



Land Justice in the Deep South

The Issue

In the Deep South, Black, Latinx, and Indigenous communities face continual threats to their ability to maintain land ownership, including being systemically forced off their land, dispossessed, or relegated to live in land that is devalued, polluted, or uninhabitable.¹ This systemic land loss and wealth extraction of communities of color – especially Black communities – is one of the leading racial justice issues contributing to the widening racial wealth gap and economic inequality.²

After the Civil War, Black people who were formerly enslaved made tremendous strides toward acquiring land, and by 1910, Black farmers owned around 14% of all U.S. farmland.³ But over the last century, 12 million acres of Black-owned land has been taken, oftentimes as a direct result of racially discriminatory laws, policies, and economic conditions.⁴ For example, the exploitation of legal loopholes in heirs' property is cited as a leading cause of involuntary land loss by Black families.⁵ Eminent domain, where private land is taken for public use, usually by the government for transportation or economic development, also significantly contributes to land loss.^{6,7} The government disproportionately locates industrial development in Black communities, leaving them to deal with the negative consequences like increased traffic, noise, pollution, land devaluation, and health and safety concerns, with minimal or no economic benefit to the residents of those communities. Below are selected examples of historically significant communities in the Deep South that the Southern Poverty Law Center (SPLC) is supporting as they face private and governmental land loss threats.

The Examples

Florida

Eatonville, the hometown of famed writer Zora Neale Hurston and one of the first all-Black incorporated municipalities in the country, was founded by newly emancipated people in 1887 in Central Florida.⁸ Since its founding, the community has faced various encroachments, including the building of a highway and, most recently, closure of a public school and the proposed development of 100 acres of the former site of the Robert Hungerford Normal and Industrial School, originally set aside and used for more than a century for the education of Black children. The SPLC is working with the Association to Preserve the Eatonville Community Inc. to support the community's self-determination over the development of this land to benefit, and not displace, the town's residents and to cultivate it as an international destination for cultural heritage tourism.

Royal, located in rural North Central Florida, is an unincorporated community that is one of only two Black homesteading communities that have survived to the present day. Settled in the 1860s by newly emancipated Black people following the Civil War, families received their land through the Homestead Act of 1862 and 1865, and the land was continually passed down through generations.⁹ Most recently, the community fought threats of a turnpike extension and other industrial development. The SPLC is supporting our client, Young Performing Artists Inc., in its fight to protect Royal from future industrial development, to obtain recognition on the National Register of Historic Places, and to preserve the character and value of their land for the benefit of future generations.

Georgia

Located in old cotton plantation territory in Middle Georgia, **Sparta** is a predominantly Black community that is being threatened by a railroad expansion that will involve taking some residents' property through eminent domain and disrupting the use and enjoyment of their land.¹⁰ Through the SPLC's representation, the No Railroad in Our Community Coalition intervened to protect this community in condemnation proceedings before the Georgia Public Service Commission; the case is still pending.

Hogg Hummock on Sapelo Island is home to one of the last intact Gullah Geechee communities in the U.S. that is facing various encroachments by industrial development. The SPLC is working with residents to

preserve land ownership and land use protections that will keep the “Indigenous” community on the island and increase community inclusion in state and county planning and development.¹¹

The Solutions

While land justice threats come in various forms, the following are some policy considerations to support communities to prevent, repair, and redress the harms:¹²

Increase Federal Funding

- **Legal Representation:** Communities facing threats are better equipped to respond and prevent private and government actions with legal assistance, but most legal services have limited jurisdiction to support these matters. Congress should appropriate more funding to the Legal Services Corporation to help communities facing land justice threats, including funding more heirs’ property support work such as estate planning and removing restrictions on legal aid attorneys from participating in class actions, representing undocumented clients, engaging in community organizing and policy advocacy, and seeking attorney fees.¹³
- **Technical Assistance:** Historic preservation is a common tool pursued by communities to prevent encroachment, but few Black, Indigenous, and other communities of color are resourced to undergo this process.¹⁴ More funding for technical assistance for historic preservation and designation for historically unrepresented communities could help to preserve lands and protect the historic integrity and character of these communities.
- **Increased Federal Investments:** More federal investments are needed to promote community land ownership and development, including remedial and reparative payments; land returns; conservation easements; support for heirs’ property disputes, including legal assistance; and tax subsidies, credits, or freezes for communities who have faced or are facing land encroachment and dispossession.¹⁵

Enshrine future protections

- **Preservation Laws:** Federal agencies and Congress should consider clarifying or expanding existing environmental and preservation protection laws to prevent the taking of land or include racial equity requirements for private entities that receive federal funding or approvals after the initial taking of land. While no federal law or regulation explicitly prevents private entities from co-opting land from communities of color, three major federal laws require consideration of the impacts on historic properties when development projects involve federal approvals or funding.¹⁶
- **Racial Equity Commitments:** Given the current administration’s mandate on equity and the Justice 40 initiative, agencies should consider mandating racial equity assessments and more disaggregated data requirements for recipients of federally funded projects to better track communities most benefited or negatively impacted, especially when land is taken.¹⁷
- **Civil Rights Laws:** Additionally, while Title VI of the Civil Rights Act requires nondiscrimination in federally funded programs, Congress and agencies should clarify interpretations of these protections and enforceable actions related to land justice actions to help further protect, redress, and repair harms.

