Reganold, *Financial Competitiveness of Organic Agriculture on a Global Scale*, 112 PROC. NAT’L ACAD. SCI. 7611, 7611 (2015), <http://www.pnas.org/content/112/24/7611.full>.

At both the state and national levels, as in the global context, economic development has been a driving force in the development of comprehensive food strategies. In many developed countries, national food strategies are largely focused on growing the food and agricultural sector. By way of example, *Recipe for Success: Scotland's National Food and Drink Policy* cites its primary purpose as “promot[ing] Scotland’s sustainable and economic growth.”<sup>166</sup>

Domestically, many state food system plans emphasize the relationship between the state economy and its food system, including job creation and increased production of local foods. Two main goals in Vermont’s Farm to Plate Strategic Plan are related to economic development, namely to “increase economic development in Vermont’s farm and food sector[] and [to] create jobs in the farm and food economy.”<sup>167</sup> The Massachusetts Local Food Action Plan also emphasizes economic development. Specifically, the Plan lists “increase[d] production, sales and consumption of Massachusetts-grown foods” as its first goal.<sup>168</sup> The Plan’s second goal describes creating jobs and economic opportunities in the farming and food sectors through skill development and improved wages.<sup>169</sup>

This section focuses on two examples, one international and one domestic, for their emphasis on economic development: Wales’ comprehensive national food strategy *Food for Wales, Food from Wales* and the Minnesota Food Charter.

### *1. Supporting Growth of the Food and Agricultural Sector in Wales*

The Welsh government initiated its national food strategy<sup>170</sup> to respond to a host of food system challenges, including: (1) inflationary food prices; (2) increasing costs for agricultural inputs; (3) reducing carbon emissions, water usage, and food waste; (4) external costs associated with food production; (5) consumer demands for greater transparency; and (6) the impacts of food production on rural development.<sup>171</sup> Overall, the strategy seeks to build and support a balanced and sustainable food system that meets the country’s economic and environmental needs.<sup>172</sup>

Like many countries, Wales has experienced a decline in the number of individuals engaged in the food system, as well as the agricultural research and development necessary to support sustainable agriculture.<sup>173</sup> Global competition further pressured Wales’ food and agricultural sectors.<sup>174</sup> While the government faced austerity, it nevertheless sought to address these challenges and grow its economy.<sup>175</sup>

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<sup>166</sup> SCOTTISH GOV’T, *Recipe for Success: Scotland’s National Food and Drink Policy*, <http://www.gov.scot/resource/doc/277346/0083283.pdf>.

<sup>167</sup> VT. SUSTAINABLE JOBS FUND, *supra* note 78.

<sup>168</sup> MASS. FOOD POLICY COUNCIL, *supra* note 77.

<sup>169</sup> *Id.*

<sup>170</sup> *See generally*, WELSH ASSEMBLY GOV’T *supra* note 66.

<sup>171</sup> ROBERT LEE, *The Food Strategy for Wales: A Soft Law Instrument?*, in ENVIRONMENTAL LAW AND POLICY IN WALES: RESPONDING TO GLOBAL AND LOCAL CHALLENGES 115 (Patrick Bishop & Mark Stallworthy, eds. 2013).

<sup>172</sup> WELSH ASSEMBLY GOV’T, *supra* note 66.

<sup>173</sup> LEE, *supra* note 171, at 115.

<sup>174</sup> *Id.*

<sup>175</sup> *Id.* at 116.

Consequently, the Welsh government facilitated the development of its food strategy *Food for Wales, Food from Wales*, which reflects a commitment to build a resilient food and agricultural economy that drives economic growth.<sup>176</sup> The Strategy focuses on four principles: sustainability, resilience, competitiveness, and profitability.<sup>177</sup>

To address these principles, the Strategy recognizes a need to integrate various policy areas related to the food system while also accounting for conflicts that might arise in the process, particularly with regard to preexisting strategies for other policy areas.<sup>178</sup> The Strategy focuses heavily on market development, sustainability, and supply chain efficiency.<sup>179</sup> The Strategy also articulates development of the “Wales” brand through targeted investment and supports.<sup>180</sup> While the Strategy acknowledges other food systems issues, its fundamental goal is food sector growth and development to expand the Welsh economy.

## 2. *The Minnesota Food Charter as an Economic Development Measure*

The Minnesota Food Charter represents the culmination of an almost two-year effort, involving a range of stakeholders—“hundreds of organizations . . . , a number of state agencies, the University of Minnesota, Minnesota corporations and non-profits, and thousands of Minnesotans”—and funded by the public and private sectors.<sup>181</sup> The process solicited stakeholder feedback through 144 Food Charter events, 90 personal interviews, and online town hall events.<sup>182</sup> Over 2,500 people participated.<sup>183</sup>

Like other countries and U.S. states that have developed comprehensive food strategies, Minnesotans recognized the need to respond to a specific set of food-system challenges while not compromising the state’s status as the eighth best state in which to do business and the fifth largest agricultural economy in the United States.<sup>184</sup> Specifically, the Charter emphasizes hunger, health, and access to healthy foods, with a focus on the economic impacts of these challenges. Minnesota estimated that it could save \$11 billion per year in “diet-related healthcare costs” while earning \$2.9 billion per year through investments in “healthy food infrastructure and agriculture.”<sup>185</sup> The Charter sets forth a series of goals, focusing on: food skills; food affordability, availability, and accessibility; and the creation of a “vital, lasting food infrastructure” to improve the health of Minnesotans while helping to “grow[] the food and farm

<sup>176</sup> WELSH ASSEMBLY GOV’T, *supra* note 66.

<sup>177</sup> *Id.*

<sup>178</sup> LEE, *supra* note 171 at 116.

<sup>179</sup> WELSH ASSEMBLY GOV’T, *supra* note 66.

<sup>180</sup> *Id.* at 40.

<sup>181</sup> *See generally* MINN. FOOD CHARTER NETWORK, *supra* note 80. (“The Minnesota Department of Health’s Statewide Health Improvement Program secured a grant from the Centers for Disease and Prevention. The Center for Prevention at Blue Cross and Blue Shield of Minnesota also provided financial support. The University of Minnesota’s Healthy Foods, Healthy Lives Institute served as the organizational home for the Food Charter Steering Committee, contributing substantial staff time and financial support.”).

