Black farmland ownership in the US, Kansas, and Graham County, KS

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Land is the only real wealth in this country and if we don't own any then we're out of the picture.

- RALPH PAIGE, Federation of Southern Cooperatives

They fought in organized towns such as Nicodemus, or in groups of settlements, or as individuals holding onto their claims as though it were their last hope of survival in a harsh and unfriendly land among people determined to keep them in their place. They experienced real freedom, land ownership, and self-determination.

- ANGELA BATES, Nicodemus descendant and Executive Director of the Nicodemus Historical Society (p.xv)

If you want to be free, you need to own some land. Land is the most powerful element you can possess.

- JOHN BOYD JR., president of National Black Farmers Union

Overview

The history of Black land ownership in the United States is punctuated by both losses and triumphs. In general in the US, white agricultural elites have held monopolistic control over credit and other factors in agricultural production, and minority groups have had to fight for the right to farm freely.[1] In 1865, after Emancipation, General William Sherman promised every freedman "forty acres and a mule."[2] Even though that promise was swiftly reneged, Black landownership rose to a peak of 16-19 million acres, or 14 percent of farmland, by 1920. This was despite ongoing brutal racism: maiming, lynching, burning, economic violence, and legal violence, in addition to banks refusing to lend money and white landowners refusing to sell to Black people.[3–5] The Civil Rights Act of 1964 launched an era that promised free treatment and prosperity for all. While there were some major wins in civil rights, this time period also saw a staggering 88% decline in Black farmers in ten southern states, alongside a smaller decline in white farmers (58%). Policies at the USDA supported large-scale, capital-intensive, wealthy, white, scientific farmers, at the expense of smaller-scale, traditional, and/or Black-owned farms. It erected barriers for minority and female farmers to obtain allotments[*], loans, or information.[6]

Today, 1% of farmers are Black, and they own 2 million acres[3] or 0.5% of US farmland.[7] This loss represents $326 billion worth of acreage.[5] If forty acres and a mule had been enacted, it would have been worth $6.4 trillion in 2018 dollars.[3] Today, the average income of a Black farming household is $19,600, compared to $52,300 for white farming households.[1] To address these inequities, we need to dismantle the systems that have created them. The USDA needs to end the racist practices that have prioritized white farmers, heirs property laws need to be reformed to prevent forced sales of land held in common, and funding needs to increase to Black farmers and Black farming organizations, to rebuild the land base that was lost or stolen over the past century.

The following graphs show the extent of Black land loss in Kansas, and the counties within Kansas. The red line shows Black-owned farming operations, based on Census and USDA NASS data[8–12]. The black line shows how many farms "should" be owned by Black farmers, if farm ownership weren't racially biased (total # farms x % Black population[†]).

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* Allotments were allowable acreage for each producer to grow certain crops, in order to regulate agricultural output and raise prices. Totals were determined by the Secretary of Agriculture, but they were allocated to individual farmers at the county level, creating ample opportunity for favoritism and racial discrimination (Daniel 2013).

† Here we take national demographic data to get % Black population. If we restricted it to county-level demographics, then we would underrepresent parity ownership; Black farmers would likely leave the county in search of jobs after being dispossessed of their farm.

