

## **AFRICAN AMERICANS' STRUGGLES OVER LAND IN THE BLACK BELT OF MISSISSIPPI, ALABAMA, AND GEORGIA**

*This history reveals certain recurring practices--from denying support easily gained by white farmers to ignoring African American traditions about family and land-holding--that limited their ability to gain, control and keep their own land, as well as ways in which they fought back to keep land. Parallels can be found not only between discriminatory practices in different time periods but also between how land was taken from black families and how it was seized from indigenous nations in the US South and elsewhere. The struggles continue for both groups today.*

*Compiled by Cita Cook for the Southern Movement Assembly, 2019*

**1793:** The invention of the cotton gin (short for “engine”) made it feasible to grow short-staple cotton without having to pay for the labor of taking the seeds out of cotton bolls by hand. European Americans forced at least a half million enslaved Africans and African Americans to clear forests and swamps and then work on cotton plantations in “the Black Belt” (originally named for the black soil) in South Carolina, Georgia, Alabama, Mississippi, Louisiana, Arkansas, and East Texas. Most of the cotton was sold to “cotton factors” (a kind of merchant) and textile mill owners in England, New York, and New England. The wealth from that economic exchange enabled industrial capitalism to thrive.

**1798:** So many people sought cotton plantations in Mississippi that it became a territory of the United States and then, in 1817, a state.

**January 12, 1865:** After white owners abandoned their Sea Island plantations in 1862, the people they had enslaved occupied the land. When Gen. William T. Sherman and his Union troops arrived in Savannah, he asked twenty black ministers what their people would need when the Civil War (and slavery) ended. The Reverend Garrison Frazier, who had formerly been enslaved, told him, “The way we can best take care of ourselves is to have land, and turn it and till it by our own labor.”

**January 16, 1865:** General Sherman issued Special Field Order Number 15, setting aside 40 acres of tillable land for newly freed families along the Southeast Atlantic coast from South Carolina to Florida. They received only a “possessory title” for their land; this granted them the right to use the land but not to own or sell it. The Union Army also provided at least some families with mules no longer fit for military use. By June 1865, about 40,000 people had settled on 400,000 acres.

**March 3, 1865:** Congress established the Bureau of Refugees, Freedmen, and Abandoned Land (the Freedmen’s Bureau). One of its duties was to continue redistributing land to “freedmen,” but local and state white officials made this difficult. On January 31, 1866, the Freedmen’s Bureau oversaw 223,600 acres; eighteen months later, it was only 72, 329.

**April 15, 1865:** President Abraham Lincoln was assassinated and replaced by Andrew Johnson. President Johnson allowed even wealthy ex-Confederates to regain both their citizenship and their land.

**Late 1865:** A new Mississippi legislature passed a set of laws known as Black Codes, severely limiting the rights of “all freedmen, free negroes and mulattoes” in the state. They could not, for example, rent a home or land except in incorporated cities or towns, in other words, they could not rent farms. When Congress refused to seat the Mississippi delegation in 1866, the state nullified the laws, but it was still not possible for black people to rent property in an equitable fashion.

**June 21, 1866:** Congress passed the Southern Homestead Act, which made 46 million acres of public land in Arkansas, Florida, Louisiana, and Mississippi available for freed people and Union supporters who agreed to live on 80 (later 160) acres for five years. Less than 4,500 managed to gain land this way since white ex-

Confederates and their allies failed to inform black people how to do so and/or used violence to stop their gaining land. When the law was repealed in 1876, of the 6,500 black people who had made claims for land, only about 1,000 had succeeded. The poor quality of most of the soil and the new farmers' lack of money to invest in the property made it hard for them to avoid foreclosures.

**July 1866:** Congress required all the land that Sherman had distributed to freed people to be returned to the original white owners. Some fought back, but only a few managed to save their new farms.

**March 19, 1867:** Rep. Thaddeus Stevens (R, Pennsylvania) called for the US government to take the land owned by the wealthiest ex-Confederate plantation owners and that of the states which had gone to war against the United States in order to distribute forty acres of land (plus \$100 for a house) to each liberated slave who was "a male adult or the head of a family." His proposed bill never passed.