<sup>182</sup> MINN. FOOD CHARTER NETWORK, *supra* note 80, at 4.

<sup>183</sup> *Id.*

<sup>184</sup> *Id.* at 6.

<sup>185</sup> *Id.* at 7.

economy.”<sup>186</sup> The Charter also includes a number of strategies, such as the provision of resources, support, and incentives for farmers to adopt sustainable practices, adapt to climate change, and develop healthy food enterprises.<sup>187</sup>

Minnesota’s Food Charter exemplifies the use of coordinated food-system planning to foster economic development and reduce unnecessary economic burdens that stem from negative food system impacts. By allocating resources to a wide variety of initiatives—sustainable food production practices, access to healthy foods, education and training for farmers and food producers, labor and pay issues for farm and food workers, and systems planning—the Food Charter demonstrates that economic development through the food and agricultural sector does not necessarily translate to support of large, industrialized farm and food operations. Rather, economic development can be achieved through investment in food and agricultural infrastructure and utilizing the lens of the broader food system to provide long-term, strategically considered solutions.

### C. *Connecting Communities to Policy-Making*

As noted above, this election reflected strong themes of voter discontent, populism, and anti-establishment sentiment. It remains to be seen whether President Trump, chosen as an anti-establishment candidate who pledged to Drain the Swamp, will represent these interests.<sup>188</sup> Yet, the feelings of disconnect between federal policymaking and many voters’ daily lives will likely remain. Two elements of voter reaction are relevant to the food and agricultural system.

First, much of Trump’s strongest support came from poor and working class rural populations. Polling data illustrates Trump witnessed his greatest voter gains in small towns and rural areas,<sup>189</sup> and the Electoral College map shows nearly a complete divide between primarily rural and primarily urban states.<sup>190</sup> Commentators suggest the

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<sup>186</sup> *Id.* at 16.

<sup>187</sup> *Id.* at 16–17.

<sup>188</sup> In his “Contract with America,” Donald Trump promised to “restor[e] honesty and accountability, and bring[] change to Washington.” DONALD J. TRUMP FOR PRESIDENT, INC., *Donald Trump’s Contract with the American Voter*, [https://assets.donaldjtrump.com/\\_landings/contract/O-TRU-102316-Contractv02.pdf](https://assets.donaldjtrump.com/_landings/contract/O-TRU-102316-Contractv02.pdf) (calling for term limits on Congress, federal hiring freezes, elimination of regulations as new regulations are proposed and bans on former White House officials becoming lobbyists).

<sup>189</sup> See generally *2016 Election Exit Polls: How the Vote has Shifted*, WASH. POST, Nov. 10, 2016, <https://www.washingtonpost.com/graphics/politics/2016-election/exit-polls/> (demonstrating that Trump won 62 percent of the vote in small city and rural areas); Charlie Mathesian, *How Trump Won His Map: Several Key Battlegrounds Proved Essential to Trump and His Triumph*, POLITICO, Nov. 9, 2016, <http://www.politico.com/story/2016/11/anatomy-of-trumps-election-231154> (“Trump also blew up Wisconsin’s 2012 map, winning 63 percent in rural areas, which made up a little over a quarter of the vote, and outpacing Romney by 10 points in those areas.”); Danielle Kurtzelben, *Rural Voters Played a Big Part in Helping Trump Defeat Clinton*, NAT’L PUB. RADIO, Nov. 14, 2016, <http://www.npr.org/2016/11/14/501737150/rural-voters-played-a-big-part-in-helping-trump-defeat-clinton> (“Clinton lost a small share of votes in urban areas from 2012’s levels, but she lost a bigger share of votes in areas that were more rural.”).

<sup>190</sup> See e.g., Lazaro Gamio & Dan Keating, *How Trump Redrew the Electoral Map, From Sea to Shining Sea*, WASH. POST, Nov. 9, 2016, <https://www.washingtonpost.com/graphics/politics/2016-election/election-results-from-coast-to-coast/> (“Clinton won almost 90 percent of urban cores, while Trump won the vast majority—between 75 and 90 percent—of suburbs, small cities and rural areas.”); Emily Badger et al., *The Upshot: The Election Highlighted a Growing Rural-Urban Split*, N.Y. TIMES, Nov. 11, 2016, [http://www.nytimes.com/2016/11/12/upshot/this-election-highlighted-a-growing-rural-urban-split.html?\\_r=0](http://www.nytimes.com/2016/11/12/upshot/this-election-highlighted-a-growing-rural-urban-split.html?_r=0).

election of Donald Trump reflected a clear signal of discontent from rural communities, due in part to the failure of rural areas to recover from not only the 2008 recession but also from the 1980s farm crisis.<sup>191</sup> The latter resulted in massive farm failures, consolidation in farm ownership, job loss, and flight from rural communities.<sup>192</sup> In part, voter discontent can be attributed to many rural voters' perceptions that the government directs fundamental resources to other populations, mainly cities.<sup>193</sup>

Second, while the food sector employs 10 percent of Americans, and the sector impacts 100 percent of Americans as consumers, there is little-to-no opportunity for the public to engage or offer opinions on the laws and policies impacting the food system. Indeed, if the average American wanted to provide input on food law and policy making, it would be difficult at best. Food and agricultural laws and policies in the United States are developed and implemented by myriad laws and agencies at the federal, state, and local levels. This makes it challenging for the average citizen to know when food policy decision making takes place or where to direct concerns. Yet, food policy-making could benefit from increased input from affected stakeholders. The public's input can be valuable where elected officials or agency staffers lack experience, such as in agriculture (rare amongst policymakers) or life experience in a low-income, food-poor communities (even more rare).