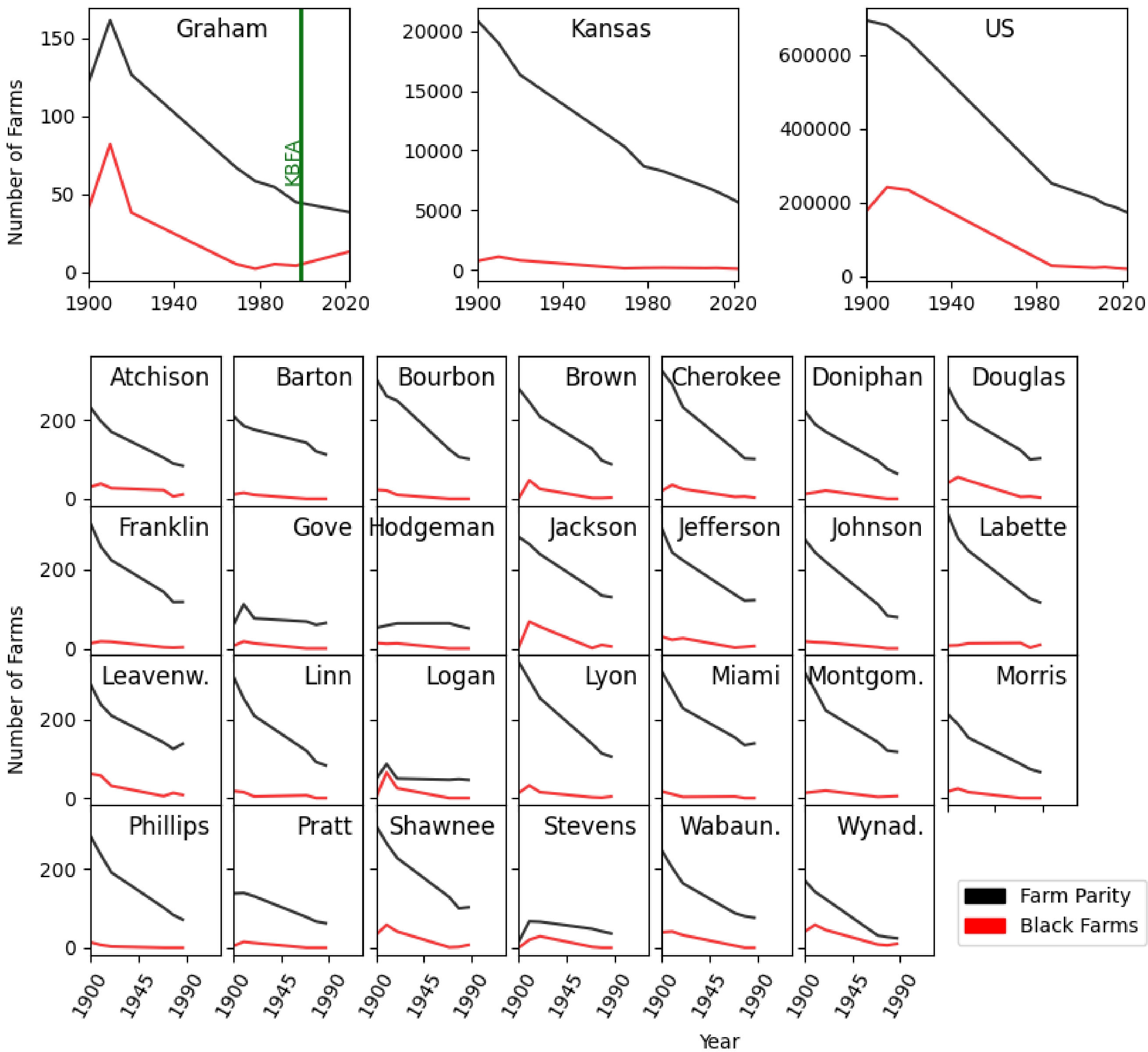


*Figure 1: Black land ownership by geographic area, 1900-2022. Red lines show number of Black-owned farms. Black lines show number of farms that "should" be Black-owned, based on demographics (# of total farms * % Black population US-wide). Data comes from Census of Ag (1900-1987), UDSA/NASS (1997-2022) and Census (American Community Survey, 1997-2022)[8–12]. While it is unfortunate (and not accidental) that county-level Black farm ownership data was not reported by USDA/NASS after 1987, KBFA has membership statistics that will be used to fill in the gaps in some of these counties.*

What is striking here is how Graham County shows several exceptions to the major trends seen across the state and US. Graham County is home to Nicodemus, the largest and only extant all-Black settlement west of the Mississippi river. Farm ownership peaked in 1910, nearly at rates on par with what demographics would suggest. A period of farm loss follows throughout the century. Then farm ownership starts to grow again in 1990, and accelerates after 1999, when the Kansas Black Farmers Association was founded. The incredible efforts of the KBFA, led by descendants of Nicodemus, are on track to restore Black farm ownership in Graham County to what demographics would predict.

Emancipation and Black land gains

In 1865, After Emancipation, General William Sherman issued a special order to redistribute land to former slaves: "each family [of freedpeople] shall have a plot of not more than forty acres of tillable ground."[2] The Freedmen's Bureau was set to redistribute one million acres of land confiscated from former Confederate officers, but this was never enacted, as President Andrew Johnson pardoned the officers' treason in 1866 and returned the land to their ownership, breaking the "forty acres and a mule" promise. If the US Government had kept its promise, it would have meant 9.3 acres per person in the South and $6.4 trillion in 2018 dollars[3]; by contrast, however, land ownership peaked at only 1.7ac per person.[4]

That same year, Congress passed the Southern Homestead Act, to enable Black southerners to become landholders. Kansas senator Samuel Pomeroy, chairman of the Senate Public Lands Committee, stated, "It need not be disguised that [this bill] is aimed particularly for the benefit of the colored man."[4] However, Southern whites prevented Black landownership and homesteading through withholding critical information, harassment, denial, swindle, threats, and murder[4,6,13,14]. As a result, few homesteads were proved up in the South.

Even though few people were willing to confront this systemic and racist violence to become landowners, some did nevertheless, mostly through purchases and co-operative land ownership, not homesteading. Black landownership rose to a peak of 16-19 million acres, or 14 percent of farmland, by 1920.[13] This was despite ongoing brutal racism: maiming, lynching, burning, economic violence, and legal violence, in addition to banks refusing to lend money and white landowners refusing to sell to Black people.[3–5] In part, this was to disenfranchise the Black vote, and to suppress Civil Rights movements – racial violence was often directed at Black people who registered to vote or participated in organized movements or protests.[3,13] W.E.B. DuBois found that "the land which has been bought has been bought by the exceptional men or by the men who have had unusual opportunity… who have been helped by members of their own families in the North, or in the cities."[13] It is worth noting: "whites unleashed a wave of unremitting and inescapable violence throughout the South. The violence was entirely one-sided. In Mississippi, where white violence against Blacks was pervasive, a reporter fifty years later could uncover no cases where freedmen responded with violence against whites to avenge wrongs they suffered under slavery."[4]

