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Phyliss Craig-Taylor

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# **AFRICAN-AMERICAN FARMERS AND THE FIGHT FOR SURVIVAL: THE CONTINUING EXAMINATION FOR INSIGHTS INTO THE HISTORICAL GENESIS OF THIS DILEMMA**

PHYLISS CRAIG-TAYLOR\*

## **INTRODUCTION**

The African-American land loss syndrome is a statistically confirmed reality. From the days of slavery with all of its inhumaneness, our nation has had difficulties in fairly addressing issues of race. It is more accurate to state that racism and discrimination have predominated the American interracial landscape.

One of the pitfalls in the American experience with race and race matters has been the tendency to search for answers to complex issues through stereotypical categorizations. The Webster's dictionary definition of stereotype is "a conventional, formulaic and usually oversimplified conception, opinion, or belief of a person, group, event or issue considered to typify or conform to an unvarying pattern or manner, lacking any individuality."

Practically speaking, in the historical, as well as modern day context of race in America, stereotypes are used to demean others and justify mistreatment and discrimination. The stereotypes become the source of negative generalizations about groups of people. It gives rise to destructive preconceived beliefs about the inferiority and shortcomings of others. The logical extension is to then find the explanations for the problems and difficulties of others in deeply held stereotypical beliefs. It is a virulent means of making the victimized group the alleged cause of its own victimization and degradation.

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\* Professor of Law, North Carolina Central University School of Law. I wish to express my deep appreciation to the Dean, faculty and staff for their continued support of my research in this area. For comments on drafts, I would like to thank Professors Michelle Jacobs and Professor Charles Pouncy. I would also like to thank my research assistants, Anika Royster Hardmon and Shayla Joy Galloway, for their dedication and hard work. I dedicate the Article to my parents, the late Thelma Roberts Craig and Richard Clifton Craig who gave me personal insight on the complexity of these issues.

This work is one in a series that explores issues of wealth and property ownership in the African-American community. It explores the historical interplay of social norms, discrimination, executive branch policies and judicial decisions affecting accumulation of property in the African-American community. Subsequent pieces will focus more in detail on specific crucial time frames.

Although perhaps unintended, the inferiority thesis as an explanation for African-American land loss is fraught with these shortcomings and dangers. It offers a convenient litany of preconceived notions for the plight of the African-American farmer and the accompanying land loss. This paper will seek to explore the truthfulness of the inferiority thesis regarding African-American land loss and offer an alternate theory to explain the loss of land by this segment of society.

For some African-Americans this is, indeed, the best of times from an economic perspective. Yet for other African-Americans this era may be most accurately characterized as among the worst of times; an era fraught with demanding difficulties and challenges. After decades of struggle to obtain the most basic liberties, rights and protections which inure naturally to most citizens of this country, African-Americans face continuing challenges to hold on to one of the most cherished privileges of citizenship, the ownership of property. The clarion call for this segment of the African-American community remains "a luata continua"- the struggle continues.<sup>1</sup>

Admittedly, the civil rights movement and subsequent anti-discrimination legislation sought to balance the playing field for African-Americans, particularly in employment and property ownership. *De jure* segregation was banned and now many African-Americans enjoy opportunities which were only dreams for their ancestors. This progress made inside of the African-American community best demonstrates the strong and unwavering determination of a people to participate fully and equally in the life of this nation. Despite this distinguished record of progress and steadfast determination, a significant number of African-Americans remain entrapped in the binding shackles of the seemingly intractable practices and vestiges of a two-tiered system grounded in beliefs of racial inferiority. This same system engenders and fosters invidious second-class citizenship. Justice Taney's depiction in *Dred Scott v. Sandford*, of racist ways and attitudes was an accurate reflection of the dominant convention that endured long after that decision. The Supreme Court in *Scott* held that:

They were at that time considered as a subordinate and inferior class of beings, who had been subjugated by the dominant race, and, whether emancipated or not, yet remained subject to their authority, and had no rights or privileges but such as those who held the power and the Government might choose to grant them.

This characterization is an apt description of most of the racially significant jurisprudence over the nation's history. Over time, the ideology grounded in the belief that African-Americans are inferior

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1. Rachel Edelman, *A National Day of Action*, THE MICHIGAN DAILY (1998), at <http://www.pub.umich.edu/daily/1998/feb/02-25-98/news/news1.html>.

endured. The dominant judicial thinking and jurisprudence continue to accommodate these stereotypical attitudes and expectations. An historical analysis of the treatment of African-Americans by the legal system evinces the resilience of these dominant oppressive and racist conventions which shaped the African-American experience, especially the economic experience.

The plight of the African-American farmer dramatizes the lingering and pernicious impact of this regressive jurisprudence. Current interest in the demise of African-American agriculture has generated a deluge of dismal statistics and apocalyptic predictions regarding the future survival of the African-American farmer. United States Census of Agriculture data indicate that African-American farms are dwindling at an alarming rate, both in absolute terms and relative to whites. For instance, the number of African-American farms declined 23 percent between 1978 and 1987, while the number of white-owned farms declined only 6.6 percent.<sup>2</sup> The rate of decline for African-American farms in the five years between 1982 and 1987 was 3.6 times that of white-owned farms.<sup>3</sup> During the same period, the number of African-American farms in the black-belt states dropped nearly one third.<sup>4</sup> Moreover, the current decline in African-American farmers comes as the number of other minority farmers - Hispanics, Asians, and Native Americans - holds steady or increases.

