

Heir Property in the South: A Case Study of a Resettlement Community

by

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Abstract

The purpose of this study is to determine if the resettlement program had an impact on the prevalence of heir property and the impact of heir property on asset building and community development. Given the prevalence of heir property, we can safely conclude that it is a common cultural practice for African Americans in the rural South. Heir property is a continuation of the elite using the law to control vulnerable populations because it constrains wealth; it is the leading cause of land loss for African Americans, therefore, it was associated with persistent poverty. By 1920, African Americans owned 16 million acres of land; over 14 million acres of the land was seized by 1997 due to the vulnerabilities of heir property (Dyer and Bailey 2008). The USDA (1999) reported that white Americans own 98 percent of U.S. land; African Americans own less than one percent of rural land, which is poverty and power.

The economic instability of heir property has resulted in poor political representation and lack of community development for African Americans, especially in the rural South. Traditionally African American landowners have not written wills, which creates complex issues once the owner dies. In the absence of a probated will, the state determines how property is to be divided among surviving heirs, hence the term “heir property.” As one generation gives way to the next, it becomes increasingly difficult to identify heirs and make management decision like clearing the title.

The research design allows the issue of heir property to be examined in a resettlement community. Resettlement communities were established as part of an

agrarian “New Deal” program implemented to address poverty and landlessness. In 1937 former slaves and sharecroppers became landowners when the federal government converted the Alabama community of Gee’s Bend into a resettlement community by deeding 10,188 acres of land to 99 African Americans. I collected property tax data from the Wilcox County Tax Assessor’s Office; a key informant identified the name of parcel’s registered to a deceased person in Gee’s Bend. I determined that these parcel were heir property; the data was quantified and analyzed to determine the characteristics of owners of land who had clear title and those who held land as heir property in order to determine the scale and economic value of heir property in Gee’s Bend and Wilcox County, Alabama.

I used the systematic data collection method to identify 404 parcels of land in Gee’s Bend. In my study, heir property was prevalent in Gee’s Bend. I found that a third of the landowners held heir property, which was 46 percent of the heir property in Wilcox County. As of early 2018, 260 parcels were owned with clear title, 144 parcels were heir property. There were 107 owners with clear title that resided in Wilcox County (41 percent), 77 owners with clear title (30 percent) who resided in other counties in Alabama, and 76 owners with clear title (29 percent) who resided in other states. I conclude with suggestion for solutions to heir property. The case of heir property in Gee’s Bend demonstrates how a repressive social system undermined African American landowners that were involved in the resettlement program by constraining the capital and generational wealth embodied in their land.

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Chapter I: Introduction

In 1971 Michael A. Figures wrote one of the first articles about heir property, noting that most black owned land is heir property held in joint-tenancy. Figures (1971) referred to heir property as property that is jointly owned by the legal heirs as co-tenants. When a person dies without writing a legal will, the title to the land becomes “clouded” if the legal heirs do not register the title in their names at the county court house. This form of co-tenancy is called “heir property” (ELF 1980).

Figures (1971) refers to property owned jointly by heirs as co-tenants. The United States Common Law recognizes two forms of communal property: tenancy in common and joint tenancy, in which cotenants have a partial interest or share of property (Deaton 2005). Heir property can lead to multiple people jointly owning a share of property in the form of tenancy in common (Deaton 2007). Co-tenants that own land in the form of tenancy in common can own unequal interest in the property (Deaton 2007); a surviving spouse has the right of survivorship, which protects a spouse’s interest in the property until death (Deaton 2007). Every person that owns a share of the property has the right to use the entire property as if it were his or her own regardless of the size of his/her partial interest in the property (Deaton 2005).

Heir property arises when a person dies without using a legal method, like a will, to transfer the title in order to signify property ownership. Traditionally, African Americans failed to write legal wills; therefore, heir property became a cultural practice,

a common form of land ownership for African Americans in the rural South. Heir property is important because property rights and equity of heir property owners is constrained by intestate succession laws, which leads to persistent poverty and land loss; it is associated with the low socio-economic conditions of African Americans, the largest population, in the Black Belt. Bailey et al. (2016) estimated a market value \$5-10 billion of heir property in the state of Alabama and over \$100 billion in the Southern U.S. “Dead capital,” i.e., heir property, is a form of wealth that can change the economic, political, and social fabric of the Black Belt if the economic and legal constraints are mitigated (Dyer et al. 2009).

The land registry system in the U.S. requires real estate transactions to be recorded with the state at a county or parish courthouse, which makes the title to the land “merchantable,” “clear,” and therefore marketable. Along with clear title comes a whole suite of private property rights. A clear title grants the freedom of property ownership to private property owners, i.e., full property rights; a clouded title, such as heir property, limits the freedom of private property rights among heir property owners. Heir property ownership leads to vulnerability among African Americans because it is the leading source of land loss; it is a form of dead capital that exacerbates land loss, landlessness, and poverty in the rural South.