With unrelenting white violence against Black people in the south as a backdrop, Black scholars were debating the best path forward: remain in the south and accept its segregation and discrimination (Booker T. Washington), or "get out of the South as soon as possible" (W.E.B. Du Bois).[4,13] The Great Migration, an exodus of Black Americans leaving the South for jobs in northern cities, started around 1910. However, Black homesteaders started leaving the south fifty years earlier, from the late 1860's, in search of land in the west. From 1860 to 1920, 734 Black homesteaders proved-up 121,627 acres in Kansas.[15] Nicodemus, in Graham County, Kansas is the first, largest, and only remaining all-Black settlement west of the Mississippi, where 114 homesteaders proved-up 18,115 acres.[4]

Pre-Exodusters and Exodusters in Kansas 1880-1920: *"The racism… was subtle" (Joyceann Gray, DeWitty descendant)*[4]

Opportunity and freedoms were much more accessible to Black homesteaders and their families in Kansas, compared to the South. There were several documented instances of racism and racist violence, and likely many more undocumented. However, in general the climate in Kansas was much more welcoming to Black farmers compared to the South. According to Edwards and Friefeld[4], "Black claimants in the Great Plains, so far as we can determine, were treated fairly by the GLO and local land agents." Frontier lynchings were 10x more likely to have white victims than Black. Incidents of white violence against Black people were responded to with outrage and swift court justice. In the case of Charles Sellers' murder in Nebraska, the lynchers were charged with murder and got life in prison.

Black people seemed to be exercising their right to vote, according to the lack of mention of any informal barriers in all the letters and other documents gathered from Black homesteaders. The residents of Nicodemus successfully petitioned the support of their white congressman, who intervened on a land speculation issue on their behalf against a potentially influential white businessman. And white newspapers in the area gradually stopped explicitly stating the race of the people in their stories involving Black people.[4]

In the South, Black leaders were routinely not voted into office, even with a majority population.[13] By contrast, in Kansas, Black people were elected to public office during this time period: Edward P. McCabe was elected to one of the highest government offices in the state of Kansas (State Auditor), despite the minority Black population (12.8%). Abram Hall Jr. was appointed to be census-taker in Graham county, which was a prestigious and lucrative position. Even though he was an unknown and uninvited Black man approaching white men on isolated farmers, he was able to perform his job “evidently without incident.”[4]

However, homesteaders still faced active racism in the Great Plains, outside of their immediate communities and relationships. Russel Taylor failed to get justice for the murder of his brother, Baseman Taylor, despite numerous white eyewitnesses willing to testify. Black Nicodemus residents had to comply with sundown laws in nearby Stockton, off-farm jobs were lower-paying and out-of-sight, and non-Black owned banks charged higher interest on loans.[4]

The 1920’s was the peak of Black land ownership in the US. However, dark times were on the horizon: The bid for the railroad failed in the 1880s and many Nicodemus businesses were dismantled and reestablished in the newly-formed community of Bogue on the railroad line. WWI ended, which collapsed the formerly high wheat prices. Following that, the stock market crashed, several anomalous years of drought and the cumulative effects of extractive agriculture created the Dust Bowl, and the Great Depression set in.

USDA and FHA discrimination

The years of the Dust Bowl were incredibly difficult for the farmers on the Great Plains. White farmers left farming at a rate of 3 out of every 5. However, Black farmers were routinely denied loans and relief payments, leading to even larger proportions of Black farmers leaving. These discriminatory practices are documented in numerous civil rights reports that were commissioned by the US Government after the passage of the Civil Rights Act in 1965. The Government Accountability Office, the Equal Opportunity Office, the US Commission on Civil Rights, the USDA Civil Rights Implementation Team, and others commissioned and wrote reports, from 1965 through to the current day, which detail the many ways this discrimination was enacted.[16–22] However, even after reports were issued and policies re-written in accordance with civil rights-era equal opportunity laws, discrimination reigned at USDA.

For Black farmers, loans were denied, applications were delayed by up to 3x the processing time, offices found themselves “losing” applications, and loans were approved for insufficient amounts or provided with unusual or restrictive conditions. Government relief and disaster assistance program payments were denied or withheld.[1,14,17,23] In addition, the USDA and the FHA practiced retaliation against Black people who participated in civil rights work (joining the NAACP, registering to vote, or signing petitions) by denying loans, disaster relief, and other resources to Black farmers.[3,13] Lloyd Wright, former director of civil rights at the USDA, worked for the agency for 37 years, and recently said, “Many of us call [the USDA] the last plantation.”[24] Paul L. Friedman, District Judge on Pigford v. Glickman, wrote in his Opinion, “The Department itself has recognized that there has always been a disconnect between what President Lincoln envisioned as "the people's department," serving all of the people, and the widespread belief that the Department is "the last plantation," a department "perceived as playing a key role in what some see as a conspiracy to force minority and disadvantaged farmers off their land through discriminatory loan practices.”[25]