This problem is further highlighted by the recent complaints of thousands of African-American farmers alleging discrimination in lending practices by the United States Department of Agriculture. Bolstering the farmers' complaints is a 1997 study undertaken by the Department of Agriculture which documented that African-American farmers are more often denied credit needed to sustain their farming operations.<sup>5</sup> Secondly, the study confirmed that many are the victims of fraud by agricultural agents because of the color of their skin.<sup>6</sup>

Fifteen years earlier, a Civil Rights Commission report stated that the Farmers' Home Administration "may be involved in the very kind of racial discrimination that it should be seeking to correct."<sup>7</sup> Nothing was done to stop the problem. The lending bias initiated a cycle of failure for the farmers. The claims are varied, but all of the claims

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2. Adell Brown, Jr., et al., *Structural Changes In U.S. Agriculture: Implications For African American Farmers*, REV. BLACK POL. ECON., Spring 1994 at 55.

3. Hezekiah S. Jones, *Federal Agricultural Policies: Do Black Farm Operators Benefit?*, REV. BLACK POL. ECON., Spring 1994 at 41.

4. Brown, Jr., et al., *supra* note 2, at 55 .

5. *Civil Rights at the United States Department of Agriculture: A Report by the Civil Rights Action Team (CRAT Report)* (Feb. 1997) at 21.

6. *Id.* at 21.

7. U.S. Commission on Civil Rights, *The Decline of Black Farming In America* 188 (Washington, D.C. 1982).

have a common thread, disparate treatment based on race. The farmers assert that they were discouraged from applying, their pleas for loans were ignored and their applications delayed as white farmers received loans and assistance in a much timelier manner.<sup>8</sup> The delays and denials caused the loss of land which had been in the families of these farmers for years. Land had to be auctioned and sold while the farmers waited for help, which did not come. As a result, a class action lawsuit was initiated for over 2,500 African-American farmers from Alabama, Arkansas, California, Florida, Georgia, Illinois, Kansas, Missouri, Mississippi, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, and Virginia alleging violations of the Equal Credit Opportunity Act and the Civil Rights Act.<sup>9</sup>

Over the last decade, approximately 94 percent of African-American farmers have lost their land. African-American farmers now make up less than 1 percent of the nation's 1.9 million farmers.<sup>10</sup> The ranks of African-American farmers are declining at three times the rate of white farmers, a fact that experts in the area attribute to a variety of factors.<sup>11</sup> The non-responsiveness of the legal system to the plight of African-Americans in lending discrimination and judicial partition cases lead the list of cited factors.<sup>12</sup>

Some writers have framed an argument for the exceptional land loss as the consequence of an "inferior" African-American farmer skill set that under competitive conditions did not succeed. Consequently, over time more efficient producers forced the less skilled African-American farmers out of the market. In this framework, the African-American farmer is compared to other small farmers competing against agri-business. The sheer scope and size of the average agri-business made them more productive and more cost efficient; thus, the average small farmer could not compete against them in the same market. However, the social context of this debate is not a simple economics textbook argument.

First, historical evidence does not unequivocally establish the position that African-American land-owners were inefficient farmers relative to white farmers on the same size farm. Many of the African-American farmers worked on and some managed the farms of whites before becoming land owners. Second, it is not clear that the use of inferior farming techniques created the conditions for the land loss.

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8. *CRAT Report*, *supra* note 5, at 21.

9. *Pigford v. Glickman*, 185 F.R.D. 82 (D.D.C. 1999).

10. Neely Tucker, *A Long Road of Broken Promises for Black Farmers: USDA Fights Claims After Landmark Deal*, WASHINGTON POST, August 13, 2002, at A1.

11. Phyllis Craig-Taylor, *Through A Colored Looking Glass: A View Of Judicial Partition, Family Land Loss, and Rule Setting*, 78 WASH. U. L.Q. 737, 772 (2000).

12. *Id.*

Another plausible explanation and contributing factor for the loss of their land could be the set of discriminatory legal and extra-legal systems under which this population had to operate. Third, the “inferiority” thesis does not address whether the African-American farmer had access to the same community support, subsidies, loans and training programs that were available to white farmers in order to sustain their homesteads. Without equivalent assistance or backing, a denial of resources may have contributed to the failure of the farm and/or loss of land. Finally, the role of the markets in which the African-American farmers sold their goods could also have had an impact on the retention of land. It is unclear under the “inferiority” thesis whether the market price for African-American farmers was influenced by the “inferiority index,” an index under which the value of the product was reduced due to the race of the farmer.

When critically examined, the inferiority theory does not produce a rigorous and in-depth analysis of African-American land loss. It provides some limited potential insights. If taken as the answer to this complex reality, it inappropriately elevates a catalogue of popular and self-serving premises to an unwarranted status of knowledgeable insights.<sup>13</sup>

As with any social issue, there is a tendency to view the present situation of African-American farm loss as new and entirely unprecedented.<sup>14</sup> This prevailing tendency tragically overlooks the common patterns and foundations that derive from the role of race and racism and their impact on the organization of American social and economic institutions. In essence, to view the loss of African-American owned farm land as a problem deriving solely from contemporary factors affecting all American farmers is to risk ignoring both the structural foundations of racial inequality and the longstanding economic vulnerability of the African-American farmer. To accurately understand today’s situations and trends requires an examination of the historical past with its complexities, including our nation’s divisive and destructive history of dealing with race and racism.

The rural legacy of the African-American community, particularly in the South, is well established. Both social and economic historians have written extensively about the new labor arrangements, sharecropping, share-tenancy, and fixed-rent tenancy, that emerged after emancipation. These same historians also addressed how these labor arrangements conditioned the welfare and progress of southern Afri-

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13. GEORGE M. FREDRICKSON, *RACISM: A SHORT HISTORY* 79-82 (2002).