Many coordinated strategies provide models for incorporating public participation. These strategies generally utilize one of two different mechanisms for input, with some strategies including both. First, many utilize advisory committees comprised of experts and leaders outside of government to provide ongoing input to the federal government.<sup>194</sup> For example, the National Strategy for Combating Antibiotic-Resistant Bacteria includes a Presidential Advisory Council on Combating Antibiotic-Resistant Bacteria, with 20 members from a range of backgrounds and areas of expertise, who provide input on the creation and implementation of the strategy.<sup>195</sup> Second, most

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<sup>191</sup> See e.g., Siena Chrisman, *Want to Understand Trump's Rise? Head to the Farm*, CIVIL EATS, Oct. 27, 2016, <http://civileats.com/2016/10/27/want-to-understand-trumps-rise-head-to-the-farm/> (Suggesting that rural America has never fully recovered from the 2008 recession largely because it has yet to recover from the 1980s farm crisis, which was decades in the making due to farm policy seeking to drive small and mid-sized to either grow significantly or get off the land. "Farm loss was so emotionally and financially significant that it traumatized not only individual families, but also entire rural communities, leaving swathes of the country with chronic long-term stress, depression, and other mental health issues."); Brad Wilson, *Election, Rural Vote, Donald Trump: Why and What We Need to Do*, FAMILY FARM JUSTICE, Nov. 12, 2016, <https://familyfarmjustice.me/2016/11/12/election-rural-vote-donald-trump-why-and-what-we-need-to-do/>.

<sup>192</sup> See, e.g., Chrisman, *supra* note 191; IOWA PUB. TELEVISION, 1980s Farm Crisis, <http://site.iptv.org/mtom/classroom/module/13999/farm-crisis>.

<sup>193</sup> Danielle Kurtzelben, *Is Rural Resentment Driving Voters to Donald Trump?*, NAT'L PUB. RADIO, August 18, 2016, <http://www.npr.org/2016/08/18/490240652/is-rural-resentment-driving-voters-to-donald-trump> (Rural communities feel they are not receiving their "fair share" and are being deprived of opportunities that are being passed on to people living in cities).

<sup>194</sup> Note that external advisory committees often trigger the provisions of the Federal Advisory Committee Act (FACA), consisting largely of reporting and transparency measures, such as requiring that a committee file and update charters, hold open meetings, and publish all records, reports, transcripts, minutes, etc. related to its activities. Federal Advisory Committee Act, Pub. L. No. 92-463 (1972).

<sup>195</sup> DEP'T OF HEALTH & HUMAN SERVS., Establishment of Presidential Advisory Council on Combatting Antibiotic-Resistant Bacteria (Sept. 15, 2015), <http://www.hhs.gov/about/news/2015/09/15/establishment-of-the-presidential-advisory-council-on-combating-antibiotic-resistant-bacteria>.

coordinated strategies, domestically and globally, use various methods to open their processes to public comment. For example, as mentioned above, the Minnesota Food Charter saw participation by 2,500 people in its creation,<sup>196</sup> the Massachusetts Local Food Action Plan received input from more than 1,500 people,<sup>197</sup> and the Vermont Farm to Plate food system plan involved more than 1,200 people.<sup>198</sup> An examination of the national food strategies in the global context shows similar engagement.<sup>199</sup>

The examples below discuss how the United States' National HIV/AIDS Strategy incorporated the views of stakeholders through a variety of channels to ensure meaningful participation, as well as how Brazil has engaged citizens as food policy decision makers at all levels of government. Both models exemplify opportunities to better engage the public and break down the perceived and actual barriers between citizens and law and policy makers, as can occur with a national food strategy.

### *1. National HIV/AIDS Strategy*

The National HIV/AIDS Strategy provides a strong model for both public input, through an external advisory committee, as well as broad public participation. The first HIV/AIDS Strategy was published in 2010,<sup>200</sup> with an updated version released in 2015.<sup>201</sup> The strategy aimed to reduce the incidence of HIV/AIDS, increase access to care, improve health outcomes for people living with HIV/AIDS, and reduce health disparities.<sup>202</sup>

The strategy was not created in response to the emergence of the AIDS epidemic, despite the creation of a precursor to the President's Advisory Council on HIV/AIDS in 1987.<sup>203</sup> Rather, the National Strategy was created some 20 years later, in 2010, as a response to the many remaining challenges in the domestic HIV/AIDS response, brought to fore by sustained and organized public activism.<sup>204</sup> In the lead up to the 2008 election, the Open Society Foundation's Public Health Watch published a paper, *Blueprint for a National AIDS Plan for the United States*, calling for a national

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<sup>196</sup>MINN. FOOD CHARTER NETWORK, *supra* note 80, at 4.

<sup>197</sup>MASS. FOOD POLICY COUNCIL, *supra* note 77, at 2.

<sup>198</sup>VT. SUSTAINABLE JOBS FUND, *supra* note 78.

<sup>199</sup>See e.g., Danuta Chmielewska & Darana Souza, *The Food Security Context in Brazil: Country Study*, INT'L POLICY CTR. FOR INCLUSIVE GROWTH 2 (2011), <http://www.ipc-undp.org/pub/IPCCountryStudy22.pdf>; Philip Leat, Cesar Revoredo-Giha & Chrysa Lamprinopoulou, *Scotland's Food and Drink Policy Discussion: Sustainability Issues in the Food Supply Chain*, 3 SUSTAINABILITY 605, 606 (2011), <http://www.mdpi.com/2071-1050/3/4/605/htm>.

<sup>200</sup>WHITE HOUSE, Office of Nat'l AIDS Policy, *National HIV/AIDS Strategy for the United States* (July 2010), <https://obamawhitehouse.archives.gov/sites/default/files/uploads/NHAS.pdf>.

<sup>201</sup>WHITE HOUSE, Office of Nat'l AIDS Policy, *National HIV/AIDS Strategy for the United States: Updated to 2020* (July 2015), [https://obamawhitehouse.archives.gov/sites/default/files/docs/national\\_hiv\\_aids\\_strategy\\_update\\_2020.pdf](https://obamawhitehouse.archives.gov/sites/default/files/docs/national_hiv_aids_strategy_update_2020.pdf).

<sup>202</sup>WHITE HOUSE, *supra* note 200, at vii.

<sup>203</sup>Exec. Order No. 12601, 52 Fed. Reg. 24,129. (June 24, 1987).