Several glaring examples of discrimination by the USDA are included in Friedman's 1999 Opinion for Pigford v. Glickman. Here are two of them:

> *In 1994, the entire county of Greene County, Alabama where Mr. George Hall farmed was declared eligible for disaster payments on 1994 crop losses. Every single application for disaster payments was approved by the Greene County Committee except Mr. Hall's application for four of his crops. Mr. James Beverly of Nottaway County, Virginia was a successful small farmer before going to FmHA. To build on his success, in 1981 he began working with his FmHA office to develop a farm plan to expand and modernize his swine herd operations. The plan called for loans to purchase breeding stock and equipment as well as farrowing houses that were necessary for the breeding operations. FmHA approved his loans to buy breeding stock and equipment, and he was told that the loan for farrowing houses would be approved. After he already had bought the livestock and the equipment, his application for a loan to build the farrowing houses was denied. The livestock and equipment were useless to him without the farrowing houses. Mr. Beverly ended up having to sell his property to settle his debt to the FmHA.*[25]

One way the USDA achieved this was through a process of "passive nullification," where USDA office personnel didn't outright challenge the allegations of discrimination. Instead, they "voic[ed] agreements with equal rights while continuing or intensifying discrimination… [and it] thrived silently in the offices of biased employees."[6] Employees didn't leave written evidence of their racism, and the USDA was able to covertly coalesce on strategies to eliminate the undesirable farmers from American farmland, by preventing them from accessing government support.

Another method was through decentralized control. While USDA programs and employees are federally funded, counties elect "county committees," who provide application assistance and review farm credit and benefit applications. These elected officials are paid from federal dollars but aren't considered federal employees, and they hold enormous power to distribute (or deny) loans and grants.[6,14] Overwhelmingly, these committees do not reflect the diversity of their communities. In 1996 there was not a single Black person on any committee in Kansas, nor the entire northern region of the US. Nationwide, there were only 37 Black commissioners (28 in the Southeast, 9 in the Southwest).[1] Brennan Washington, the Southeastern Outreach Coordinator for Southern SARE said, "Washington's not really the problem," he says. "It's really those people sitting in those local county positions that are hurting you."[7]

Failed attempts to fix

From 1965, farmers could file claims of discrimination with the USDA at the Office of Civil Rights Enforcement and Adjudication. However, claims were rarely processed or investigated. Sometimes they were thrown into the trash straightaway, rarely a farmer got a response (cursory denial of relief).[25] In 1996, the Civil Rights Action Team found that Black farmers lost significant amounts of land due to discrimination by the FSA, FmHA, and ASCS, citing that "the process for resolving complaints has failed. Minority and limited-resource customers believe USDA has not acted in good faith on the complaints. Appeals are too often delayed and for too long. Favorable decisions are too often reversed."[25] In 1997, a report by the Office of the Inspector General of the USDA had similar findings, and recommended immediate resolution of the backlog of complaints, as well as the disarray of civil rights staff at the FSA.[25] Even if these damning reports had triggered resolution of the discrimination and dispossession issues at the USDA (which they did not), that would have been too late for most of the farmers who filed the complaints: there was a 2-year statute of limitations on complaints, and many of the complainants had since lost their farms.[26]

These events led to the landmark lawsuit and largest civil rights settlement to date, Pigford v. Glickman. This case, brought by Timothy Pigford, alleged the discrimination at the USDA against

African Americans by the USDA in its allocations of farm loans and assistance. The settlement included two tracks, Track A being a " virtually automatic cash payment of $50,000 and forgiveness of debt owed to the USDA." Thousands of farmers submitted Track A claims, far more than anyone anticipated. The plaintiff's lawyers were reprimanded for errors, missed deadlines, incorrect filings, and communicating with class members in a way that "constitu[ted] full, fair, and adequate representation." Referring to the inadequate notice and overall mismanagement of Pigford, Friedman said that the farmers lawyers' representation was "border[ing] on legal malpractice." As a result, only 14% of claimants were given Track A relief, the "virtually automatic cash payment" (if including farmers filing past the deadline, "Pigford II claimants").[1] While this, and the subsequent Pigford II, were landmark civil rights cases, they have been criticized for their shortcomings. It took until 2008 Farm Bill to pause foreclosure proceedings, if the farmer has a related and pending claim of discrimination against the USDA. Many experts, including Tim Pigford, opposed the settlement because it wasn't sufficient to right the wrongs of the past, nor did it change anything at the USDA to prevent it from happening again in the future.

Unsurprisingly, discrimination at the USDA has persisted.[14] Lisa Shames, Director of Natural Resources and Environment, testified before the Committee on Agriculture at the House in 2009: "USDA has been addressing allegations of discrimination for decades and receiving recommendations for improving its civil rights functions without achieving fundamental improvements… While [the Assistant Secretary for Civil Rights'] established policy is to fairly and efficiently respond to complaints of discrimination, its efforts to establish the management system necessary to implement the policy have fallen short, and significant deficiencies remain."[22] Shames recommended increasing transparency and accountability through a civil rights oversight board, an ombudsman, and having the USDA's Assistant Secretary for Civil Rights be subject to a statutory performance agreement.