14. The failure to discuss the historical background of the black farmer and land loss creates the impression that this is a new problem. See Tucker, *supra* note 10, at A1.

can-Americans.<sup>15</sup> The overwhelming bulk of this literature focuses on African-Americans' roles as laborers and tenants, rather than land-owners. However, there is some notable documentation to this neglect of substantiating black landholding. These include Du Bois<sup>16</sup> and Bank's<sup>17</sup> early investigations into African-American landholding in Georgia, Schweninger's<sup>18</sup> examination of black property owners in the South, Fisher's<sup>19</sup> description of black landholding trends in Georgia, and McKenzie's<sup>20</sup> analysis of tenancy and landholding in Tennessee. In addition, there are the econometrics analyses of DeCanio<sup>21</sup> and Higgs<sup>22</sup> on the accumulation of wealth by southern freedmen. These works indicate that freedmen acquired property in spite of a myriad of social and economic barriers which include; the failure of southern land reform, the rise of share-tenancy, racially motivated hostility and violence, political disenfranchisement, and the joint systems of usury and crop-liens. None of these works, however, provide a systematic or comprehensive exploration into why, after several decades of land acquisition, African-Americans' land gains turned to losses.

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15. Louis Ferleger, *Sharecropping Contracts in the Late-Nineteenth-Century South*, 67 AGRIC. HIST., 31, 32 (1993); Nancy Virts, *The Efficiency of Southern Tenant Plantations 1900-1945*, 51 J. ECON. HIST. 385, 386 (1991); Susan Archer Mann, *Sharecropping in the Cotton South: A Case of Uneven Development in Agriculture*, 49 RURAL SOCIOLOGY 412, 414 (1984); Robert Tracy McKenzie, *Postbellum Tenancy in Fayette County, Tennessee: Its Implications for Economic Development and the Persistence of Black Poverty*, 61 AGRIC. HIST. 16, 32 (1987); Ralph Shlomowitz, *The Origins of Sharecropping*, 53 AGRIC. HIST. 557 (1979); Joseph D. Reid, Jr., *Sharecropping as an Understandable Market Response-The Post Bellum South*, 33 J. ECON. HIST. 106, 110 (1973); Joseph D. Reid, Jr., *White Land, Black Labor, and Agricultural Stagnation: The Causes and Effects of Sharecropping in the Postbellum South*, 16 EXPLORATIONS IN ECON. HIST. 31, 37 (1979); STEVEN HAHN, *THE ROOTS OF SOUTHERN POPULISM: YEOMAN FARMERS AND THE TRANSFORMATION OF THE GEORGIA UP-COUNTRY 1850-1890* 156-162 (Oxford University Press 1983); JAY R. MANDLE, *SHARECROPPING AND SHARECROPPERS* 120-129 (T. Byres ed., Frank Cass and Company 1983).

16. See W.E.B. DuBois, *The Negro Landholder In Georgia* in BULLETIN OF THE DEPARTMENT OF LABOR, 56th Cong. 647-777 (2nd Sess.1901). See also W.E.B. DuBois, *THE NEGRO FARMER IN TWELFTH CENSUS OF THE UNITED STATES: 1900, SPECIAL REPORTS, SUPPLEMENTARY ANALYSIS AND DERIVATIVE TABLES* 511-79 (U.S. Bureau of the Census 1906); W.E.B. DuBois, *Georgia Negroes and Their Fifty Millions of Savings*, in XVII WORLD'S WORK 11550-4 (1909).

17. ENOCH MARVIN BANKS, *THE ECONOMICS OF LAND TENURE IN GEORGIA* 62 (1905).

18. LOREN SCHWENINGER, *BLACK PROPERTY OWNERS IN THE SOUTH, 1790-1915* 143-184 (1990); Loren Schweninger, *A Vanishing Breed: Black Farm Owners in the South, 1651-1982*, 63 AGRIC. HIST. 41 (1989).

19. James S. Fisher, *Rural Ownership of Land by Blacks in Georgia: 1920 and 1960*, 9 REV. BLACK POL. ECON. 93-107 (1978); James S. Fisher, *Negro Farm Ownership in the South*, 63 ANNALS OF THE ASS'N OF AMERICAN GEOGRAPHERS 478-89 (1973).

20. Robert Tracy McKenzie, *Freedmen and the Soil in the Upper South: The Reorganization of Tennessee Agriculture, 1865-1880*, 59 J. SOUTHERN HIST. 63-84 (1993); McKenzie, *supra* note 15, at 17.

21. Stephen DeCanio, *Accumulation and Discrimination in the Postbellum South*, 16 EXPLORATIONS IN ECON. HIST. 182, 185 (1979).

22. Robert Higgs, *Accumulation of Property by Southern Blacks Before World War I*, 72 AM. ECON. REV. 725, 728 (1982).

## INFERIOR LAND, INFERIOR GAINS

Emancipation and the demise of the Confederacy conferred judicial control over the scope, pace, and rewards of work to four million African-Americans.<sup>23</sup> However, the expression of these rights raised questions as to how the region's social and economic institutions should be reorganized in the wake of slavery. Planters were pitted against freedmen in an effort to reshape southern relations. Planters, having lost one of their most valuable capital assets, slaves, needed an alternative mechanism to insure that there would be an inexpensive and abundant supply of reliable labor to work plantations.<sup>24</sup> Freedmen, on the other hand, were eager to grasp any and all opportunities that might secure their newly won freedom. The crucial foothold in this battle for social and economic independence by free, but landless African-Americans, rested with the Republican government's commitment to southern social, economic and political reform.<sup>25</sup> To this end, the Federal government established a massive relief program in March of 1865, under the newly created Bureau of Refugees, Freedmen, and Abandoned Lands. The intended purpose of the relief program was to oversee the transition of African-Americans from slavery to freedom.<sup>26</sup>