Improve agency actions to prevent, repair, and redress land justice harms, including creating an interagency group focused on land justice:

Agencies should continue to work to redress past and current racial discrimination in their programs. For example, while the United States Department of Agriculture has taken steps to redress past and current discrimination in its farm loan program, it can do more to protect these remedial efforts that may be subject to legal challenges, including publishing more data and evidence on the present-day needs. Federal agency stakeholders should come together to devise actionable recommendations for policy and system change to prevent, repair, and redress these systemic inequities, including developing guidelines around ownership documentation.¹⁸ Additionally, individuals impacted by land dispossession are vital to providing effective solutions and need to be centered in any efforts to address this issue through meaningful proactive community engagement.¹⁹

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Endnotes

- 1 See, Kea Wilson, *Why Highway Teardowns Make Great Infrastructure (and Equity) Investments*, StreetsBlog USA, Dec. 10, 2020, usa.streetsblog.org/2020/12/10/why-highway-teardowns-make-great-infrastructure-and-equity-investments; Dania Francis et al. *The Contemporary Relevance of Historic Black Land Loss*, The American Bar Association, Jan. 6, 2023, americanbar.org/groups/crsj/publications/human_rights_magazine_home/wealth-disparities-in-civil-rights/the-contemporary-relevance-of-historic-black-land-loss/;
- 2 While this factsheet primarily focuses on Black communities, land justice impacts Black, Indigenous, and other people of color. See i.e. Justin Farrell, *Effects of land dispossession and forced migration on Indigenous people in North America*, Vol 374, Issue 6567, Oct. 29, 2021, science.org/doi/10.1126/science.abe4943
- 3 Savi Horne and Jasmine Ratliff, *How Philanthropy Can Truly Support Land Justice for Black Communities*, Nonprofit Quarterly, Nov. 7, 2022, nonprofitquarterly.org/how-philanthropy-can-truly-support-land-justice-for-black-communities/
- 4 Equal Justice Initiative, *One Million Black Families in the South Have Lost Their Farms*, Oct. 11, 2019, eji.org/news/one-million-black-families-have-lost-their-farms/
- 5 Heirs' property is land that has been transferred to multiple owners through inheritance—usually without a will, although heirs' property can still result from will-making if a landowner passes land down to multiple heirs without dividing the land into separate parcels. As land is informally passed down, the lack of clear title can create disputes over land ownership, significant challenges to obtain federal benefits, and difficulties to maintain property. See, i.e. Jennifer Fahy, *How Heirs' Property Fueled the 90 Percent Decline in Black-Owned Farmland*, FARM AID, Feb. 28, 2022, farmaid.org/blog/heirs-property-90-percent-decline-black-owned-farmland/
- 6 U.S. Commission on Civil Rights, Briefing Report: The Civil Rights Implications of Eminent Domain Abuse, 2014, ussccr.gov/files/pubs/docs/FINAL_FY14_Eminent-Domain-Report.pdf
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- 9 SPLC Urges National Recognition of Historic Community of Royal, Florida, Southern Poverty Law Center, Sep. 21, 2023, splcenter.org/presscenter/splc-urges-national-recognition-historic-community-royal-florida; Esther Schrader, *Residents Fight to Preserve Florida Community Founded by Emancipated Black Citizens*, Southern Poverty Law Center, Aug. 4, 2023, splcenter.org/news/2023/08/04/fight-preserve-florida-community-emancipated-citizens;
- 10 Esther Schrader, *Railroaded: Residents of Predominantly Black Georgia Community Fight Back Against Train Proposal*, Southern Poverty Law Center, Feb. 24, 2023, splcenter.org/news/2023/02/24/sparta-georgia-community-fight-against-railroad-line;
- 11 Southern Poverty Law Center, *SPLC Files Appeal for Sapelo Island's Hogg Hummock Community Over Unlawful Rezoning Amendment*, Oct. 18, 2023, splcenter.org/presscenter/splc-files-appeal-sapelo-islands-hogg-hummock-community-over-unlawful-rezoning-amendment
- 12 See, PolicyLink, Report: Grounding Justice: Toward Reparative Spatial Futures in Land and Housing, 2024, policylink.org/resources-tools/grounding-justice
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- 15 Equal Justice Initiative, *One Million Black Families in the South Have Lost Their Farms*, Oct. 11, 2019, eji.org/news/one-million-black-families-have-lost-their-farms/; see, USDA Discrimination Financial Assistance, usda.gov/media/press-releases/2024/07/31/biden-harris-administration-issues-financial-assistance-more-43000; H.R. 8198 (118th Congress), To reauthorize and improve the relending program to resolve ownership and succession on farmland, and for other purposes, bishop.house.gov/media-center/press-releases/congressmen-sanford-bishop-and-don-davis-introduce-heirs-property-act-to-help-families-keep-farming-on-their-land
- 16 The National Historic Preservation Act Sec. 106, ecfr.gov/current/title-36/chapter-I/part-63/section-63.2 ; Department of Transportation Act Sec. 4(f), environment.fhwa.dot.gov/env_topics/4f_tutorial/overview.aspx?h=e; National Environmental Policy Act, achp.gov/integrating_nepa_106.
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