New attempts to fix

The USDA has recently overhauled some internal procedures, to try to address this issue. Loan-making decisions are no longer made by county committee members. The discrimination office at USDA is funded, staffed, and functioning better than it has been in the past.[1] The USDA has created a designation for "socially disadvantaged" farmers: "a group whose members have been subjected to racial, ethnic, or gender prejudice because of their identity as members of a group, without regard to their individual qualities" 7 U.S. Code § 2003. This designation provides priority access to funding, and increased funding rates, for USDA programs.

However, access to capital remains one of the largest unmet needs in the Black farming community, to enable retention of land ownership. Brennan Washington, outreach coordinator for Southern SARE, explained: "The single biggest thing that came up was that Black farmers need access to capital," he says. "And there's a little resentment, because people are going to Black farmers and asking what do they need, what do they need … It's been going on for years. Their position is: we've already told you what we needed. We need funding, we need equity in the programs that are being put out there for agriculture."[7]

The 1990 Farm Bill created a new (small) pot of money to fund organizations based within Black and other minority communities, to promote USDA programs and services. This program is called the Outreach and Assistance for Socially Disadvantaged Farmers and Ranchers Program (informally: "the 2501 program"). Several groups fought to get this program into the Farm Bill: the Federation of Southern Cooperatives Land Assistance Fund, the Land Loss Prevention Project, and other allies. Today, Leah Penniman (2018) states, "50 percent of white farmers and only 31 percent of black farmers receive funding through a USDA program. We must persist in demanding our fair share of this public trust."[3] This program was an attempt to increase enrollment of BIPOC farmers in USDA programs.

Recently, there have been some sweeping pieces of legislation that have attempted to address these inequities through loan forgiveness and capital for Black farmers. The Emergency Relief for Farmers of Color Act was a USDA loan forgiveness program totaling $4 billion. While this is a large amount, it pales in comparison to the actual value of Black land loss over the last 100 years, which is closer to $326 billion.[5,14] Even so, it was killed by thirteen lawsuits filed in 10 states and three nationwide injunctions claiming discrimination against white farmers. Rodney Bradshaw (farmer and advocate in Jetmore, KS) was unsurprised by the white farmers' lawsuit putting all the payments on hold[7], but Corneilus Blanding with the Federation of Southern Cooperatives warned that these lawsuits would set the "precedent that all USDA programs designed to address equity and decades of systemic racism will now be subjected to this very same kind of lawsuit."[24] Later, the American Rescue Plan Act, included in the Inflation Reduction Act of 2022, funded the "Increasing Land, Capital, and Market Access Program." This USDA-FSA program funds projects which address any combination of land, capital, and market access concerns for underserved[‡] producers (and includes other groups besides socially disadvantaged).[14] Priority was given to projects that increased land access, prevented land loss, and restored land into the hands of underserved producers.[28] They funded $550 million across 50 projects.[29] In Kansas, these programs have found a home in the Kansas Black Farmers Association, who won a 2501 grant as well as a Land Access grant. This will be discussed in more detail in later sections.

Heirs Property

Heirs property is created when landowners pass away without leaving a will. 81% of Black landowners in pervious generations didn't make wills, because they didn't have access to legal services or financial resources.[3] Without a will, the heirs no longer have a clear title to the land, and become joint owners, or tenants-in-common. Put another way, if two siblings inherited just one dollar from their parents, then that dollar would be torn in half. That does not mean that each sibling has 50 cents; it means that each sibling has half of a dollar. A few generations later, each tenant-in-common would have a small piece of green confetti.[30] If one tenant wants to sell, then buyers can file a partition action, forcing a sale of the entire property. During that process, the Courts "should" evaluate if the land can be partitioned into contiguous parcels, to allow the sale of just one portion of the land. More often, however, the entire property is sold on the courthouse steps for pennies on the dollar, and the (now former) tenants-in-common receive a check for their share of the sale, without having consented to the sale, or sometimes even having been notified beforehand.[31]

This mechanism can be exploited by predatory developers who are knowledgeable about these mechanisms, and who are working to acquire large amounts of wealth in land, at fantastically low costs. Prof Thomas Mitchell explained that this system still exists today "because it serves powerful interests. If it didn't, we wouldn't have this outdated legal structure we see today."[32] Heirs property exists in every county of the US, but rates are higher in historically Black regions, and creates barriers to accessing federal funding. Without a clear title, heirs property is ineligible for mortgages, home equity loans, FEMA aid, USDA programs or loans.[3] It is one of the mechanisms by which Black landowners have been dispossessed of their landholdings.