<sup>204</sup>WHITE HOUSE, *supra* note 200, at vii. (noting that "While HIV transmission rates have been reduced substantially over time and people with HIV are living longer and more productive lives, approximately 56,000 people become infected each year and more Americans are living with HIV than ever before").

strategy.<sup>205</sup> This paper led to creation of the Coalition for a National AIDS Strategy, the launch of a website, and a call to action directed at the presidential candidates, which was supported by over 500 organizations and 1,000 individuals.<sup>206</sup> The proposal was endorsed by all Democratic primary candidates and later by Republican nominee Senator John McCain. Early in the new presidency, the Obama administration announced the national strategy.<sup>207</sup>

The Office of National AIDS Policy (ONAP), a White House office, oversaw the creation of the strategy.<sup>208</sup> However, the President's Advisory Council on HIV/AIDS (PACHA), an external advisory committee of up to 25 members, guided the Strategy. Notably, PACHA, which meets quarterly, is tasked to provide (1) advice and recommendations to the Secretary of the Department of Health and Human Services on HIV/AIDS and (2) input and recommendations on the creation and implementation of the National HIV/AIDS Strategy.<sup>209</sup> PACHA also publishes policy recommendations for the Administration.<sup>210</sup>

In addition to the inclusion of outside voices in PACHA, ONAP took careful steps to ensure broad and diverse public input on the creation of the National HIV/AIDS Strategy. This included a listening tour of fourteen Community Discussions around the country, attended by over 4,200 participants, as well as over 1,000 comments posted online and made in person.<sup>211</sup> The listening tour heard from individuals representing a range of ages, economic classes, racial and ethnic backgrounds, sexual orientations, and occupations.<sup>212</sup> This public input played a key role in shaping the strategy. Feedback was aggregated and organized into a companion document, created by ONAP, entitled "Community Ideas for Improving the Response to the HIV/AIDS Epidemic."<sup>213</sup> This document memorialized input that, while not included in a national strategy, provided evidence for opportunities and best practices for states and localities.<sup>214</sup>

The HIV/AIDS Strategy also provides opportunities for ongoing public engagement. A 2015 update of the entire strategy provides updated action items

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<sup>205</sup> Chris Collins, *Open Society Institute Public Health Program, Blueprint for a National AIDS Plan for the United States* (2007), [https://www.opensocietyfoundations.org/sites/default/files/improving\\_20070501.pdf](https://www.opensocietyfoundations.org/sites/default/files/improving_20070501.pdf).

<sup>206</sup> Hannah Clay Wareham, *New National HIV/AIDS Strategy an Example of Homegrown Activism*, BAY WINDOWS, July 10, 2010, <http://boston.edgemedianetwork.com/news//108311>.

<sup>207</sup> *Id.*; WHITE HOUSE, *supra* note 200, at vii.

<sup>208</sup> Office of National AIDS Policy, <https://obamawhitehouse.archives.gov/administration/eop/onap/about> (last visited Dec. 3, 2016); WHITE HOUSE, *supra* note 200, at x.

<sup>209</sup> Presidential Advisory Council on HIV/AIDS, *What Is PACHA?*, AIDS.GOV, <https://www.aids.gov/federal-resources/pacha/about-pacha/index.html>. PACHA was established by Executive Order 12963 (June 14, 1995), as amended by Executive Order 13009, (June 14, 1996) and currently operates under the authority given in Executive Order 13708 (September 30, 2015).

<sup>210</sup> *Id.*

<sup>211</sup> WHITE HOUSE, Office of Nat'l AIDS Policy, *Community Ideas for Improving the Response to the National HIV Epidemic: A Report on a National Dialogue on HIV/AIDS* (2010), [https://www.obamawhitehouse.gov/sites/default/files/microsites/ONAP\\_rpt.pdf](https://www.obamawhitehouse.gov/sites/default/files/microsites/ONAP_rpt.pdf).

<sup>212</sup> *Id.* at 8.

<sup>213</sup> *Id.*

<sup>214</sup> *See id.* at 4.

through 2020.<sup>215</sup> This update was necessary to reflect changes in science, medical advances (i.e., pre-exposure prophylaxis), and changes in relevant policies, such as implementation of the Affordable Care Act.<sup>216</sup> In the process of updating the strategy, ONAP once again traveled the country and engaged stakeholders from diverse backgrounds and geographies, to ensure the strategy continued to reflect public goals.<sup>217</sup>

## 2. *Engaging Citizens as Policy Makers in Brazil*

Brazilian civil society was heavily involved in the development of the country's National Food and Nutrition Security Policy, leading some to cite the country as a model for stakeholder engagement and public participation in the creation of a national food strategy.<sup>218</sup> Brazil's 2010 National Food and Nutrition Security Policy is one component of the country's overarching National Food and Nutrition Security System, which is intended to "create formal spaces for social participation . . . in designing, influencing and monitoring public policies in the field of food and nutrition security and sovereignty."<sup>219</sup>

Brazil's 2010 National Food and Nutrition Security Policy represents the culmination of many years of collaborative work between government and civil society. The country adopted its first National Food and Nutrition Policy in 1999.<sup>220</sup> While this process originated in the Ministry of Health, the document's creation involved other federal agencies, the private sector, and a range of civil society actors.<sup>221</sup> Specifically, a group of activists led by the country's eventual leader, President Lula, developed a proposal and presented it to civil society.<sup>222</sup> The proposal recommended the creation of a National Council on Food and Nutrition Security, which came to represent the first effective partnership between the government and civil society and allowed for an ongoing dialogue about food and nutrition security

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<sup>215</sup> WHITE HOUSE, *supra* note 200, at 2.

<sup>216</sup> *Id.* at 1–3.

<sup>217</sup> Press Release, S.F. AIDS FOUND., *National HIV/AIDS Strategy Update Acknowledges Advances; Need for More Coordinated National Response* (July 30, 2015), <http://sfaf.org/about-us/newsroom/media-releases/2015/national-hiv-aids-strategy-update.html>; Douglas M. Brooks, *What They're Saying: Release of the Updated National HIV/AIDS Strategy*, White House Office of Nat'l AIDS Policy (2015), <https://obamawhitehouse.archives.gov/blog/2015/08/06/what-they-re-saying-release-updated-national-hiv-aids-strategy>.