Heir property does not provide the socio-economic security of private property; the law provides security to private property owners by granting them property rights that are denied to heir property owners. Heir property ownership denies fundamental freedoms to owners and heirs because clouded title is at risk of litigation by heirs or the state. Heir property is a continuation of the elite using the law to control vulnerable populations by dispossessing their land. Heir property is considered non-merchantable because the

property is owned by a potentially large and unknown number of heirs. A person attempting to sell heir property would need to have written agreement from every heir. Any purchaser would be vulnerable to litigation if an unknown heir suddenly appeared and challenged the sale. The same constraints would affect renting or leasing of a home or farm land or cutting timber – no one heir has the right to rent or lease heir property to another or sell timber from land held as heir property. Such transactions do take place but are subject to legal challenge. Vulnerability to litigation, which leads to land loss and poverty for African Americans, is a denial of fundamental political, social, economic, and psychological freedoms. Heir property has no economic value in the land registry system; therefore, it is “dead capital,” which leads to land loss and poverty for African Americans as well. The law perpetuates/favors development but development is difficult to achieve when title is clouded.

Heir property is a form of “dead capital” because the title is non-merchantable; it cannot be used as collateral to secure a loan or an investment. Heir property is ineligible for federal funding such as U.S. Department of Agriculture (USDA) cost share and Federal Emergency Management Agency (FEMA) programs, conventional home loans and mortgages. Financial institutions deny loans to heir property owners because the title is non-merchantable because title is in the name of a deceased person whose immediate heirs may also be deceased. There is no easy way for a bank to know who are the legitimate heirs and the land registry system provides no guidance or assurance that all heirs are known and accounted for. Financial institutions require legal documentation to verify ownership and signatures of each heir, which heir property owners struggle to produce. Owning heir property is complicated because legal heirs jointly own heir

property as co-tenants, which can require over 100 signatures from heirs across the U.S. The economic constraints of heir property, i.e. dead capital due to a non-merchantable title, lead to persistent poverty.

The legal system has been used to exploit generations of minority populations (Gonzales 2003; McCulley 2005). The legal status of the title has been used to deny heir property owners the freedoms associated with property rights, i.e., the social, economic, political, and psychological freedoms. The Farm Service Agency (FSA) granted African Americans in Gee's Bend an opportunity to experience the freedoms of landownership; today, a portion of their descendants are heir property owners because it is a cultural practice in Gee's Bend. Reliable data on heir property is largely absent in the current literature on heir property. My study in Wilcox County is an addition to the systematic collection of data on heir property developed by Dyer et al. (2009). This study is the second research project designed to gain a better understanding of the impact that resettlement communities had on heir property. The first was the thesis by Bownes (2017) supported by the same USDA grant that supported this research.

The New Deal

Howard R. Tolley was a federal bureaucrat who wrote *The Farmer Citizen at War* in 1943; in the book he identifies two issues of democracy in the U.S. (Gilbert 2015: 1-2). The first issue was the over centralization of power; Tolley believed that the federal government needed to address national issues with solutions that met local needs. The second issue was the disconnection between the farmer and the specialist. Tolley viewed the agrarian New Deal as the key to a successful democracy because local citizens participated in federal government programs. The New Deal addressed poverty because it

was a national issue when Franklin D. Roosevelt (FDR) became the 32nd President of the U.S. in 1933; he was elected during the Great Depression, the worst economic crisis in U.S. history that lasted from 1929 to 1939. Much of the New Deal legislation implemented by FDR was based on agrarian principles; the agricultural policies promoted family farming, land-use reform, and widespread landownership.

FDR designed the New Deal with programs based on the three R's: relief, recovery, and reform in order to address poverty in the U.S. The relief portion of the New Deal provided capital in order to stabilize the economy. A relief program of the RA called the Federal Emergency Relief Act (FERA) allocated \$3 billion to states and local governments to provide cash payments to the public and built the first 28 resettlement communities in 1934. Recovery aimed to stimulate the economy with programs like the Civilian Conservation Corp (CCC) that provided jobs; the Agricultural Adjustment Act (AAA) paid farmers to reduce agricultural production as a means of raising prices. Reform programs were implemented to address the causes of the Great Depression, leading to reform in industry, agriculture, finance, water, power, labor and housing. In agriculture, crops were rotated after cultivation in order to improve nutrient cycling and prevent erosion.