**1867-1877:** Ex-slaves Benjamin Montgomery and his son, Isaiah, bought, from the brother of ex-Confederate President Jefferson Davis, Mississippi River plantations near Vicksburg where they had been enslaved and created a "community of cooperation" for freed people. Davis Bend became one of the top cotton producers before it failed because of falling cotton prices, the death of Benjamin Montgomery, the end of Reconstruction governments, and the removal of protective US troops from the South.

**1868-1876:** The first Mississippi Commissioner of Immigration and Agriculture was Richard Griggs, a black man from the Delta. He supported the arrival of African rather than European immigrants, as well as the relocation to Mississippi of black people living in the older cotton states.

**1870-1880:** The black population of Mississippi increased from 441,201 to 653,199. The white population for those years was only 382,806 and 407,403.

**1887:** Isaiah T. Montgomery (son of Benjamin Montgomery) and a cousin bought, over time, 840 acres of swampland and hardwood forest in the Delta. They invited African American farmers and others to join them in what became the all-black town of Mound Bayou. For a number of decades, it included three cotton gins, a sawmill, a bank, several schools, a train station, and a Carnegie Library.

**1890-1920:** During this period of frequent lynchings (terrorist murders) of black southerners, many of them happened because white people wanted their victims' land.

**1892-1920s:** Boll weevils, beetles which eat cotton plants, traveled from Mexico through all the cotton-growing southern states, destroying cotton fields and forcing many farmers to develop new crops.

**1895:** The founders of the Calhoun School for black students in Lowndes County, Alabama (south of Montgomery) established the Calhoun Land Trust to sell land to tenant farmers.

**1900:** In Copiah County, 61% of the white farmers owned their land, but only 18% of African American farmers did.

**1910-1997:** Black farmers in the United States lost 80% of their land because of their not being able to receive a farm serial number from the US Department of Agriculture. In 1920, their number peaked at 949,889, with about 14% of all US farm operations. By 2012, they would be less than two percent of all US farmers.

**1933:** The Agricultural Adjustment Act (I), part of President Franklin D. Roosevelt's New Deal, paid farmers to decrease the acreage they cultivated in order to raise the prices of crops, including cotton. Many white landowners refused to distribute that money to their black sharecroppers and also evicted those whose

labor they no longer needed because of the cutbacks in acres farmed.

**1933:** The US Home Owners' Loan Corporation instituted the practice of "redlining" by declaring that it was too risky to offer home mortgages to people in black neighborhood; this meant they were unable to participate in the 1950s middle-class housing boom enjoyed by many white Americans.

**1935-2017:** As large corporate farmers replaced family farms, the number of all farms in the United States declined from 6.8 million to just over 2 million, and the average farm grew from 155 to 444 acres.

**1936:** The Resettlement Administration (later taken over by the more conservative Farm Security Administration) purchased 9,400 acres south of Tchula, Mississippi in the Delta and offered homesteads (complete with a house, barn, privy, and more) of 75 acres each to 110 black landless farm families. They also contributed a school, cotton gin, health clinic, and a cooperative store. Today, the Mileston Cooperative Association owns 3,000 acres and teaches young people how to grow and market vegetables.

**1937:** The Farm Security Administration was created, with a rural rehabilitation program that was supposed to serve "high-risk" farmers. Though black people were 37% of southern low-income farmers, they received only 23% of the loans and, in 1940, only 21% of the loans to help tenants buy property.

**1940s:** The Farmers Home Administration offered low-interest loans to African Americans in the Delta to buy land and establish a co-op cotton gin. By 1950, 800 independent black farmers owned 50% of the land in Holmes County. Their relative economic independence made it safer for them to become active in the Civil Rights Movement than for sharecroppers and other renters who could be evicted.

**January 29, 1943:** Sheriff Claude Screws (Baker County, Georgia, southwest of Albany) arrested Bobby Hall for allegedly stealing a tire. Screws and two other drunk officers beat Hall without provocation, even after he was handcuffed on the ground; he died a day later. Screws later admitted he had a grudge against Hall because of his activism for civil rights. After Georgia authorities refused to indict the three, Screws was convicted in a federal case charging him with depriving Hall of his civil rights. The US Supreme Court, however, overturned the verdict in *Screws v. United States* (1945), saying the trial judge had not given accurate instructions to the jury on the meaning of the term "willfully." The case was retried, and Screws was acquitted after having been reelected as sheriff. Since 1945, the Screws Case has made it harder for the federal government to convict local government officials for killing African Americans in an "extra-judicial" manner, as when the Justice Department did not convince a grand jury that Officer Darren Wilson had intended to violate the civil rights of Michael Brown when he shot him in Ferguson, Missouri. In 2010 Shirley Sherrod, the niece of Bobby Hall, brought the Screws Case to the attention of the public in a speech which became well known for different reasons [see below, in 2009].