Although the Freedmen Bureau was not officially abolished until 1872, the scope of its assistance, in distributing food to destitute African-Americans and whites, establishing free-labor agriculture, and furnishing funds for African-American schools was always severely circumscribed. Most bureau activities had ceased by the end of 1868. In reality, the one meaningful alternative that could have tangibly revolutionized southern social structure, the Federal confiscation and redistribution of land and resources to former slaves, was only pursued by the Bureau in a half-hearted and ineffective manner.<sup>27</sup> Neverthe-

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23. Emancipation represented a significant redistribution of southern wealth. Prior to that point, a substantial share of planter's capital had been invested in slaves. Authors estimate that the value of slaves accounted for 60 percent of the total value invested in agriculture. ROBERT RANSOM AND RICHARD SUTCH, *ONE KIND OF FREEDOM: THE ECONOMIC CONSEQUENCES OF EMANCIPATION* 52 (1977).

24. *Id.*

25. See CARL SCHURTZ, *THE REMINISCENCES OF CARL SCHURTZ* 46 (1969). Abolitionist General Charles Schurtz argued for giving freedmen some political power, stating "it will hardly be possible to secure the freedmen against oppressive class legislation and private persecution, unless he be endowed with a certain measure of political power."

26. ERIC FONER, *RECONSTRUCTION: AMERICA'S UNFINISHED REVOLUTION, 1863-1877* 69 (1988).

27. Many authors have argued that the issue of land redistribution went beyond the government's commitment to southern land reform but instead challenged the sacred tenet of private property ownership. Fearing the establishment of a detrimental precedent which would undermine private property ownership, efforts for land redistribution were abandoned. MOORE AND BARRINGTON, *SOCIAL ORIGINS OF DICTATORSHIP AND DEMOCRACY*, (1966); GAVIN WRIGHT, *OLD SOUTH, NEW SOUTH: REVOLUTIONS IN THE SOUTHERN ECONOMY SINCE THE CIVIL WAR*



less, from the vantage point of former slaves, lasting and meaningful reform necessitated that formal freedom be accompanied by substantive change. In short, one of the most concrete symbols of freedom for African-Americans was the capacity to establish and enjoy a profitable and fulfilling livelihood.<sup>28</sup>

Land, perhaps more than any other asset was desired by newly emancipated slaves.<sup>29</sup> It was the quintessential representation of freedom. Landholding attested to African-Americans' dramatic transformation in social status, from that of being regarded as property to that of becoming property owner. Secondly, it promised such tangible benefits as long-term economic stability, social independence, and political power.<sup>30</sup> Thus, the African-American community considered the redistribution of southern land a necessary and focal consequence of emancipation. Moreover, it was an expectation fueled, at least in part, by Federal actions.

For instance, as early as March 1863, approximately 2,000 acres of land were purchased collectively by former slaves on the Island of Port Royal, South Carolina.<sup>31</sup> The following June, in Clark County, Alabama, Federal troops allowed ex-slaves to measure off and occupy former owners' land.<sup>32</sup> In 1864, Sherman's troops promised land to ex-slaves. In January 1865, Sherman issued Field Order No. 15, which set aside 40 acre parcels in the Sea Islands and a portion of the rice coast of South Carolina, for the exclusive settlement of African-Americans.<sup>33</sup> Reasonably, ex-slaves viewed the Federal redistribution

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100 (1986); W.E.B. DUBOIS, *BLACK RECONSTRUCTION IN AMERICA, 1860-1880* 368 (1935); VERNON L. WHARTON, *THE NEGRO IN MISSISSIPPI, 1865-1890* 60 (1947).

28. While the question of how the South would have been different if land reform had occurred may appear somewhat moot, authors have concluded that the absence of southern land redistribution substantially hindered the economic progress of African-Americans. DeCanio, *supra* note 21, at 202; Higgs, *supra* note 22, at 778.

29. DUBOIS, *supra* note 27, at 123.

30. BARBARA J. FIELDS, *SLAVERY AND FREEDOM ON THE MIDDLE GROUND: MARYLAND DURING THE NINETEENTH CENTURY* 178 (1985); Lisa B. Groger, *Growing Old With or Without It, The Meaning of Land in a Southern Rural Community*, 5 *RESEARCH ON AGING* 511, 523 (1983); CARL KELSEY, *THE NEGRO FARMER* 29 (Jennings and Pye 1903, Reprinted AMS Press 1977); PETER KOLCHIN, *AMERICAN SLAVERY, 1619-1877* 218 (Eric Foner ed., Hill and Wang 1993).

31. WILLIE LEE ROSE, *REHEARSAL FOR RECONSTRUCTION: THE PORT ROYAL EXPERIMENT* 215 (1964).

32. MANDLE, *supra* note 15, at 8.

33. See FONER, *supra* note 26, at 71, for the position that Sherman never intended Field Order 15 to be anything other than a temporary solution to the problem of what to do with the growing numbers of emancipated, but impoverished African-Americans. For a more detailed description of the Freedmen Bureau's involvement with abandoned and confiscated land, see EDWARD MAGDOL, *A RIGHT TO LAND: ESSAYS ON THE FREEDMEN'S COMMUNITY* 156 (1977); and CLAUDE F. OUBRE, *FORTY ACRES AND A MULE, THE FREEDMEN'S BUREAU AND BLACK LAND OWNERSHIP* 46 (1978).

of plantation land as an appropriate blueprint for change. Unfortunately, the promise of “forty acres and a mule” was never realized.