<sup>218</sup> See, e.g., Sarah Metcalfe, *Lessons from Brazil for the National Food Plan and Global Food Security*, FUTURE DIRECTIONS INT'L (Sept. 12, 2012), [http://futuredirections.org.au/wp-content/uploads/2012/09/FDI\\_Strategic\\_Analysis\\_Paper\\_12\\_Sept\\_2012.pdf](http://futuredirections.org.au/wp-content/uploads/2012/09/FDI_Strategic_Analysis_Paper_12_Sept_2012.pdf).

<sup>219</sup> Marília Leão & Renato S. Maluf, *Effective Public Policies and Active Citizenship: Brazil's Experience of Building a Food and Nutrition Security System*, 1, 7–8, (2013), <https://www.oxfam.org/sites/www.oxfam.org/files/rr-brazil-experience-food-nutrition-security-190214-en.pdf>.

<sup>220</sup> Danuta Chmielewska & Darana Souza, *The Food Security Context in Brazil: Country Study*, Int'l Policy Ctr. for Inclusive Growth, 1, 2 (2011), <http://www.ipc-undp.org/pub/IPCCountryStudy22.pdf>.

<sup>221</sup> Eduardo Gómez, *Understanding the United States and Brazil's Response to Obesity: Institutional Conversion, Policy Reform, and the Lessons Learned*, 1, 8 (2015), [http://download.springer.com/static/pdf/476/art%253A10.1186%252Fs12992-015-0107-y.pdf?originUrl=http%3A%2F%2Fglobalizationandhealth.biomedcentral.com%2Farticle%2F10.1186%2Fs12992-015-0107-y&token2=exp=1488670045~acl=%2Fstatic%2Fpdf%2F476%2Fart%25253A10.1186%25252Fs12992-015-0107-y.pdf\\*~hmac=99cdae8113ad4c5236fcd9e83acb28969a576b05052ddcdace20bad4770b20a4](http://download.springer.com/static/pdf/476/art%253A10.1186%252Fs12992-015-0107-y.pdf?originUrl=http%3A%2F%2Fglobalizationandhealth.biomedcentral.com%2Farticle%2F10.1186%2Fs12992-015-0107-y&token2=exp=1488670045~acl=%2Fstatic%2Fpdf%2F476%2Fart%25253A10.1186%25252Fs12992-015-0107-y.pdf*~hmac=99cdae8113ad4c5236fcd9e83acb28969a576b05052ddcdace20bad4770b20a4).

<sup>222</sup> Leão & Maluf, *supra* note 219, at 17–18.

among the two groups.<sup>223</sup> Several years later, the government created the first incarnation of the National Council and held the first National Conference on Food Security, which provided a forum for almost 2,000 participants to discuss issues related to food policy.<sup>224</sup> Despite these significant steps, Brazil's government discontinued the Council in 1995, when poverty became a more urgent political priority.<sup>225</sup>

The election of President Lula in 2003 led to the reactivation of the National Council on Food and Nutrition Security,<sup>226</sup> which is viewed as a critical component of participatory democracy in the Brazilian food policy. The Council comprises 57 members, or counselors. One third come from government ministries, two thirds are civil society members.<sup>227</sup> Because of the Council's structure and composition, it directly links government officials and the president to civil society, bringing grassroots food policy issues into official policy forums.<sup>228</sup> Although the Council serves as an advisory body to the Executive, its proposals tend to receive traction due to the representation of various government ministries.<sup>229</sup> These types of councils exist at all governmental levels in Brazil, allowing the public to filter policies up to the federal level through participation in these food policy councils.<sup>230</sup>

Commentators suggest that the Council's success is due, in large part, to the fact that its proposals' reflect "the aspirations of society and . . . coordination with other forums of social participation."<sup>231</sup> For example, because of the inclusion of rural, smallholder farms and producers in the Council and other forums for public participation, the government developed policies and programs tailored to their specific needs.<sup>232</sup>

The National Council on Food and Nutrition Security was a leader in various initiatives that ultimately gave rise to Brazil's 2010 Food and Nutrition Security Policy.<sup>233</sup> The Policy incorporates stakeholders in both the creation and evaluation of key food and nutrition programs, promoting transparency and accountability, and allowing for continuous improvement.<sup>234</sup> Significantly, Brazil also amended its Constitution to include the right to food and nutritional security in 2010.<sup>235</sup> If there is

<sup>223</sup> *Id.* at 18.

<sup>224</sup> Chmielewska & Souza, *supra* note 220, at 2.

<sup>225</sup> WORLD HEALTH ORG., *The Case of Brazil: National Food and Nutrition Policy (PNAN), 1995–2005*, 1, 36, <http://www.paho.org/carmen/wp-content/uploads/2012/06/Policy-Observatory-Brazil-Case-Study.pdf>.

<sup>226</sup> Joseph Bateman & Viviane Brochardt, *Brazil's Lessons in Rural Development: Family Agriculture, Access to Water, and Civic Engagement*, 1, 6 (Feb. 2013), [https://www.wola.org/sites/default/files/downloadable/WOLA\\_RPT\\_Open-Doors\\_FNL\\_med.pdf](https://www.wola.org/sites/default/files/downloadable/WOLA_RPT_Open-Doors_FNL_med.pdf).

<sup>227</sup> Chmielewska & Souza, *supra* note 220, at 25.

<sup>228</sup> Chmielewska & Souza, *supra* note 220, at 34.

<sup>229</sup> Leão & Maluf, *supra* note 219, at 36.

<sup>230</sup> Chmielewska & Souza, *supra* note 220, at 10.

<sup>231</sup> Leão & Maluf, *supra* note 219, at 37.

<sup>232</sup> Bateman & Brochardt, *supra* note 226, at 6.

<sup>233</sup> Leão & Maluf, *supra* note 219, at 38.

<sup>234</sup> Metcalfe, *supra* note 218 at 5.