**1965** About 80% of the population of Lowndes County, Alabama was African American, but eighty-six white families owned 90% of the land and controlled the local government.

**December 1965-1967:** An African American family offered use of its land in Lowndes County, Alabama to create Tent City (also called Freedom City) for sharecroppers and others who had lost their jobs and homes because they had registered to vote. In Detroit, the Lowndes County Christian Movement for Human Rights, organized by people who had moved north from there, raised money to buy the 200 acres.

**August 25, 1965:** The Lowndes County Anti-Poverty Action Committee was formed to seek support from the Office of Economic Opportunity for adult education and housing construction. Local white people tried to undermine this effort in various ways.

**1966:** Student Nonviolent Coordinating Committee (SNCC) supporters of the Lowndes County Freedom

Organization (also known as the Black Panther Party) drew stick-figures for stories about the duties of several local officials up for election that fall. They depicted the Tax Assessor as “the person in the county who says how much your property (cars, as well as land and houses) is worth for taxation purposes....at its fair and reasonable market value.” They explained that the assessors had to put a notice in the county newspaper at least ten days before going into a community; that taxpayers had to take an oath about the value of their property; and that if a property owner had not done so by January 3, the a tax assessor could put the property up for sale. That fall the white Democratic Party candidate for Lowndes County Tax Assessor won with 2, 265 votes and the LCFO (black) candidate received 1,604; there were not yet enough black people registered to vote.

**1966:** SNCC organized the Alabama Poor People’s Land Fund to purchase land and building materials for poor black families that had been displaced from their homes for their Civil Rights activism.

**July 1966:** The Office of Economic Opportunity granted \$240,640 for a Lowndes County Community Action Program. In November, the Lowndes County Self-Help Housing and Job Training opened, offering adult education classes and other services. About eight months later, an arsonist destroyed their headquarters just after volunteers had renovated the building. They, nevertheless, kept the program going, including by building houses for people living in Tent City.

**1967:** The Federation of Southern Cooperatives (FSC) was founded by representatives from twenty-two cooperatives across the South. By the mid-1970s, it included 130 cooperatives. The Southern Cooperative Development Program (SCDP) was also established to offer cooperative education and technical assistance to coops and credit unions, especially in Alabama, Louisiana, and Mississippi.

**February 1967:** The Southwest Alabama Farmers Cooperative Association (SWAFCA) was formed by black farmers living in ten Black Belt counties in Alabama, after the idea had been suggested at a SNCC workshop in Selma. It allowed them (at first, cucumber/pickle farmers) to pool their resources for their own economic empowerment. Governor Lurleen Wallace vetoed the almost \$400,000 grant from the Office of Economic Opportunity, but the head of the OEO delivered the money anyway.

**1969:** New Communities Inc. was incorporated in Georgia as the first Community Land Trust in the United States. A year later, they purchased over 5,735 acres north of Albany, Georgia; at that time, it was the largest tract of land owned by African Americans. In 1971 Governor Lester Maddox vetoed a grant that the federal Office of Economic Opportunity had promised them, only one of many attempts to stand in the way of their success. Nevertheless, the farm thrived, and they added a day care center, a grocery store, and office buildings, as well as the Southwest Georgia Project for Community Education.

**1976:** New Communities and many other farms suffered from a drought. After two years of this, they were refused help by the local Famers Home Administration supervisor, who declared, “You will get a loan here over my dead body.”

**1981:** Charles Sherrod explained why New Communities had decided to sell 1,348 of their 5,735 acres: “We had an annual debt service of \$203,000 and we were making about \$100,000 clear on our farming, which was our only income....Some years I’d have to raise the total million dollars to refinance. Now we have a debt service of about \$150,000” (about \$243,700 in 2019). Absentee landlords in large companies from Michigan, New York, California, and overseas were buying large tracts of nearby land.

