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Introduction and summary

In January 1865, when Union Gen. William T. Sherman issued an order to allocate 40 acres to each freedman, the black ministers who lobbied for the policy envisioned vibrant, self-governed black agrarian communities dotting the Southern countryside. Unfortunately, President Andrew Johnson's revocation of this order later that year and the institution of the Jim Crow regime after reconstruction left rural black Americans to build their farming communities from scratch.[1] It wouldn't be the first time that the U.S. government worked to undermine black farmers—and it certainly won't be the last.

Yet even in the face of broken promises, not to mention the violence and discrimination aimed at black Americans by white landowners and lenders, black farms secured a foothold in American agriculture. At the height of black farming in 1920, black farmers operated 925,710 farms, about one-seventh of all farm operations in the United States. As of 2012, black farmers make up less than 2 percent of all farmers.[2]

The impact of structural racism—or systematic discrimination by private and public institutions—over the course of U.S. history on the wealth of black families is staggering. Black households hold about 10 percent of the wealth of white households.[3] These inequities reflect the lasting impact of slavery, as well as impacts of exclusion from government policy initiatives aimed at promoting economic opportunity.[4] The most widely known example of this is redlining, a policy instituted by the Home Owners' Loan Corporation in 1933 that declared that mortgages in black neighborhoods were too risky—thus denying black Americans the opportunity to build wealth during the 1950s middle-class boom.[5] The U.S. Department of Agriculture (USDA) has a long and well-documented history of discrimination against black farmers.[6] The unequal administration of government farm support programs, crucial to protecting farmers from an inherently risky enterprise, has had a profound impact on rural communities of color.

For black farmers, the effect of discrimination by the USDA has been particularly devastating. In 2012, only 1.58 percent of U.S. farmers were black or African American, according to the most recent USDA Census of Agriculture.[7] In 1910, this number was about 14 percent.[8] As the number of black farmers shrunk, so did the size of their farms. All told, black farmers lost 80 percent of their land from 1910 to 2007. As the U.S. Commission on Civil Rights concluded in a 1982 report, this pattern of discrimination virtually eliminated black farms, dealing a serious blow to rural black communities.[9]

Since the height of black farming in the first quarter of the 20th century, advances in technology and public policies aimed at promoting efficient, large-scale agriculture put enormous economic pressure on family farms operated by Americans of all races to become larger in order to compete. To put it another way, family farms had to "get big or get out."[10] The result: a precipitous drop in the number of farms and a dramatic increase in the average size of farms. The number of all farms in the United States declined from 6.8 million in 1935 to just more than 2 million in 2017. Over that same time period, the average farm grew from 155 acres to 444 acres.[11]

However, because of discriminatory practices by the USDA and private lending institutions, black farmers did not have equal access to the credit or crop insurance necessary to sustain their farms, let alone expand them.[12] Black farms today, on average, are much smaller, representing just 0.4 percent of all farm acreage,[13] and generate much less income when compared with white farms. In 2017, the average full-time white farmer brought in $17,190 in farm income, while the average full-time black farmer made just $2,408.[14] After factoring in other income sources from part-time jobs, salaries of spouses, and rent income, the median black farming-occupation households made less than half of their median white counterparts.[15]

At a time when the national conversation has turned to the precarious situation of rural American farms, policymakers must pay special attention to the plight of the most vulnerable farmers—black farmers. This report looks at the history of how U.S. farm policy and private lending institutions have discriminated against black farmers, contributing to the virtual elimination of black-owned family farms. From 1920 to 1978, black farmers lost more than 36 million acres of farmland.[16] This loss has had a profound impact on rural black communities, which today suffer from severe economic challenges, among them a poverty rate twice that of rural whites.