<sup>235</sup> OXFAM, *Between Brazil's Amazing Success Against Hunger and Poverty, Questions Remain*, 1, 1, <https://www.oxfam.org/sites/www.oxfam.org/files/oxfam-rioplus20-case-study-brazil-jun2012.pdf> ("An

a lesson to be taken from Brazil's experience with stakeholder engagement and participatory democracy in the creation of its National Food and Nutrition Security Policy, it is that the public has the capacity and ability to provide valuable "contribut[ions] to the formulation and implementation of public policies."<sup>236</sup>

#### IV. GETTING FROM HERE TO THERE: HOW TO CREATE A U.S. NATIONAL FOOD STRATEGY

There are compelling reasons to consider the development of a U.S. national food strategy. Our uncoordinated and unwieldy regulatory system leads to inefficiencies and conflicting policies. The models described in this Article illustrate how a national food strategy also offers the potential to address some key political priorities identified in this election cycle. A national food strategy would: help increase efficiency and identify conflicting governmental regulations that may be eliminated; allow us to identify and capitalize on the economic development potential of the food system, by providing new and better jobs in the food system, reducing public health costs, and strategically investing in the food system to capitalize on changing consumer preferences domestically and globally; and, offer avenues for disconnected communities to engage in food and agriculture policy decision-making.

A strategy can emerge from either the federal government or citizen and stakeholder groups outside of government. Because so many of the key food system challenges stem from uncoordinated governmental action, the federal government must be engaged or buy in to the process in order for a strategy to leverage the benefits of coordination and strategic planning. However, there are also examples of stakeholders creating a national food strategy outside government. Such examples can provide models for organizing to take place in coming years, setting the stage for governmental engagement or government-initiated process. This section provides recommendations for next steps, whether a national food strategy takes shape as an initiative of government or is citizen-led.

##### A. Government Developed National Food Strategy

The majority of food strategies in the international and domestic context are government-led. As discussed previously, the impetus for a government strategy could be recognition of the economic development potential of food and agriculture<sup>237</sup> or an acknowledgement of an inefficient and overlapping regulatory system.<sup>238</sup> Strategies may also respond to sustained citizen action. For example, the National HIV/AIDS Policy directly resulted from concerted citizen pressure in the lead up to the 2008 presidential election.<sup>239</sup> In Brazil, decades of advocacy focused on hunger, agricultural

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entire regulatory framework, including social participation and control, kicked in to join up all the government structures and other groups working on food security. The state became the catalyst for Brazil's food production, consumption and distribution. The government began to strengthen its public food policies and design new ones.").

<sup>236</sup> Leão & Maluf, *supra* note 219, at 60.

<sup>237</sup> See, e.g., WELSH ASSEMBLY GOV'T, *supra* note 66, at 73.

<sup>238</sup> HM GOV'T, *supra* note 65, at 3.

<sup>239</sup> Collins, *supra* note 205, at 5; Letter from Coalition for a National AIDS Strategy to Obama Transition Team (Nov. 19, 2008), [http://otrans.3cdn.net/1815244a5b980dc9d0\\_x0m6vqds2.pdf](http://otrans.3cdn.net/1815244a5b980dc9d0_x0m6vqds2.pdf); Wareham, *supra* note 206.

production, and nutrition drove the creation of the National Food and Nutrition Security Policy.<sup>240</sup>

Ultimately, a national food strategy requires government engagement and buy-in to effectively coordinate among relevant federal agencies and laws to build long-term strategic priorities that improve the food system. Several components are needed to achieve the benefits of a government-led national food strategy.<sup>241</sup> The most foundational component is interagency coordination. Many different agencies making food-related decisions results in policies in tension with one another, regulatory gaps, and confusion among consumers and industry as to which agency is accountable. A national food strategy should utilize an interagency working group to bring the relevant agencies to the table and better coordinate activities. The model for a working group could be the Task Force for Combating Antibiotic-Resistant Bacteria, which is co-chaired by the Secretaries of Defense, Agriculture, and Health and Human Services, and helps develop the National Action Plan for federal entities to achieve the goals laid out in the National Strategy for Combating Antibiotic-Resistant Bacteria.<sup>242</sup> In addition, the strategy should identify a lead office or agency to staff the strategy, as seen with the Office of National AIDS Policy and the National HIV/AIDS Strategy.<sup>243</sup> Sufficient resources must be allocated to the agency or office tasked with creating the strategy.

Second, participation by outside stakeholders and members is essential. Such participation can ensure that the strategy reflects the needs of diverse stakeholders and is responsive to public concerns and consumer demands. Participation is also critical to address the populist critique, described above, that the federal government is not currently operating for the people. Using other strategies as models, two key tools for public engagement exist. One method is the use of an expert advisory committee, which provides a chance to engage a range of stakeholders and leverage their expertise in writing the strategy. The Presidential Advisory Council on Combating Antibiotic-Resistant Bacteria<sup>244</sup> and the President's Advisory Council on HIV/AIDS<sup>245</sup> provide strong examples. The second is the use of stakeholder forums, listening sessions, and public comment periods to engage the public more broadly. Overall, this process should be accessible, meaningful, and responsive. Opportunities for public input will

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<sup>240</sup> Leão & Maluf, *supra* note 219, at 14 (Brazilian civil society was instrumental in the passage of the Framework Law on Food Security (LOSAN), which created the National Food and Nutrition Security System (SISAN)).

<sup>241</sup> This article provides a condensed version of a set of findings and recommendations included in *The Blueprint for a National Food Strategy*, <http://foodstrategyblueprint.org>.

<sup>242</sup> WHITE HOUSE, *National Action Plan for Combating Antibiotic Resistant Bacteria* (March 2015), [https://www.obamawhitehouse.gov/sites/default/files/docs/national\\_action\\_plan\\_for\\_combating\\_antibiotic-resistant\\_bacteria.pdf](https://www.obamawhitehouse.gov/sites/default/files/docs/national_action_plan_for_combating_antibiotic-resistant_bacteria.pdf).