‡ Members of these groups have been historically underserved by, or subject to discrimination in, Federal policies and programs. Four groups are defined by USDA as "Historically Underserved," including farmers or ranchers who are: Beginning; Socially Disadvantaged; Veterans; and Limited Resource. A socially disadvantaged group is a group whose members have been subject to racial or ethnic prejudice because of their identity as members of a group without regard to their individual qualities.[27]

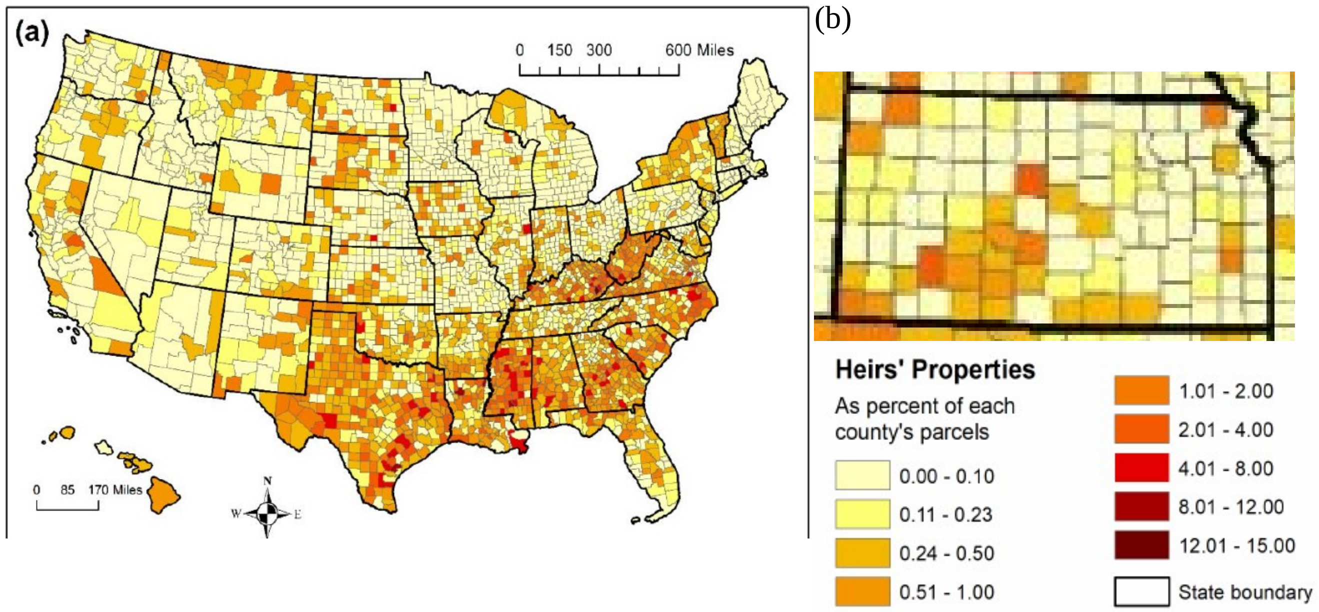


Figure 2: Dobbs (2023) identified heirs parcels for every county and census tract in the United States using geospatial methodologies and aggregated parcel records acquired from LightBox. Output of automated process by county is shown in Figure 3(a), and Kansas is shown enlarged in 3(b). Shading represents heirs' properties as a percent of total parcels in the county. In the paper, the authors discuss "shortcomings of secondary parcel data and the problems this presents for accurately assessing heirs' property extent."[33]

In 1980, Congress commissioned a study by Federation of Southern Cooperatives/Land Assistance Fund, to understand the impact of heirs property on Black farm and land loss.[34] They delivered 19 federal recommendations to the USDA and Congress, to create policies to improve USDA services to heirs. These recommendations were mostly ignored. In 2018, the Federation of Southern Cooperatives/Land Assistance Fund prepared a follow-up report, delivered to the Socially Disadvantaged Farmers and Ranchers Policy Research Center at Alcorn State University. This report investigated how the 1980 report recommendations have improved the problems surrounding heirs property, if at all. It found that not much improvement was seen, and provided updated recommendations for inclusion in the 2018 Farm Bill.[34] The recommendations were:

- (A) Education & Outreach: Fund a USDA Heirs Property Outreach, Education and Technical Assistance Grant, and provide funding 1890 Land Grants to establish heirs property courses. Fund nonprofits such as the FSC to educate state policymakers, in order to pass the UPHPA in all states.
- (B) Legal Assistance: Funding for legal fees to help families form a trust, and tax deductions for landowners who create estate plans
- (C) Financial Assistance for Heir Property Owners: FSA should provide loans to help people resolve legal issues and buy out the heirs-in-common
- (D) USDA Program Access and Eligibility: USDA eligibility should be "control or possession," not ownership, and owners should still be eligible for USDA support in proportion to their interest in the land, not excluded entirely.

Subsequently, in the 2018 Farm Bill, the USDA launched the Heirs Property Relending Program. While the FSC/LAF report emphasized trusts and other less-capitalist solutions, and recommended loans for buyouts as a last-resort option, it's the main item that the USDA put into practice. The USDA program stipulates that loan recipients must create an estate plan in turn: the farmer receives a loan, obtains legal services, buys out the other heirs and clears the title, and writes a will. Passing through this gauntlet grants them legal and clear ownership of the land, and gives them access to USDA programs, loans, grants and services, as well as other US government resources such as FEMA.[35] The program doesn't explicitly disallow other more communal forms of ownership; families could set up trusts instead, retaining some communality in land ownership. But the structure of the program serves to push land back into the private ownership structures most conducive to capitalism.