President Johnson reversed Sherman’s Field Order No. 15 in the fall of 1865. By mid-1866, half the land under the control of the Freedmen’s Bureau was returned to pardoned owners.<sup>34</sup> While the vast majority of freedmen were forced to relinquish their claim to land belonging to former owners, the defeat of proposals for general land distribution did not totally eradicate plans to help freedmen acquire land. In 1866, Congress passed the Southern Homestead Act, which opened public land in five southern states for sale to individuals who had not fought against the Union.<sup>35</sup>

There were two general problems associated with this plan. First, the granted plots were small and typically of poor quality. Second, few blacks in 1866 had the necessary capital to purchase homesteads. In the end only about 4,000 freedmen (or about .1 percent) filed homestead claims.<sup>36</sup> Nevertheless, the failure of southern land reform did not extinguish freed people’s deeply entrenched desire for an independent existence and family security.<sup>37</sup>

African-Americans acquired property throughout the South despite the disparities in wealth, education, and social position that existed between African-Americans and whites in the aftermath of slavery. By 1900, the first year regional statistics exist, African-Americans owned 187,799 farms. At that time, about 25 percent of all farms operated by African-Americans were owned.<sup>38</sup> Moreover, African-Americans acquired approximately 2 million more acres in 1910 than in the decade before, bringing the number of African-American owner-operated farms to nearly twice what it was in 1890.<sup>39</sup> In total, African-Americans held over 15 million acres by 1910, making it the peak year for African-American land ownership in the South.<sup>40</sup>

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34. FONER, *supra* note 26, at 183. President Andrew Johnson’s May 1865 proclamation conferred amnesty, pardon and the restoration of all property rights except slaves to all former confederate freeholders with taxable property less than \$20,000.

35. MANDLE, *supra* note 15, at 10. “The object of the bill is to let them [African-Americans] have land preference to people from Europe or anywhere else.”

36. Christie Farnham Pope, *Southern Homesteads for Negroes* 44 AGRIC. HIST. 205, 201-12 (1970).

37. In the end, the actual number of African-Americans who gained property through homesteading or government confiscation was negligible. See MANDLE, *supra* note 15, at 10.

38. The U.S. census designation of southern-farm operators was actually non-white, not Black or African-American. See DUBOIS, *supra* note 27, at 523-524.

39. GILBERT C. FITE, COTTON FIELDS NO MORE: SOUTHERN AGRICULTURAL 1865-1980 91 (University Press of Kentucky)(1984); Manning Marable, *The Politics of Black Land Tenure 1877-1915*, 53 AGRIC. HIST. 142, 142-52 (1979); Leo McGee and Robert Boone, *Black Rural Landownership: A Matter of Economic Survival*, 8 REV. BLACK POL. ECON. 52, 52-69 (1977).

40. The vast majority of all African-American owned farms were located in the South as 90 percent of all African-Americans in the country resided in the South. See SCHWENINGER, *supra* note 18, at 164.

Considering the obstacles to ownership that they encountered, it is astounding that African-Americans were able to acquire this much land by the turn-of-the-century. This impressive feat of land acquisition by nineteenth century African-Americans can only be properly understood when contrasted with the difficulties they had to overcome. These pervasive difficulties enveloped such barriers as intense racial violence, disenfranchisement, and racial segregation, restricted credit opportunities, the widespread practices of usury, crop-liens and debt-peonage as well as sharecropping, white competition for quality farm land, convict leases, etc.<sup>41</sup> In light of these imposing obstacles, predictably the gains made in land acquisition by blacks were short-lived.

During the early part of the twentieth century, the trend of African-American land acquisition shifted to one of land loss. In the decade following 1920, a clear pattern of African-American land loss was apparent across the South. For example, the U.S. Commission on Civil Rights<sup>42</sup> reports that:

Out of a decline of 42,858 black [farm] operators in the United States during this period [1920-1930] 37,596 were owners, 4,159 were tenants and 1,103 were managers. The number of black-owned farms had decreased by 17.2 percent, a rate of loss twice that experienced by whites during the same period.

Historical accounts, detailing the acquisition and eventual loss of African-American owned land, generally focused on the special obstacles that prospective owners encountered, and the hardships that independent farmers endured. A prevalent explanation ascribes many of the African-American landowners' hardships on the poorer quality and smaller size of their farms.<sup>43</sup> The literature is replete with infer-

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41. See, e.g., DONALD G. NIEMAN, *PROMISES TO KEEP* 3-29 (1991) and A. LEON HIGGBOTHAM, JR., IN *THE MATTER OF COLOR* 68-93 (1978). See also W.L. ROSE, *REHEARSAL FOR RECONSTRUCTION* (Oxford 1976) (1964) for a more elaborate exploration of freemen and land and ERIC FONER, *RECONSTRUCTION* 102-10 (Perennial Library 1989)(1988).

42. U.S. Commission on Civil Rights, *The Decline of Black Farming in America* 25 (Washington D.C. 1982).

43. JAMES S. ALLEN, *THE NEGRO QUESTION IN THE UNITED STATES* 55 (1936); BANKS, *supra* note 17, at 62. See generally ROBERT P. BROOKS, *THE AGRARIAN REVOLUTION IN GEORGIA 1865-1912* (1914); W.W. BROWN and M.A. REYNOLDS, *Debt Peonage Re-examined*, 33 J. ECON. HIST. 862, 862-71(1973.); JOHN DITTMER, *BLACK GEORGIA IN THE PROGRESSIVE ERA, 1900-1920* 50 (1977); DuBois, *supra* note 16; James S. Fisher, *Rural Ownership of Land by Blacks in Georgia: 1920 and 1960*, 9 REV. BLACK POL. ECON. 93, 93-107 (1978); James S. Fisher, *Negro Farm Ownership in the South*, 63 ANNALS OF THE ASS'N OF AMERICAN GEOGRAPHERS 478, 478-89 (1973); ASA H. GORDON, *THE GEORGIA NEGRO, A HISTORY* 69 (Edwards Brothers, Inc. 1972) (1937); Manning Marable, *The Land Question in Historical Perspective: The Economics of Poverty in the Blackbelt South, 1865-1920*, in *THE BLACK RURAL LANDOWNER —ENDANGERED SPECIES: SOCIAL, POLITICAL, AND ECONOMIC IMPLICATIONS* 3-24 (L. McGee and R. Boone ed., Greenwood Press 1979); U.S. Commission on Civil Rights, *The Decline of Black Farming in America* (Washington D.C. 1982) at 564-5.