<sup>243</sup> Exec. Order No. 12,963, 60 Fed. Reg. 31,905 (June 14, 1995), <https://www.gpo.gov/fdsys/pkg/FR-1995-06-16/pdf/95-14983.pdf>. (In 1995, President Clinton directed Health and Human Services to create the Presidential Advisory Council on HIV/AIDS (PACHA) and the White House Office of National HIV/AIDS Policy (ONAP)); WHITE HOUSE, About ONAP, <https://obamawhitehouse.archives.gov/administration/eop/onap>.

<sup>244</sup> DEP'T OF HEALTH & HUMAN SERVS., *Establishment of Presidential Advisory Council on Combatting Antibiotic-Resistant Bacteria* (Sept. 15, 2015), <https://wayback.archive-it.org/3926/20170128070918/https://www.hhs.gov/about/news/2015/09/15/establishment-of-the-presidential-advisory-council-on-combating-antibiotic-resistant-bacteria>.

<sup>245</sup> Presidential Advisory Council on HIV/AIDS, *supra* note 209.

add to the legitimacy of the strategy, even if people do not avail themselves of the opportunity to participate.

Transparency and accountability should also be hallmarks of the strategy. These goals can be achieved by enshrining the national food strategy in a written strategy document. Many previous and existing national strategies have included a written document.<sup>246</sup> Such a document could take many forms. It could be as simple as a list of ten national goals for the food system or as complex as a set of specific action steps for each relevant agency. Many national food strategies from other countries include objectives with a set of activities that should take place to meet each objective. Domestic strategies provide additional models for a written strategy. Enshrining the strategy in writing allows for transparency and pressures agencies to align their policy decisions with the strategy. Even Congress, which will not technically be bound by the strategy if it is created through the executive branch, will be more likely to be influenced by a strategy that is in writing.

Finally, the strategy should be durable and resilient. Addressing challenges facing our food system, from public health implications to environmental challenges, is a long-term project, so a long-term commitment to implementing the strategy is vital. At the same time, the strategy should have the ability to respond to changes in science and technology, as well as new and unexpected challenges that emerge. Providing opportunities to revisit and update the strategy, as with the National HIV/AIDS Strategy,<sup>247</sup> will allow for flexibility and ultimately make the strategy more durable.

### B. *A People's National Food Strategy*

In the absence of a government-led national food strategy or in the event of stakeholders' dissatisfaction with one developed by government,<sup>248</sup> stakeholders can initiate the process independently. This has occurred both in the international

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<sup>246</sup> See e.g., WHITE HOUSE, *National Strategy for Combating Antibiotic-Resistant Bacteria* (Sept. 2014), [https://obamawhitehouse.archives.gov/sites/default/files/docs/carb\\_national\\_strategy.pdf](https://obamawhitehouse.archives.gov/sites/default/files/docs/carb_national_strategy.pdf) (establishes five interrelated goals, each with their own sub-sections); DEP'T OF HEALTH & HUMAN SERVS., *National Health Security Strategy and Implementation Plan: 2015-2018*, 13-15, <http://www.phe.gov/Preparedness/planning/authority/nhss/Documents/nhss-ip.pdf> (National Health Security Strategy document includes both a strategy and an implementation plan); WHITE HOUSE, Office of Nat'l AIDS Policy, *National HIV/AIDS Strategy for the United States: Updated to 2020* (July 2015), [https://obamawhitehouse.archives.gov/sites/default/files/docs/national\\_hiv\\_aids\\_strategy\\_update\\_2020.pdf](https://obamawhitehouse.archives.gov/sites/default/files/docs/national_hiv_aids_strategy_update_2020.pdf) (written strategy document for the National HIV/AIDS Strategy); DEP'T OF HEALTH & HUMAN SERVS., *National Strategy for Quality Improvement in Healthcare 9* (2011), <http://ahrq.gov/workingforquality/reports/annual-reports/nqs2011annlrpt.pdf> (some strategies mandate agencies to develop their own plans to apply the goals of the strategy to their activities).

<sup>247</sup> WHITE HOUSE, *supra* note 84, at 2.

<sup>248</sup> In 2012, in response to the Australian Government's NFP, the Australian Food Sovereignty Alliance launched the People's Food Plan process where 40 public forums were organized and over 600 people explored the values, principles, and goals that would support a "common-sense, fair, resilient, and sustainable" food system in Australia. AUSTR. FOOD SOVEREIGNTY ALL., *The People's Food Plan: A Common Sense Approach to a Fair, Sustainable, and Resilient Food System* 1, 10 (2013), [http://www.australianfoodsovereigntyalliance.org/wp-content/uploads/2012/11/AFSA\\_PFP\\_Working\\_Paper-FINAL-15-Feb-2013.pdf](http://www.australianfoodsovereigntyalliance.org/wp-content/uploads/2012/11/AFSA_PFP_Working_Paper-FINAL-15-Feb-2013.pdf).

context<sup>249</sup> and in certain U.S. states.<sup>250</sup> While this Article argues for the creation of a government-supported national food strategy as the best means by which to accomplish one of the fundamental purposes of such a strategy – coordination of agencies, different levels of government, laws and policies – , there can be great value in a grassroots plan created by stakeholders. Canada’s People’s Food Policy, entitled *Resetting the Table*, offers an instructive model for such a plan. The People’s Food Policy was initiated as a grassroots response to the crises faced by the Canadian food system (e.g., hunger, obesity, declining number of farmers and fishers),<sup>251</sup> and it calls for “a whole-of-government commitment” to tackle these challenges and strengthen the food system.<sup>252</sup>

The food system and regulatory challenges addressed by the People’s Food Policy are also present in the United States.<sup>253</sup> Specifically, jurisdiction over food and agricultural laws and policies in Canada is divided between a number of agencies across different levels of government, with little coordination such that “proposed solutions . . . neglect or ignore root causes.”<sup>254</sup> As in the United States, the Canadian federal government has “few formal processes” to ensure public participation in the development of food policy.<sup>255</sup> A fundamental tenet of the People’s Food Policy is a “systems-based approach” that (1) includes diverse stakeholders as participants in the creation of policy and (2) values “interdependence, ecology, health and justice over those of profit and individualism.”<sup>256</sup>