The Partition of Heirs Property Act

Thomas Mitchell, LLM is a law professor at the Boston College Law School. He is a scholar of heirs property, and was responsible for the passage of the Partition of Heirs Property Act (UPHPA), a landmark piece of legislation. In order to close the heirs property loophole, this legislation enacts the following:

1 – all tenants in common are notified when one tenant requests partition
2 – the court orders an independent appraisal, to get the fair market value
3 – the tenants can buy out that tenant directly (first right of refusal), and must be given time in order to obtain financing
4 – If one or more tenants cannot buy out the seller, they can do a partition in kind to sever and sell one small parcel. The courts have to consider factors such as economic gain and sentimental value before partitioning.
5 – If tenant(s) cannot buy out, and it cannot be divided, it goes for sale on the open market and receives fair market value or better

This law would make the partition sale unpalatable to developers, since they relied on partition sales to purchase land far below market value, with little judicial headache. This law does not prevent anyone from selling their interest in the land held in common, and ensures that if one tenant succeeds in triggering the whole property, that each heir gets at least fair market value for their portion.[31]

This law has passed in 24 states, including Texas, Missouri, Mississippi, Alabama, Georgia, Florida, South Carolina, Virginia, and it's been introduced in North Carolina. Each state's point of entry has been different. In the South, emphasizing private property rights and family real estate wealth is still the key to ensure passage in the remaining states. Messaging has to be nimble and flexible.

Effects in Kansas

Heirs property in Kansas

Heirs property has been exploited in Kansas, and forced partition sales are one way in which the Nicodemus descendants' landbase has been eroded away. One family in particular in Graham County received partition sale checks for $1.83 each after the sale.[36] The UPHPA has been proposed in KS legislature in 2018, 2020, 2022, and 2024. In previous years, it died in committee.[37–39] This year (2024), it was canceled and will not be heard in committee.[31,40] According to Jane Sternecky, Legislative Counsel at the Uniform Law Commission, the Kansas Independent Oil & Gas Association (kioga.org) are a formidable force in Kansas and are opposed to this law.[31] KIOGA wants carve-outs to get around the legislation completely, and to use the threat of partition to separate mineral interests, and have used partition to their advantage in the past. ULC has a strong policy opinion, and won't undermine the bill, but will still negotiate in good faith. They are focusing on coalition-building in the off-season, and aim to re-introduce this bill in the 2025 legislative session.[31] The KS Farm Bureau is on board, and ULC are working to get the support from other farm-related organizations, as this has been influential in other states. To get this passed in a Republican-governed state, instead of emphasizing the civil rights and social justice aspects of the bill, they are emphasizing its bipartisan nature: many people inherit heirs property, and this issue can affect anyone.

In Oklahoma, the situation is different but just as challenging. Sarah Blaney is with the Oklahoma Association of Conservation Districts, and had been advocating for the passage of this bill in her state. She describes the issue in Oklahoma: “there is a state representative that makes his living doing forced partition sales. He's convinced both Farm Bureau and Cattlemen's that the Uniform law is not good. That is who killed my bill the last go around.”[41]

Recent anti-discrimination legislation in Kansas

The Land Access grant was authorized by the Inflation Reduction Act of 2022, to help address land, capital, and market access concerns for underserved producers. Of the three Land Access projects funded in Kansas, two are explicitly supporting BIPOC producers. Cultivate Kansas City is supporting refugee and Black urban growers’ access to urban farmland and grant money. The Kansas Black Farmers Association is supporting BIPOC producers by providing capital and technical assistance, building a co-operative and equipment-sharing program, and creating a multi-generational mentorship program, as well as helping succession planning and the creation of wills. Unfortunately, the third project, run by Tallgrass Legacy Alliance, exploits USDA’s broad definition of “underserved” by catering to beginning farmers: “are you just the third brother trying to come back to the farm and there isn’t room?”[42] They will use American Rescue Plan Act grant money to provide down payment assistance so that these “third brothers” can make their farming expansions cash flow right away.

The Impact of the Kansas Black Farmers Association

The Kansas Black Farmers Association is a powerful force in the western Great Plains.

> *KBFA has a long history of working with underserved producers. Founded in 1999 in Nicodemus, Kansas – the only remaining western town established by African Americans during the Reconstruction period following the Civil War – the organization aims to preserve the Kansas minority farmer legacy through education, promotion of the agricultural lifestyle, and collective niche product development. Currently, the organization trains new farmers, youth, women, and veteran farmers. KBFA is a national voice in the grassroots effort to support BIPOC farmers.*[43]

Since their founding, they have led numerous grant-funded projects from the USDA, SARE, Kansas State University, Rural Coalition, and many more. These grants have been diverse in the ways they support their farmers, from setting up a community flour mill, to COVID relief and vaccinations, to youth camps in agriculture, to large-scale land access grants. Two recent grants are connected to the legislation referenced above: the 2501 program and the Land Access Grant.