ences that the farms of African-Americans were inferior. The inference of inferiority is used to explain why African-American landowners were at an economic disadvantage compared to their white counterparts. Woodman<sup>44</sup> writes:

[m]ost of the land owned by Negroes is the land which poverty stricken whites have had to abandon to engage in something more lucrative in urban centers, or it is the land which the white farmers have worn out and abandoned as unproductive.

One author,<sup>45</sup> commenting on the availability of land to African-Americans around 1890, notes:

The farm lands available to blacks were usually small plots of inferior soil. In Georgia, black landownership was heavily concentrated in a band of infertile, often swampy, and rather isolated pine woods near the coast. Elsewhere in the state, those few freedmen who were able to buy land could often purchase only lots large enough for a house and a garden, so many landowners still had to farm a white man's land as croppers and renters.

However, the concept of inferiority, as it also has been traditionally used by historians, encompasses much more than soil quality and farm size, it includes an economic and a social dimension.

Evidence suggests that African-Americans were economically constrained in their pursuit of land, both in terms of their ability to purchase prime acreage, and in obtaining credit. In general, planters rarely sold small parcels of prime cotton land, and freedmen rarely possessed the funds to purchase large tracts when they were available. Racism remained a powerfully defining and controlling variable in land transactions. Therefore, when small tracts of quality land were offered, it was highly unlikely that the market would operate equitably for African-Americans as compared to whites. For instance, given similar parcels of property, African-American farmers often encountered higher land prices and inflated interest rates compared to whites.<sup>46</sup>

The obstacle of acquiring prime property at reasonable rates was not the only influential hardship endured by African-American farmers. To the extent that the farms of African-Americans tended to be smaller, presumably averaging about 50 acres in size, African-American farms were more susceptible to the risks associated with scale. Smaller holdings required that a greater proportion of the total acre-

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44. Harold D. Woodman, *Post-Civil War Southern Agriculture and the Law*, 53 *AGRIC. HIST.* 319, 319-37 (1979).

45. CHARLES FLYNN, *WHITE LAND, BLACK LABOR: CASTE AND CLASS IN LATE NINETEENTH-CENTURY GEORGIA* 115 (1983).

46. NEIL R. McMILLEN, *DARK JOURNEY, BLACK MISSISSIPPIANS IN THE AGE OF JIM CROW* 111 (1989); RANSOM AND SUTCH, *supra* note 23, at 52.

age be put under cultivation in order to maximize output. Such intense cultivation, however, frequently caused soil erosion and mineral depletion, eventually compromising future harvests and reducing crop yields.<sup>47</sup> Unfortunately, the tie between intense cultivation on small farms and soil depletion was reinforced by the link between cotton cultivation and credit arrangements.

There was a strong and viable market for cotton in the South. It was considered a safe crop because it had a ready market value in case of foreclosure. Unlike perishable food crops, the marketing of cotton did not depend on the accessibility of rural roads. Because local merchants, often the sole source of credit for the small farmer, considered cotton to be a dependable cash crop, and therefore more valuable per acre, they frequently tied the extension of credit to the production of cotton. In some instances, credit was so closely bound to cotton production that creditors reduced their risk, and insured repayment, by riding about the countryside to verify that land was cultivated in cotton.<sup>48</sup> Understandably, small-farm owners generally found cotton to be "worth" more than other crops in terms of raising cash to pay debts.<sup>49</sup>

Ultimately, creditors' insistence that cotton be grown at the expense of crops may have prevented small-farm owners from following such suggested farm management practices as crop rotation, truck gardening, or raising livestock.<sup>50</sup> In this respect, prevailing credit practices prevented diversification, and made both African-American and white small-farm owners extremely vulnerable to fluctuations in the cotton market.<sup>51</sup> Thus, the small-farm owner was at risk both in terms of production, as well as in the acquisition and repayment of merchant credit. This left many small-farm operators in the vicious cycle of borrowing money to grow cotton, and then borrowing again to buy food and supplies.

African-Americans were particularly constrained by this link between credit and cotton production because of cultural stereotypes. The common stereotypical belief that African-Americans were espe-

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47. FITE, *supra* note 39, at 91; Gilbert C. Fite, *Marketing Southern Staples: Comment*, 57 AGRIC. HIST. 277, 277-88 (1982).

48. KELSEY, *supra* note 30, at 29.

49. RANSOM AND SUTCH, *supra* note 23, at 52; Gavin Wright and Howard Kunreuther, *Cotton, Corn, and Risk in the Cotton South After the Civil War*, 35 J. ECON. HIST. 526, 526-51 (1975).

50. Earl W. Crosby, *Limited Success Against Long Odds: The Black County Agent*, 57 AGRIC. HIST. 277-88 (1983); U.S. Commission on Civil Rights, *The Decline of Black Farming in America* 564-5 (Washington D.C. 1982); Marable, *supra* note 43, at 3-24; Roger Ransom and Richard Sutch, *Debt Peonage in the Cotton South After the Civil War*, 32 J. ECON. HIST. 641-69 (1972).