The creation of the People’s Food Policy emphasized public participation and inclusivity, ultimately engaging 3,500 people over two years.<sup>257</sup> The primary forum for engagement was 350 small community gatherings, or Kitchen Table Talks, “which were organized through local networks and met people where they were.”<sup>258</sup> Other forums for participation included direct policy submissions, teleconferences, ongoing online discussions, and three conferences.<sup>259</sup> The process resulted in ten detailed policy discussion papers that included government policy recommendations and concrete guidelines for implementation.<sup>260</sup> In many ways, both the process to create the Policy and the recommendations included in the Policy mirror the public participatory processes in Brazil. Indeed, the Policy advocates for use of food policy councils to

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<sup>249</sup> See, e.g., *id.*

<sup>250</sup> See THE ME. FOOD STRATEGY, *supra* note 79.; FARM ILL., *supra* note 81; VA. FARM TO TABLE, *supra* note 82; Minn. Food Charter Network, *supra* note 80.

<sup>251</sup> FOOD SECURE CAN., *Resetting the Table: A People’s Food Policy for Canada* (June, 2015), [https://foodsecurecanada.org/sites/foodsecurecanada.org/files/fsc-resetting-2015\\_web.pdf](https://foodsecurecanada.org/sites/foodsecurecanada.org/files/fsc-resetting-2015_web.pdf).

<sup>252</sup> *Id.* at 22.

<sup>253</sup> *Id.* at 23.

<sup>254</sup> *Id.*

<sup>255</sup> *Id.*

<sup>256</sup> *Id.*

<sup>257</sup> *Id.* at 4.

<sup>258</sup> *Id.*

<sup>259</sup> *Id.* at 2.

<sup>260</sup> *Id.*

provide food policy recommendations to all levels of government, citing to Brazil as the best model of how these might function.<sup>261</sup>

The People's Food Policy and the advocacy around it appear, in part, to have influenced the Trudeau administration in committing to create Canada's first-ever national food policy. However the Canadian government must consider three different national food policy proposals developed by groups presenting "vastly divergent views." This is because in addition to the People's Food Policy, there are two other comprehensive food policy proposals for Canada—one from the Conference Board of Canada, representing actors from the food industry<sup>262</sup> and the other from the Canadian Federation of Agriculture, representing small scale and industrial farmers.<sup>263</sup> In developing its new national food policy, the government has suggested these preexisting proposals will influence its work, as will other countries' national strategies.<sup>264</sup>

If the next four years suggest creation of a national food strategy is not on the political agenda in the United States, the Canadian experience demonstrates all is not lost. A stakeholder-developed food strategy in the United States could serve the valuable functions of providing ideas and demonstrating support for the concept, as well as acting as a coordinating mechanism to bring the food movement together. The fact that Canada has three different proposals with divergent emphases also presents a valuable lesson for stakeholders in the United States. Other strategies described in this Article, particularly Brazil's National Food and Nutrition Security Policy and the United States' National HIV/AIDS Strategy, show that getting an issue on the national radar can result from sustained and engaged activism by advocates and civil society. The next four years could serve as the opportunity for stakeholders across the food system—even those at odds with one another—to come together and negotiate a set of priorities and goals they might present to the next Administration.

## CONCLUSION

As the new Administration takes shape, speculation remains regarding the potential impacts to the country's many food and agricultural policies.<sup>265</sup> While the specifics remain largely uncertain, significant changes in food and agricultural priorities at the

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<sup>261</sup> *Id.* at 24.

<sup>262</sup> CONFERENCE BD. OF CAN., *The Canadian Food Strategy* (2017), <http://www.conferenceboard.ca/cfic/cfs.aspx>.

<sup>263</sup> CAN. FED'N OF AGRIC., *National Food Strategy* (2017), <https://web.archive.org/web/20170202005911/http://www.cfa-fca.ca/programs-projects/national-food-strategy>.

<sup>264</sup> Ann Hui, *Why a New National Strategy on Food Can't Satisfy All*, GLOBE & MAIL, Oct. 24, 2016, <http://www.theglobeandmail.com/news/national/why-a-new-national-strategy-on-food-cant-satisfyall/article32486906/>.

<sup>265</sup> See, e.g., Helena Bottemiller Evich, *What Trump Win Means for Agriculture*, POLITICO, Nov. 9, 2016, <http://www.politico.com/tipsheets/morning-agriculture/2016/11/what-trump-win-means-for-agriculture-217319> (Trump suggested he would call for the repeal of "job-killing regulations like the Waters of the United States rule," "lower the tax rate on family farms," and "play an active role in crafting the 2018 farm bill" although it remains uncertain whether he intends to separate the Supplemental Nutritional Assistance Program from the Farm Bill as his advisors have made conflicting statements.); Virginia Chamlee, *What President Donald Trump Will Mean for U.S. Food Policy*, EATER, Jan. 20, 2017, <http://www.eater.com/2016/11/9/12930812/donald-trump-food-policy> (addressing the Trump Administration's possible positions on "food safety, agriculture, and worker's rights.").

federal level are likely inevitable. A national food strategy can help ensure that as decisions are made that involve significant impacts on the food system—such as the ability of farmers to find workers to harvest their products or the cost and availability of healthy food items in underserved areas—their implications are identified and potential tradeoffs are taken into account. A strategy can also address the current food system challenges that occur due to lack of coordination, unclear priorities, and the failure to address tradeoffs inherent in the system. An examination of some key political concerns at issue in this past election shows many voter concerns implicate priorities that could be better served through the creation of a national food strategy—specifically, issues related to increasing governmental efficiency, promoting economic development, and increasing the connection between members of the public and policy making. Further, examples abound from the global, national, and state levels offering models for the tools and mechanisms to create such a strategy. While governmental involvement will be necessary to fully reap the benefits of a national food strategy, a strong push from civil society is also needed to drive its creation. In the meantime, if the next four to eight years indicate that no governmental strategy is forthcoming, food system stakeholders can begin the hard work of coming together around a set of shared values, goals, and compromises to build the framework for an eventual national food strategy.