Although concerted efforts at the federal level have helped reverse black farm loss in recent years, federal and state lawmakers must push reform efforts, including targeted USDA programs, to continue the push for racial parity when it comes to the treatment of farmers. The federal government must ensure that black farmers have expanded access to land, that legal protections are in place to preserve it, and that black farmers have the legal and technical resources to thrive. Despite the incalculable damage of slavery, Jim Crow, and the continuing discrimination faced by black Americans, inclusive progressive governance, informed by history, can begin to make amends. Intentional federal policies aimed at preserving black land ownership and expanding opportunity for black farm creation and growth can reshape rural America by building wealth and strengthening communities.

To address the inequities in farming that stem from discrimination against black farmers, federal lawmakers should:

- Establish a public land trust for beginning farmers of color
- Enact a federal law to protect inherited land—heirs' property—from forced sales
- Expand technical assistance and outreach to farmers of color
- Conduct strict and sustained oversight of the USDA

Land, money, and power: A history of government-sanctioned discrimination against black farmers

Following the Civil War, white landowners and merchants systematically denied black farmers access to private credit, while the government denied black farmers access to government services. White landowners refused to rent farms to black Americans on the same terms as white men, instead offering them exploitative sharecropping or rental arrangements. At the same time, merchants denied blacks access to credit to grow anything but cotton, while others denied their warehouse services to black farmers.[17] White farmers, on the other hand, were given access to credit and used the money to rejuvenate their soil through crop rotation; they stored their excess cotton as they waited for prices to improve. As a result of these and other practices, many black farmers found themselves squeezed financially, were unable to pay off their mortgages and other debts, and were forced to sell their land for a fraction of its value.[18] Yet even in the face of this adversity, black farmers had amassed millions of acres by 1920. Unfortunately, a series of discriminatory choices made by federal policymakers and agency administrators undid this progress.

The government sector systematically denied black famers access to wealth building programs. The federal government's New Deal farming programs—the first set of major federal farm policies—intentionally excluded and discriminated against black farmers. During the Great Depression, the Agricultural Adjustment Act of 1933 (AAA) sought to raise and stabilize farm commodity prices by reducing production. The federal government incentivized farmers to produce less by providing rental and other benefit payments to those who withdrew acreage from cultivation. However, the lack of outreach to tenant farmers—with little regard for their rights under the AAA—coupled with higher levels of illiteracy among black tenant farmers, led to black tenant farmers being exploited in huge numbers by white landowners.[19] For example, white landowners often pocketed government benefit payments for decreasing acreage under cultivation, instead of distributing that money to their sharecropping tenants.

1939 Missouri Sharecroppers Strike

A group of black sharecroppers led by Rev. Owen Whitfield protested these unfair practices in the 1939 Missouri Sharecroppers Strike. Evicted by white landowners who pocketed AAA payments, black sharecroppers protested this unjust treatment, staging mass rallies along two of Missouri's major highways in the frigid January winter. Although the sharecroppers suffered through the cold with little protections, the American Red Cross refused to help because their struggle was "'a man-made' disaster."[20] Low-income white sharecroppers also made up about 10 percent of the protests. Eventually, students from Lincoln University, a historically black college, raised enough funds to help the protestors buy a parcel of land named Cropperville. This protest, and the fact that these black farmers could not depend on the government for help, demonstrate the failure of the USDA—and the U.S government at large—to protect black farmers from discrimination.[21]

The U.S. Department of Agriculture's Cooperative Extension Service was created in 1914 to work directly with farm communities to increase acreage, promote farm management practices, and promote other skills to help families maintain stable farms.[22] During this time, the USDA advocated that a segregated extension service would best serve black farmers, with white agents working with the landlords and managers instead of directly with the black tenant farmers and sharecroppers.[23] Black extension service workers were unable to help black sharecroppers and tenant farmers if white landlords objected to the black service workers' presence on their land.