**1983:** President Ronald Reagan closed the US Department of Agriculture’s Office of Civil Rights. Some USDA employees had been throwing into the trash civil rights complaints from black farmers. Although President Bill Clinton reopened the office in 1996, they were unable to undo the damage.

**1985:** New Communities Inc. lost its almost \$5 million worth of land and buildings to foreclosure when they were denied loans by the US Department of Agriculture. A wealthy white buyer was able to borrow \$950,000 of the \$1 million cost from the Farmers Home Administration (FHA), a USDA office that had declined to loan money to New Communities.

**1986:** Roger Spooner, a white farmer in Southwest Georgia, asked Shirley Sherrod to help prevent his land from being sold without his permission. She found a lawyer who enabled the Spooners to save their farm. She also decided that although white people had definite advantages, poverty affected both whites and blacks. Over twenty years later (see 2009), her attempt to explain this caused new troubles for her.

**1992:** The NAACP accused local officials in South Carolina of intentionally inflating taxes (700% in one decade) to push out black families on Daufuski Island, a South Carolina Sea Island that had become one of the hottest real-estate markets on the Atlantic Coast. This same gentrification practice on Hilton Head Island had led to African American property ownership decreasing from several thousand acres in Heirs' Property land to only 200 such acres. Each October, investors were flying into the county to bid on tax-delinquent properties in a local gymnasium.

**1997:** Timothy Pigford, from North Carolina, and 400 other black farmers filed a class action lawsuit (*Pigford v. Glickman*) which said that the USDA had discriminated against them from 1983 to 1997. In April 1999, a settlement required the federal government to provide about \$1.06 billion in cash relief, estimated tax payments, and debt relief to prevailing claimants, the largest civil rights settlement in history. Tens of thousands of black farmers were eligible to submit a claim, but poor communication and missed deadlines meant that almost 90% of those who applied for compensation were denied it.

**2000-2010:** The George W. Bush administration spent \$12 million contesting Pigford I claims, approving only one out of 14,000 claims by black farmers for funds owed to them. In 2010, the Farm Service Agency reduced the number of discrimination complaints not yet addressed to 37, and the USDA cut the processing time for civil rights complaints from four years to eighteen months.

**2002:** Almost two-thirds of the land in the ten Black Belt Counties in Alabama (78% in Lowndes County and over 73% in Perry County) was owned by people or companies not located within the county of the land they owned. More than two-thirds of this land qualified for a sizable tax break. Much of it was and is being used for timber, as well as hunting leases to earn money from wealthy hunters.

**2002:** A new Farm Bill required the USDA to conduct meaningful outreach and create technical assistance programs for socially disadvantaged farmers. The 2008 Farm Bill reinforced this by creating the USDA Office of Advocacy and Outreach.

**January 2002:** A group of women from Georgia, Alabama, and Mississippi formed the Southern Rural Black Women's Initiative (SRBWI) to help the poorest rural women through sustainable initiatives, leadership development, and public policy advocacy.

**2004:** The Puerto Rico legislature transferred 200 acres of publicly owned land to the Cano Martin Pena Community Land Trust. Five years later, the Governor of Puerto Rico and the Mayor of San Juan convinced the legislature to take back those 200 acres; in 2013, the legislature returned them.

**2005:** After Hurricane Katrina, policies in New Orleans and Louisiana led to the destruction of tens of thousands of homes of African Americans. 25,000 who applied for rebuilding grants were unable to receive any because their claims for land ownership were through Heir's Property (land passed down between generations without a formal will or title), meaning they did not have the kind of documentation they needed to receive the support. losing at least \$165,000 in recovery funds.

**2008:** After Congress passed a law accepting claims by black farmers that had arrived too late for them to receive any money from the Pickford Case, a settlement in February 2010, through *In re Black Farmers Discrimination Litigation (Pigford II)*, granted \$1.25 billion in additional relief to those who had missed the original filing deadline. By August 15, 2013, 17,670 claims had been approved, totaling \$1.1 billion.

**2009:** New Communities, Inc. received \$12 million from their portion of Pigford II and used it two years later to buy Resora, with 1,638 acres. to re-open New Communities. Under the leadership of Charles and Shirley Sherrod, they created a headquarters, a retreat, a conference center, and a working farm.