KBFA won a 2501 grant in 2022:

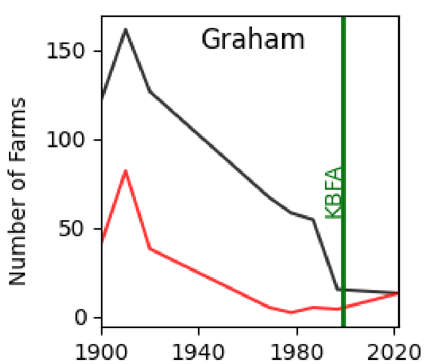
> *The project will assist BIPOC farmers in retaining, expanding, and sustainably utilizing their landholdings. It will encourage farmers to gain equitable access and utilization of all USDA programs, resources, and services. Programs to help farmers organize cooperatives for more significant economic benefits and increase farm and ranch and Specialty Crop income will also be covered. Geographic Service Area: Kansas (all counties); Missouri (Jackson, Boone, Jefferson counties and St. Louis, Missouri)*[44]

They won a Land Access grant in 2024:

Our New Land Access grant goes beyond start-ups and expansion – it's a lifeline for succession planning and research. Our tailored resources and strategic guidance is meant to ensure seamless transitions, empowering the next generation of farmers to carry on the proud tradition of family-owned agriculture.[45]

The primary goal of the program will be to address capital, market, and land access concerns with the end goals of 1) connecting more underserved producers and would-be producers to technical services and to increase the number of BIPOC owned and operated agribusinesses in the identified region; 2) providing producers and would-be producers with tangible capital assistance, and resources including continuing education to build industry and market awareness, down-payment and/or credit assistance; and 3) building various forms of community partnerships such as cooperatives and equipment sharing programs and a robust and long-lasting multi-generational education and mentorship program that will continue long after year five of the project.[29]

The two KBFA grant projects highlighted here are not the only examples of this organization's efforts to support farmers and keep them on their land, as well as to return them to their land. There are numerous others, from creating an agricultural camp for youth, to starting up a cooperative flour mill. And their efforts have had an impact. Since 1999, Black-owned or -operated farms have been increasing sharply in Graham County, and are nearly at "parity" with what demographics would suggest they should be, if all things were equal. And I've had the privilege of witnessing what it takes to make this kind of impact. It's an astounding amount of work, taken on by a small number of people who don't pay themselves enough out of the grants they receive. I am absolutely blown away by their dedication, grit, and ability to juggle so many balls and still provide amazing support to each and every one of their members. Dr JohnElla Holmes in particular should be recognized; KBFA, Nicodemus, and Kansas as a whole wouldn't be where they are today without her unwavering dedication.



Future outlook: paths to becoming a larger-scale producer today

After the forced and sometimes violent dispossession of land from Black ownership, what can be done? It is unlikely that restitution or the reinstatement of these lands to their owners will come from government entities. Indeed, Brennan Washington from Southern SARE said, "waiting on the USDA has proven to be an inefficient solution," and he calls on Black farmers to pool information and resources "to address issues like operational capital and debt relief and to combat misinformation."[7]

Leah Penniman provides both practical and radical ways to access land in her book *Farming While Black: Soul Fire Farm's Practical Guide to Liberation on the Land* [ch 1: Finding Land and

Resources]. They include partnering with a retiring farmer and government loans and funding, to squatting and direct reparations. She includes lists of training programs, incubators, universities with equity commitments, and government funding opportunities. These resources, and the accompanying advice based on Soul Fire Farm's experiences, will be invaluable to anyone wanting to scale up their operation and acquire more land.

New grants and opportunities are still emerging, in this moment in time when the ruling majority are recognizing and naming the inequities that abound. For instance, KBFA just sent a notice to their farmers with this new grant opportunity:

> *The Safe House for Black Farmers Fund ("Safe House") makes charitable grants to Black farmers whose farmland and livelihoods are at risk due to loan and tax delinquencies, and is led by a coalition of front-line organizations, such as National Black Food and Justice Alliance and the Land Loss Prevention Project. In addition to its focus on curing loan and tax delinquency, Safe House will also subsidize technical assistance for its grantees and source alternative capital options to help them develop longer-term sustainable solutions - creating a community of assistance imitating the invaluable network of safe houses that comprised the Underground Railroad.* [46]

In a move reminiscent of Fannie Lou Hamer and the Freedom Farm Collective,[13] Dr. Holmes is discussing a large land donation agreement with a charitable organization in Kansas. If it is enacted, this would provide the land needed for 3-5 farmers to begin farming, at no cost to the farmers. The KBFA are also working to set up a vegetable and foods co-operative, to enable collective bargaining and larger-scale contracts with groups including SodexoMagic. This would provide access to excellent markets: higher volume than a farmers' market, and higher margins than commodity grain markets.[36]

The farmers in Kansas are blessed to have such a dedicated team on their side. The grants that KBFA are pursuing, the coalitions they are forming, and the vision that they are articulating and pursuing, is changing the landscape for Black farmers. They have evaluated what needs to be done to restore farmground to Black ownership, they have secured funding and continue to seek additional funding, and they are enacting these steps, in a form of prefigurative politics. They are creating the world they want to live in today, cooperatively and collectively, and not waiting for someone to tell them that they can.

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