Discriminatory treatment of black farmers in the New Deal era and beyond reinforced the economic and social inequality of the Jim Crow South. The Federal Emergency Relief Administration granted a disproportionate amount of funds to white farmers, leaving black farmers vulnerable.[24] In 1934, in Georgia's Greene and Macon counties, blacks were in greater need of assistance from the Federal Emergency Relief Administration but received less aid than whites. In Greene County, blacks received 20 percent less direct relief than whites, even though the average rural white family earned twice as much as a black family.[25] In Macon County, whites received double the amount of direct relief as blacks, even though the average income of a white family was almost triple that of a black family. The number of black farmers in the South decreased 8 percent from 1930 to 1935, while the number of white farmers increased by 11 percent. Thus, government workers and actions helped maintain the pre-Civil War social hierarchy of the South.[26]

The Farm Security Administration (FSA), established in 1937, was another New Deal program that further exacerbated income inequality between black and white farmers. County FSA committees allocated loan and grant funds in a discriminatory manner. The standard rural rehabilitation program was created to serve high-risk farmers. In 1939, blacks in the South received 23 percent of the allocated standard rehabilitation loans but made up 37 percent of all low-income farmers in the South.[27] Other FSA programs were no different in their treatment of black farmers. In 1940, blacks were 35 percent of tenant farmers in the South but only received 21 percent of tenant-purchase loans.[28] On average, whites received emergency grant assistance that was 20 percent larger than assistance given to blacks.[29]

This type of discrimination continued during most of the 20th century.[30] Throughout the 1900s, multiple reports outlined equal opportunity violations at county-level offices where black farmers were denied loan applications or suffered discriminatory delays. Additionally, county-level USDA employees denied black farmers loan restructuring assistance, and because farmers couldn't restructure loans, they had to foreclose, their property liquidated and sold by county supervisors.[31] As recently as the 1990s, when blacks did receive loans, their average processing time was 220 days, compared with just 60 days for whites.[32] The delays in loan processing—typically due to discrimination—led many farmers to lose the full benefits of the entire farming season and thus experience large losses in profits. Discriminatory county supervisors consistently excluded black farmers from many of the USDA programs meant to assist low-income farmers.[33] This resulted in a dramatic loss of wealth for black farmers, and many blacks left the farming profession altogether. Avoidable foreclosures and loss of property have damaged credit scores and ruined the lives of black farmers and their descendants, all while USDA programs have helped lift white farmers out of poverty.[34]

In 1983, just a year after a U.S. Commission on Civil Rights report found examples of rampant racism throughout the USDA, President Ronald Reagan decided to quietly close the USDA Office of Civil Rights as part of that year's budget cuts.[35] It was reported at the time that USDA employees routinely tossed the incoming civil rights complaints from black farmers into the trash without responding to or investigating the claims. In 1996, President Bill Clinton reopened the office, but the damage had been done. By 1994, blacks made up only about 0.57 percent of all farm operators, down from 2.8 percent in 1983.[36]

The *Pigford* cases

Although the history of discrimination within the USDA has been well-documented by government-sponsored reports since 1968,[37] real action to address the problem did not begin until 1997, when Timothy Pigford filed a class action lawsuit—*Pigford v. Glickman*—on behalf of black farmers, alleging that the USDA discriminated against black farmers from 1983 to 1997.[38]

In April 1999, in what became the largest civil rights settlement in history, the federal government, through a consent decree known as *Pigford I*, provided approximately $1.06 billion in cash relief, estimated tax payments, and debt relief to prevailing claimants.[39] Through this court case, tens of thousands of eligible black farmers had the right to submit a claim for monetary compensation. However, several issues involving communication and missed deadlines created concern that the settlement process was unfair. Nearly 9 in 10 African American farmers who applied for compensation were denied it, in what was called a "willful obstruction of justice by the USDA."[40] The Bush administration spent $12 million contesting the *Pigford I* claims.[41]