**2009:** Shirley Sherrod was made the Georgia Director for Rural Development, a branch of the Department of Agriculture. In 2010, they forced her to resign after Breitbart News edited a segment of a speech in which she had explained what she had learned by helping Roger Spooner (see 1986) to make it seem she had made a racist comment, which was not true. A few months later, the Obama White House and the Secretary of Agriculture apologized for their mistake, but she decided not to return to the job.

**2010:** The Uniform Partition of Heirs' Property Act (UPHPA) was drafted to stabilize tenancy-in-common ownership for disadvantaged families.

**2016:** South Carolina passed the Clementa C. Pinckney Uniform Partition of Heirs' Property Act, named for the state senator and pastor killed in the 2015 massacre at the Emanuel AME Church in Charleston. It provides some protections for Heirs' Property Owners, including co-tenants being given an opportunity to buy the share of a tenant wishing to sell and requiring judges to consider not only the market value of the property but also its sentimental, cultural, or historical significance.

**2018:** Since 40% of the land owned by African Americans was Heirs' Property, the 2018 Farm Bill (Agricultural Improvement Act) provided for a way for farmers without a will to show what they inherited, to use different kinds of documentation to participate in USDA programs (including lending and disaster relief programs). or to take advantage of farm-specific tax provisions. The bill also allocated billions for subsidies to veteran and minority farmers and rejected the stricter limits on food stamps that House Republicans had wanted to impose. The success of the bill, however, will depend on the willingness of the Department of Agriculture to carry it out and Congress to provide the needed money, and it did not support measures to overcome unfair pricing, corporate agribusiness, or the climate crisis.

**2018:** Carlton Turner, a native of Utica, organized there the Mississippi Center for Cultural Production to focus on the intersection of food and story in our natural environment. The organization focuses on developing the communities to tell their story and carry out a mission of co-operative food production.

**2019:** Black households held about 10% of the wealth of white households. Only 1.3% (45,508) of the 3.4 million farmers were black, owning only .52% of the total farmland. 95% of the farmers were white.

**July 2019:** The Department of Agriculture, led by Sonny Perdue (ex-Governor of Georgia), reported that the money for farm aid coming from the Trump administration's trade war was being distributed according to a farm's size and success. "The more acres they farm and bushels per acre they produce, the more assistance they receive." The top 1% received an average of \$188,000 while the bottom 80% averaged less than \$5,000. Thousands of the recipients live in large cities.

## Legal Terms Related to Rights to Land:

- **Adverse Possession:** A legal doctrine which requires proving that an owner has occupied it for many years, continuously and publicly, against the wishes of the owners.
- **Community Land Trust:** A private, nonprofit corporation created to provide secure, affordable access to land and housing for community members who are not served well by the prevailing real estate system. A CLT can help reduce absentee ownership, keep housing affordable, and serve long-term community benefits. Their main action is to separate the ownership of land from the ownership of housing on it. The trust (overseen by a board of directors elected by residents and other community members) acquires the land and maintains ownership of it permanently, while arranging for people wishing to live on the land to enter into long-term renewable leases.
- **Deed:** a legal written document which indicates who is the rightful owner of a piece of property (who has title to it). A deed, unlike a title, is an actual document and is needed to transfer title from one person to another. Deeds must be recorded in the courthouse or assessor's office in the county of the property.
- **Heirs' Property:** A colloquial name for a form of property ownership common among black families, starting at least during Reconstruction, because of their rational distrust of white lawyers and legal documents. By this system, descendants inherit an interest, usually by it being passed down informally from generation to generation without any will or deed. This can lead to difficulties such as involuntary "partition sales" which do not involve the permission of all the heirs. The US Department of Agriculture has called Heirs' Property "the leading cause of Black involuntary land loss."
- **Land Bank:** A public nonprofit or governmental institution designed to acquire and maintain vacant, abandoned, and/or foreclosed properties and then transfer them to owners capable of making them productive. through special powers granted by state or local laws. This can include the ability to remove the need to pay delinquent taxes, usually through a property tax foreclosure system; to clear title and/or extinguish back taxes; or to negotiate sales based not only on the highest bid but also on the outcome that most closely aligns with community needs.
- **Liens:** Mini-mortgages placed on a property to force the property owner(s) to pay a debt. Any liens on a property must be paid before the land can be sold.
- **Partition Action/Sale:** Over the course of generations, heirs tend to disperse and lose connection to land for which they are a partial owner, making it easier for speculators to buy off the interest of a single heir. Just one heir or speculator, no matter how minute the share, can force the sale of an entire plot through the courts. Developers seek to turn relatives against each other, so some will be more willing to sell than others. When one heir decides to sell, the whole property is apt to be auctioned at a price none of the heirs' property owners can afford to pay. Partition Sales are often speedy and poorly advertised, setting a price that is below-market price but still too much for the owners to afford. Heirs not only lose their property but are also forced to pay the legal fees of those bringing the partition cases.
- **Probate:** A legal process in which a will is reviewed by a court to determine whether it is valid and authentic. If a person passes without a will ("intestate"), The probate court determines how state laws require any property from a decedent to be distributed.
- **Speculators:** Investors/developers who hope to make a big profit by buying cheap property and later selling it for much more. Over recent centuries, some have taken advantage of people living on land for which they have no deed recognized by official courts, as opposed to how a community and/or family defines the right to ownership. They can do this more easily in the case of land that is Heirs Property, as opposed to deeded land.
- **Tax Sales:** The forced sale of property by a governmental entity because of the lack of payment of taxes by the owner of the property. In a Tax Lien Sale, the liens (debts needing to be paid) on the property are auctioned off to the highest bidder, who gains the legal right to demand payment, along with interest, by the property or homeowner. A Tax Deed Sale sells the entire property, unpaid