51. CARTER G. WOODSON, *THE RURAL NEGRO* 55 (Ass'n for the Study of Negro Life and History, Inc. 1982)(1930); Marable, *supra* note 43, at 3-24; Marable, *supra* note 39, at 142-52.

cially well-suited for cotton production, as they lacked experience in other crops, operated to reinforce existing credit practices. This resulted in further shackling African-American farmers to a crop that quickly depleted the soil of their small farms.<sup>52</sup> However, the inferiority associated with African-American owned land was not simply a matter of finance, fertile acreage, or the over-production of cotton. In fact, hard work or credit worthiness alone was not enough to guarantee African-Americans the successful acquisition of quality farm land. More often than not, potential landowners also had to contend with social constraints. Racism proved to be one of the most resistive and obstructive social elements in the African-American's quest for land ownership and full inclusion in the American democratic experience.<sup>53</sup> The stereotypical belief of inferiority of the African-American farmer continued to undermine their efforts to acquire quality farm land.

Prospective African-American buyers, who met the financial requisites of ownership, also had to surmount substantial social hurdles in their attempt to gain property.<sup>54</sup> If contemporary witnesses are correct, racist and stereotypical local white attitudes toward African-American land ownership conditioned local opportunity structures.<sup>55</sup> For example, immediately after the Civil War, Reid observed:

In many portions of the Mississippi Valley the feeling against any ownership of the soil by [Negroes] is so strong, that the man who should sell small tracts to them would be in actual personal danger. Every effort will be made to prevent [Negroes] from acquiring lands; even the renting of small tracts to them is held to be unpatriotic and unworthy of a good citizen.<sup>56</sup>

Writing 70 years after Reid, Raper poignantly describes similar social sentiment toward black land ownership:

The Negro buys land only when some white man will sell it to him. Just because a white man has land for sale does not mean that a Negro, even the one most liked and respected by him, can buy it even if he has the money.

Whether a particular Negro can buy a particular tract of land depends upon its location, its economic and emotional value to the white owner and other white people, the Negro's cash and credit resources,

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52. See *id.* at 55; U.S. Commission, *supra* note 43, at 564-5.

53. WOODSON, *supra* note 51, at 50; ARTHUR F. RAPER, PREFACE TO PEASANTRY: A TALE OF TWO BLACK BELT COUNTIES 300 (1936); WHITELAW REID, AFTER THE WAR: A TOUR OF THE SOUTHERN STATES, 1865-66 259 (Harper and Row 1965) (1866).

54. WOODSON, *supra* note 51, at 50; RAPER, *supra* note 53, at 300; REID, *supra* note 53, at 259; McMILLEN, *supra* note 46, at 111; FITE, *supra* note 39, at 91; U.S. Commission, *supra* note 43, at 564-65.

55. REID, *supra* note 53, at 259; U.S. Commission, *supra* note 43, at 564-65.

56. REID, *supra* note 53, at 259.

and, doubtless most important of all, his personal qualities in the light of the local attitudes: He must be acceptable.<sup>57</sup>

Thus, the local white community, retained influence and could intervene in the market for land and provide assistance, or create barriers for prospective African-American land buyers. Due to the sordid history of race and racism in the nation, the prevailing tendency was that race would be an imposing impediment in African-American acquisition of land.

#### INFERIORITY: A SOURCE OF INSIGHTS INTO BUT AN INCOMPLETE ANALYTICAL EXPLANATION OF AFRICAN-AMERICAN LAND LOSS

When examining the body of traditional historiography, these works describe the plight of the African-American farmer as the failure of the small producer to acquire prime land and to withstand economic hardships. In other words, this historiography describes the inability of a "inferior people" to hold on to their "inferior acreage" in the face of economic adversity. While on the surface this depiction has plausible attractiveness, there are several weaknesses.

First, the focus of this interpretation is on the loss of land. The description of African-American farms as inferior falls short in its persuasiveness as it focuses principally on economic vulnerability and subsequent loss of African-American owned land. A more compelling and revealing analysis results when one examines how African-Americans acquired their farm land in the first place.<sup>58</sup> This is not a minor oversight given the obstacles to ownership that African-Americans endured, during the post slavery siege of Jim Crowism, racial violence, and discrimination.<sup>59</sup>

Secondly, the "inferiority" interpretation places too heavy an emphasis on the small size of African-American-owned farms in accounting for their lack of success. Whites also owned small farm land, which were reportedly quite successful. Under some circumstances, small scale agriculture can use size as a benefit. The smaller scale of some farms may permit quicker adaptation to social and technological change, as well as increased responsiveness to market shifts.<sup>60</sup> This is

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57. RAPER, *supra* note 53, at 300.

58. For a more detailed analysis of how African-Americans acquired land, see Phylliss Craig-Taylor, *To Be Free: Liberty, Citizenship, Property and Race*, 14 HARV. BLACKLETTER L.J. 58 (1998); "A small number did, however, obtain land through other means, squatting on unoccupied real estate in sparsely populated states like Florida and Texas, buying tiny city plots, or cooperatively purchasing farms and plantations. . . These, however, were isolated instances." See FONER, *supra* note 41, at 106.

59. Nieman, *supra* note 41, at 114-47.

60. ALESSANDRO BONANNO, *SMALL FARMS: PERSISTENCE WITH LEGITIMATION* 86 (1987).

the position taken by Wright<sup>61</sup> and Hahn<sup>62</sup> when they argue that the agricultural transition, from semi-subsistence to commercial agriculture, which occurred in the non-plantation counties was “somewhat fortuitous” for the small farmer. Taken alone, the scale of African-American farms fails to adequately explain why almost a half century of land gains was so suddenly and irrevocably followed by losses.