In February 2010, the Obama administration's secretary of agriculture, Tom Vilsack, and Attorney General Eric Holder reached an agreement known as *Pigford II*.[42] In it, the federal government agreed to $1.25 billion in additional relief for those who could not obtain a determination on the merits of their claims under *Pigford I* due to missing the original filing deadline.[43] The *Pigford II* settlement was contingent on congressional appropriations under the farm bill. President Barack Obama signed the Claims Resolution Act of 2010, which provided the necessary appropriations, after it made its way through Congress.[44] As of August 15, 2013, 17,670 claims had been approved under *Pigford II*, for a total of $1.1 billion in relief.[45] In January 2018, a district judge ordered the remaining funds to be donated to different farming nonprofits throughout the country.[46]

Turning the tide

Decades of vigorous organizing by black farmers and their communities won key legislative victories and reforms within the USDA. Notably, the 2002 Farm Bill signaled a key legislative victory, empowering the secretary of agriculture to appoint underrepresented farmers to local Farm Service Agency committees.[47] Unlike previous initiatives to make county FSA committees more representative, the additions to the committee now had the power to vote. By ensuring that the first line of support for farmers better reflects the makeup of the population it serves, the USDA began to mitigate the discrimination occurring at the local level.[48]

The 2002 Farm Bill also required the USDA to conduct meaningful outreach and create technical assistance programs targeting "socially disadvantaged" farmers.[49] This programming was reinforced by the creation of the USDA Office of Advocacy and Outreach in the 2008 Farm Bill.[50] As a result of sustained outreach efforts, the USDA has gradually built trust with farmers of color, a crucial part of increasing program participation.[51] The 2002 and 2008 farm bills also required the USDA to make a concentrated effort to make specific loans available to "beginning and socially disadvantaged farmers."[52]

The 2018 Farm Bill contained a key victory for black farmers related to heirs' property. Forty percent of land owned by African Americans is heirs' property, defined as land passed down between generations without a formal will or title.[53] Historically, this land has not been eligible for federal farm programs such as subsidies or crop insurance. A provision in the farm bill, introduced by Sen. Tim Scott (R-SC), now provides a way for heirs' property farms to obtain a farm number, the form of identification required for participation in USDA programs or to take advantage of farm-specific tax provisions.[54] This victory extends a safety net to countless farms, many of them black-owned, preserving some of the nation's most vulnerable family farms.[55]

Although these victories represent a step forward, cases of discrimination by public and private actors still exist. For example, the Provost family, black cane farmers based in Louisiana, said they suffered discrimination, fraud, vandalism, and retaliation after they filed a lawsuit against First Guaranty Bank on September 21, 2018. The Provosts allege that the bank and the USDA denied them necessary crop loans to maintain their sugarcane farm and as a result, they were forced into foreclosure.[56] Initially, a whistleblower informed the family that staffers within the USDA were forging their signatures to make it seem as if the Provosts had agreed to lower loan amounts.[57] The Provosts claim that both public and private actors are working to move the family from their farm. The lawsuit is still ongoing. Even post-*Pigford*, black farmers such as the Provosts need more protections against discrimination.

During George W. Bush's administration, the USDA let many discrimination complaints expire without seriously investigating them—and out of 14,000 claims, it found only one with merit. However, under Secretary Vilsack, President Obama's USDA made encouraging progress toward righting many of the wrongs of the past and provided meaningful support to black farmers. The USDA reviewed the bulk of the complaints made during the Bush years and found that about 3,800 of them had merit.[58] Vilsack then mandated that all complaints moving forward be processed before the statute of limitations expired and bolstered the resources of the office in charge of carrying out those investigations.[59] In 2010, the Farm Service Agency reduced the number of discrimination complaints received to 37, the lowest on record.[60] And the USDA cut the processing time for civil rights complaints from four years to 18 months.[61]