taxes included, at a public auction.

- **Tenancy-in-Common Ownership:** Individual tenants in this situation do not own any particular part of a parcel of the property but own a partial interest in the undivided whole, much like shareholders own only some shares in a corporation. Heirs' Property Ownership is one version of Tenancy-in-Common Ownership.
- **Title:** A legal term for a legal right to own something, usually real estate property. Someone with title to a particular piece of property can access the land, modify it, and transfer it to someone else by sale or some other process.
- **Torrens Title:** A land registration and land transfer system, in which a state creates and maintains a register of land holdings, which serves as the evidence of title (ownership).
- **Torrens Act in North Carolina:** A state law passed to help clear up confused titles by allowing someone to prove adverse possession to a paid court-appointed lawyer. By the 1930s, it had been coopted by big business as "a legal way to steal land." A number of other states have passed similar laws.

### **How to Close Heirs' Property Loopholes**

Lizzie Presser

*Pro Publica*, July 15, 2019

#### **What can Heirs' Property owners do to protect their land?**

- **Plan for the future.** Write a will or prepare a Transfer on Death Deed to help pass a clear title to the next generation.
- **Pay your property taxes.** Visit your Tax Assessor's office and make sure you do not owe any taxes and that the address of the person responsible for coordinating bills is up to date.
- Write a family tree, clarify the names of each generation following the names on the original deed.
- **Create a paper trail to prove your ownership.** If there is an inheritance without a will or formal estate proceedings, check to see if and how your state will allow for an affidavit of heirship to be filed in the property records to establish your ownership.
- **Consolidate the ownership.** Consider asking other heirs if they would transfer their interest in the property to those with the closest ties to the land. Some states allow this through a Gift Deed.
- **Manage the co-ownership.** Talk to a lawyer you can trust about your options, such as creating a Family LLC or Land Trust.
- **Track your expenses.** If you pay for expenses on the property such as improvements or taxes, keep a record of them. This might allow you to receive a larger share of the proceeds if there is a partition sale.
- **Learn about a Uniform Partition of Heirs Property Act,** if your state has one. It can expand heirs' rights in partition actions and help Heirs Property owners to gain access to Department of Agriculture programs. The states with such a law have include at least Alabama, the District of Columbia, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, and Texas.
- **Learn about a Transfer on Death Deed law,** if your state has one. It can allow families to file a Simple Deed that automatically transfers title to real property upon the death of an owner, without having to go through probate court.
- **Support passage of new state laws** that help Heirs' Property owners, such as one that will grant them the same property tax exemptions that other homeowners receive; one that makes it easier for Heirs' Property owners to access FEMA and home repair programs; or one that creates alternatives to the formal administration of estates when a homeowner dies without a will.

*Information collected by Cita Cook for the Southern Movement Assembly, October 2019*