Third, the “inferiority” thesis has come to enjoy widespread acceptance and popularity even though its validity as an accurate and comprehensive explanation for African-American land loss is questionable. At the core of the inferiority theory is the dubious and stereotypical premise that African-Americans owned inferior land because they were an inferior people existing on the fringes of southern white society. It is questionable whether African-Americans lost their inferior farms because the small size of their holdings made them particularly vulnerable to periods of economic hardship. The widespread acceptance of this presentation as a “historical reality,” elevates it to the sanctimonious status of being the only reasonable framework within which to examine the topic of African-American landholding. Tragically, the thesis of inferiority has severely restricted the kinds of necessary and appropriate inquiries needed to generate a comprehensive and instructive understanding of this historical dilemma and its modern-day consequences.

Some questions which are precluded by the inferiority thesis are:

1. What was the total impact of the invidious racism and discrimination that was permanently woven into the core of the American social and economic fabric?
2. Would land loss represent “success” if African-American landowners voluntarily sold their farms in order to raise capital for migrating out of the South?
3. Were the farms of black smallholder more inferior than those of other smallholder?
4. What makes a profitable agricultural unit: size, crop choice, soil, or management skills?

Traditionally, questions such as these have not been explored.

Finally, the deductive conclusion that African-Americans acquired inferior land and then lost it because the land was inferior is a formidable one to disprove, if deductive logic is the analytical framework of choice. Thus, it logically follows that if the presence of all other factors were deemed relative or of inconclusive significance and the land were inferior, then the inferiority would predominate and produce African-American land loss. However, such a formulation does not help

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61. WRIGHT, *supra* note 27, at 100.

62. TUCKER, *supra* note 10, at 156-162.



in the evaluation of the inferiority premise. The “inferiority construct” has an amorphous character, sometimes referring to the physical conditions of land, cultivation, or crop choice, other times alluding to the social relations involved in the markets for land, labor, and credit. Still, other times the term is used to describe the personal characteristics of African-American farmers themselves, such as their lack of experience or formal training. This application of inferiority is rooted in stereotypical thinking about African-Americans from the days of their inhumane enslavement upon the belief that they were less than animals. As such, any mistreatment was deemed appropriate to human chattel.

It is left unclear what the concept of inferior land means. On one hand, it could mean that the soil itself was of poor quality, that the area lacked rainfall, or that farmers themselves lacked the knowledge to keep the land in better condition or raise crop production. On the other hand, one could interpret the concept of inferior land to mean that the people were treated as inferior themselves and could not raise the capital for improvements, fertilizer or farm implements, and machinery? Yet, another possibility is it that the rural areas in which African-Americans were able to acquire land lacked the necessary roads, storage facilities, and railways to get their product to market in good shape or earn top dollar for their crop? The failure to define the concept of inferiority makes it impossible to empirically evaluate this interpretation as an explanation for patterns of African-American landholding.

To date, the literature on African-American land ownership has failed to provide an adequate theoretical model for analyzing the development of, and changes in African-American land ownership. The use of the term “inferior” to denote a condition associated with African-American-owned land, conflates the social and economic dimensions, and entangles the characteristics of individual farmers with the condition and circumstances within which African-American farmers operated. Thus, not only does the description of African-American-owned land as inferior fall short as an explanation for changes in landholding over time, it does not provide an analytical framework for understanding the various dimensions of inferiority — whether it be social, economic, individual, or situational. The “inferiority thesis,” as an analytical explanation, is moribund.

## CONCLUSION

While the inferiority land thesis has some credence, it needs to be complemented with a second approach. The complementary approach would be to step directly inside of the circle and view the situa-

tion form the inside out from the perspective of African-American Landowners. If one were to step into the shoes of African-American landowners, race and racism would unquestionably be the predominating elements in any analysis of their land ownership plight. This is understandable when one appreciates that these landowners were only a few steps removed from that despicable human bondage called American slavery. They found themselves tossed from that dilemma into the throes of slavery's deadly cousins called Jim Crowism, lynching, Ku Klux Klan, etc. Based on this reality, W.E.B. Dubois accurately opined that race would be the most important issue in the 20th century.<sup>63</sup>

The inferiority theory would leave the African-American landowners caught painfully inside of the land-loss dilemma crying out for a more in-depth and comprehensive analysis. They would insist upon a paradigm shift to a mental model that gives proper attention and consideration in the analysis to:

1. What was the impact of racism, stereotypical attitudes and discriminatory actions on securing credit to acquire land?
2. What attention did the judicial system give to violence against African-American landowners?
3. What was the impact of African-Americans being relegated to second class status in education, politics and other social settings?
4. How did the notion of separate at best and inherently unequal hamper the success of African-American landowners?
5. How did the vestiges of psychological enslavement impair the confidence needed to succeed in adverse ownership circumstances?

The African-American land-loss reality merits a detailed analysis to generate comprehensive and instructive insights into the historical plight of the African-American farmer. Secondly it may provide some larger messages and insights into the contemporary struggles of African-American and others to fully attain the promises of the American democratic dream. Therefore, the inferiority theory should not be accepted as the answer to this dilemma. Instead, its insights and the questions raised by its limitations should be a catalyst for a more in-depth examination of this complex reality with its multi-dimensional causative factors. Particular attention needs to be directed to the pervasive impact of race and racism on the gallant efforts of African-Americans to visibly confirm their freedom and full standing as American citizens. Fortunately, there is still time and opportunity for this examination to occur.

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63. See W.E.B. DuBois, *SOULS OF BLACK FOLK* 5 (1969).