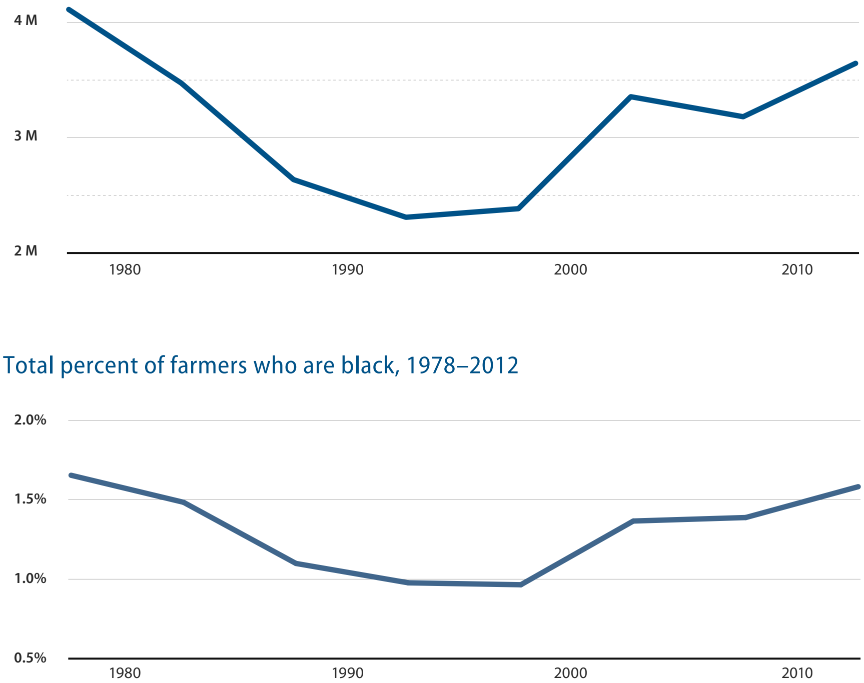
Progressive efforts, such as those taken under the Obama administration, to address past discrimination and level the playing field for black farmers are turning the tide. Even as the total number of American farms has decreased, black farmers have experienced a resurgence.[62] According to the 2012 Census of Agriculture, 1.6 percent of farmers are black or African American, up from less than 1 percent in 1997.[63] Moreover, black farms grew from their low of 2,310,349 acres in 1992 to more than 3,600,000 acres in 2012.[64] While the United States has made gains in the battle for equal opportunity for black agricultural communities, there is still more work to do. Only sustained federal, state, and local commitment to black farmers will ensure that black farms are preserved, that beginning farmers of color have access to affordable land and technical assistance, and that USDA programs are implemented equitably.

FIGURE 1

Black farming has increased since the 1990s

Total acreage operated by black farmers, 1978–2012

Total percent of farmers who are black, 1978–2012



Note: The underlying data source uses "black or African American" when referring to this group. For the purposes of this figure, the authors use "black."

Sources: National Agricultural Statistics Service, "2012 Census of Agriculture, Table 60. Selected Farm Characteristics by Race and Principal Operator: 2012 and 2007" (Washington: U.S. Department of Agriculture, 2014), available at https://www.nass.usda.gov/Publications/AgCensus/2012/Full_Report/Volume_1,_Chapter_1_US/st99_1_060_060.pdf; National Agricultural Statistics Service, "2002 Census of Agriculture, Table 47. Selected Farm Characteristics by Race and Principal Operator: 2002" (Washington: U.S. Department of Agriculture, 2004), available at http://usda.mannlib.cornell.edu/usda/AgCensusImages/2002/01/51/1708/Table-47.pdf; National Agricultural Statistics Service, "1997 Census of Agriculture, Table 17. Selected Characteristics of Farms by Specified Racial Groups, Sex of Operators, and Persons of Spanish, Hispanic, or Latino Origin: 1997 and 1992" (Washington: U.S. Department of Agriculture, 1999), available at http://usda.mannlib.cornell.edu/usda/AgCensusImages/1997/01/51/1604/Table-17.pdf; National Agricultural Statistics Service, "1992 Census of Agriculture, Table 37. Operators by Selected Racial Groups: 1992 and 1987" (Washington: U.S. Department of Agriculture, 1994), available at http://usda.mannlib.cornell.edu/usda/AgCensusImages/1992/01/51/1575/Table-37.pdf; National Agricultural Statistics Service, "1997 Census of Agriculture, Table 7. Land Use: 1997, 1992, and 1987" (Washington: U.S. Department of Agriculture, 1999), available at http://usda.mannlib.cornell.edu/usda/AgCensusImages/1997/01/51/1604/Table-07.pdf; U.S. Census Bureau, "1982 Census of Agriculture, Volume 1" (Washington: U.S. Department of Commerce, 1984), available at http://usda.mannlib.cornell.edu/usda/AgCensusImages/1982/01/51/1982-01-51.pdf.

Recent progress at the USDA is in jeopardy

A long history of racism and discrimination has built a legacy of distrust between black communities and the U.S government in general—and for the U.S. Department of Agriculture specifically. The discriminatory implementation of farm policy over previous decades has meant lasting negative economic implications for black farmers, particularly those living in the rural South. The effects are still seen today, as evidenced by the fact that the average farm income for all full-time and part-time farms in 2017 was $10,276 for white-operated farms, while the average income for all black-operated farms was just $795.[65] Even when looking at total income for farm households—which takes into account second jobs, spousal and retirement income, and more—wide gaps persist. In 2017, the average total income for white farm households stood at $107,813 but was just $62,662 for black farm households.[66]

The USDA plays a pivotal role in rural America, including administering a wide range of rural economic development programs that go beyond farming. Given the challenge of running an independent farm—particularly in the face of rising farm concentration, climate change, and collapsing economic opportunity in rural America—it's more important than ever that the USDA complete its mandate as "the people's Department" and serve its constituencies equitably.[67] Although recent reforms have made some progress toward correcting the egregious wrongs and mistakes of the past, it will take decades of committed effort to begin the process of undoing the damage. Therefore, it is imperative that the USDA at the local, state, and federal levels prioritize policies that help beginning farmers and famers of color. Unfortunately, the Trump administration has demonstrated indifference to both civil rights and family farms.[68]

In 2018, for example, President Donald Trump nominated Naomi Churchill Earp to be the USDA's assistant secretary for civil rights. In January 2019, after Churchill Earp's Senate nomination for assistant secretary for civil rights expired with the end of the 115th Congress, U.S. Secretary of Agriculture Sonny Perdue selected her for deputy assistant secretary for civil rights, which is not a Senate-confirmed position.[69] Prior to her current appointment, Churchill Earp served as director of the Office of

Civil Rights at the USDA from 1987 to 1990.[70] During her tenure, USDA employees allegedly threw out civil rights complaints.[71] In addition, Churchill Earp has a well-documented history of slowing down civil rights complaints processes at the National Institutes of Health in the 1990s; she also instituted an unofficial white male affirmative action program to hire more white staff members.[72] These actions are inconsistent with the mission of the Office of the Assistant Secretary for Civil Rights.

Recommendations

While progressive policymakers have made strides in addressing past discrimination against black farmers and the loss of land and wealth that resulted from it, only continuing commitment will make a lasting difference. Below are four strategies that federal lawmakers can employ in developing progressive policies to preserve and build the wealth of black farmers and their families. These policies would not only help black farmers but also help farmers of color more broadly, and they can ensure that the U.S. farm-owner population is more representative of our diverse nation.

Expand access to land and legal aid

The most pressing policy priority for lawmakers should be the restoration and preservation of black-owned land. Given the aging demographics of farmers broadly, 70 percent of farmland will be sold or transferred in about 10 years.[73] As viable farmland becomes more expensive and scarce, access to land is a crucial issue for beginning farmers or small farms looking to expand to a more sustainable size. The federal government need not wait for the courts to direct it to pay settlements to black farm families who have lost their legacy and way of life due to discrimination. Congress should create a progressive land trust that buys land from farmers looking to retire and set it aside for beginning farmers of color, who could purchase the land at a subsidized rate. Finally, the USDA must create a task force dedicated to estate planning for socially disadvantaged farmers who have no living will, ensuring that the next generation gets a chance to carry on the family legacy.

Protect heirs' property

While heirs' property now enjoys recognition by the USDA and is eligible for Farm Service Agency loans, commodity subsidies, and other programs, property without a formal title is still vulnerable. Outside investors can push partition sales of heirs' property without the consent of the whole family that lays claim to the property.

If one plot of land has multiple owners and one heir wants to sell, for example, a judge can force the sale over the objections of the rest of the family. Federal and state lawmakers should pass legislation that protects farmers from forced partition sales of their operations. One such law is the Uniform Partition of Heirs Property Act, enacted by a handful of states.[74] This law requires that courts provide heirs with an opportunity to buy out the share of the person who wishes to sell and instructs courts to consider the noneconomic value of the property, including its cultural or historical significance, when deciding whether to order a partition sale. Finally, the law requires that the property be assessed by a neutral third party and publicly listed.[75] These provisions, adopted at the state or federal level, are progressive steps forward to preserving the wealth of black farmers and farmers of color more broadly. In addition to these laws, Congress should establish USDA offices specifically tasked with providing legal assistance to farmers of heirs' property.

Expand research and technical assistance to farmers of color

Public funding for agricultural research and extension services that bring research findings to farmers must receive full mandatory funding at both the federal and state levels. Research and education in the public interest is crucial to the survival of family farms. The USDA has a handful of programs dedicated to supporting "socially disadvantaged" farmers and ranchers. The mission of the Outreach and Technical Assistance for Socially Disadvantaged and Veteran Farmers and Ranchers Program—sometimes referred to as the 2501 Program—is to ensure that technical assistance and education efforts reach farmers who have been historically excluded from extension programs. The USDA Minority Farmers Advisory Committee advises the administration of the program to ensure that it is conducted in an inclusive and culturally sensitive way.[76] Examples of projects that benefit from this program include workshops that inform farmers about conservation farming practices, estate planning, and heirs' property law.[77] However, no program specifically addresses the needs of farmers of color. A progressive farm bill must include mandatory funding for research dedicated to identifying challenges unique to black farmers and farmers of color more broadly, as well as quality solutions.

Commit to oversight and regular audits

Progressive governance demands transparency and accountability. The Government Accountability Office (GAO) should regularly audit the USDA to ensure that it is processing and approving loans to black farmers at the same rate as white farmers. Additionally, the USDA should create an online civil rights complaint database that will be jointly monitored by the GAO and periodically publish statistics about the speed at which the complaints are processed, the number of complaints found to have merit, and the number of pending complaints. Finally, Congress must ensure that the USDA's Office of Civil Rights is sufficiently staffed to process these complaints.

Conclusion

At its core, government is a tool that helps distribute power by structuring the rules of economic and political systems. For too long in the United States, that tool was used to discriminate against black farmers in favor of their white peers. Yet with a race-centered approach, that same tool can be used to improve the economic well-being of black farmers, creating a system that gives them a fair chance to build a good life for themselves and their families. In fact, policymakers have a moral imperative to restore the wealth and land lost by black farmers because of government action.

Federal farm policy has been crucial to the survival of family farms, providing indispensable backstops against unpredictable weather and commodity market fluctuations and protecting farmers from abusive agribusiness market power. Although in previous years, those policies intentionally discriminated against black farmers, good governance has begun the process toward ensuring equality. Government action, and in some cases inaction, over decades resulted in black farmers losing millions of acres and billions of dollars in wealth. In recent years, however, the U.S. Department of Agriculture has made strides toward increasing black farming and improving the local administration of related programs. Progressives, particularly those who believe in the value of family farms and understand that they are cornerstones of rural economies and culture, must push back on Trump administration efforts that would take the USDA backward. Policymakers must instead champion efforts that continue to build on the racial progress that has been made.

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