President Roosevelt and his Administration believed that poor land caused poor people and that poor people caused poor land, therefore, the Resettlement Administration (RA) was founded in 1935 to focus on both issues. The RA initiated the first war on poverty with social reform by establishing Resettlement communities. In 1937 the RA was replaced by the Farm Service Administration (FSA). The FSA became one of the largest, most radical, and least racist agencies in the federal government from 1937 to

1942. It functioned effectively as a “poor man’s Department of Agriculture” because the education, research, and labor supported small farmers, tenants, sharecroppers, and farm laborers. The FSA focused a majority of their effort in the South and challenged racism. As a result, the FSA gained enemies in the government and public sector (Gilbert 2015:88-89). The African American resettlement communities transformed former slaves and sharecroppers into landowners. The agencies provided funding, supplies and farm education to African American land owners. Of relevance to the question of heir property, however, the agency failed to provide estate planning and education to African American landowners.

Resettlement Communities

African Americans in Gee’s Bend, Alabama became landowners via the resettlement program that was created by Franklin D. Roosevelt. Poverty in Gee’s Bend became severe during the Great Depression, prompting the Red Cross to send aid. W.J. Jones of Oak Hill, Red Cross campaign manager at the time, said, "You can't imagine the horror of it. Starvation was terrific" (Black Families of Alabama’s Black Belt 2006). These events led to the establishment of Gee’s Bend as a resettlement community. Resettlement communities provided an opportunity for landless sharecroppers and tenant farmers, the descendants of slaves, to own farmland and become independent farmers through the purchase of plantation lands where they worked (Zabawa et al. 2015). In 1937, the FSA assumed responsibility of resettlement communities.

The FSA established the resettlement community of Gee’s Bend Farms, Alabama in 1937 with 99 families and 10,188 acres (Salamon 1979); 4,253 acres were developed into 101 family farms (U.S. Congress House Select Committee 1943). A house and barn

were built on each farm (U.S. Congress House Select Committee 1943). A local resident told me that, “all of the Roosevelt homes came with a well. They are on the side of each of these homes.” By March 31, 1943 the FSA had sold 95 units with homes, outbuildings, and pastures on each farm at an average price of \$1,350. The farms were established on the “hillside” because the Alabama River floods the lowland, which was leased to farmers in the 1940s.

The goal was to create independent farming communities with strong infrastructure and social institutions (Zabawa et al. 2015). The goal was achieved by establishing a cooperative in Gee’s Bend that supported family farming. Farmers shared equipment, labor, seeds, and other goods or services in order to farm, which created strong social institutions in the community. The cooperative provided technical support and training to farmers; the members built a gin and grist mill (Zabawa et al. 2015). The community established a strong infrastructure that included schools, health facilities, and churches (Zabawa et al. 2015). The resettlement communities played a key role in the agrarian New Deal because land was redistributed to poor landless farmers. The FSA purchased approximately 1,865,000 acres of land and formed 200 communities across the United States (Salamon 1979). Of these, 141 were primarily agricultural aimed at elevating sharecroppers and tenants into landowner status by using low interest loans, government acquired land, and technical assistance (Holley 1971; Salamon 1979). In the South, 13 rural resettlement projects were established for 1,150 African American farm families on 92,000 acres. An additional 1,117 African American families were residents in 19 scattered community projects on 70,000 to 80,000 acres of land (Salamon 1979). The nine African American Resettlement Communities in the South are Aberdeen

Gardens (Virginia), Tillery Farms (North Carolina), Allendale Farms (South Carolina), Flint River Farms (Georgia), Prairie Farms and Gee's Bend Farms (both in Alabama), Mileston Farms (Mississippi), Mound Farms (Louisiana), and Sabine Farms (Texas) (Warren 2004).

The New Deal resettlement communities provided African Americans an opportunity to own land and gain economic independence (Zabawa et al. 2015). By 1945 African Americans gained clear title to land in resettlement communities. McGee and Boone (1976: 173) found that African American landowners in resettlement communities gained social and psychological benefits. McGee and Boone (1976: 173) asked them what difference has owning made in their lives. A typical response was "It has made me feel like a man. I feel like I'm somebody" (McGee and Boone 1976: 173). Another African American owner stated, "[landownership] has been the most important thing in our lives. It has given me a chance to be free" (McGee and Boone 1976: 174).

By 1969 the number of African American farm owners who participated in the resettlement program in five states (Alabama, Arkansas, Louisiana, Mississippi, and North Carolina) declined by 59 percent from 74,000 – 30,000; black owned farm acres decline by 55 percent from 4.6 million acres to 2.1 million acres land (Salamon 1979). Despite the decline in acres owned, the number of blacks who owned resettlement land increased by 3.1 percent (Salamon 1979). By 1973 the original white owners that were in control of resettlement land declined by 66 percent; original black owners declined by 49 percent. The number of acres controlled by the original white landowners declined by 70 percent and 60 percent for black owners land (Salamon 1979). The total acres owned by

African Americans declined by 55 percent; blacks only lost 27 percent of the resettlement land between 1945 and 1969.

Objectives

To reach my research goal I created four specific objectives:

Objective 1. Review the literature on heir property, with special reference to African Americans in the South.

Objective 2. Review the literature on African Americans resettlement communities created by the USDA in the 1930s, with special reference to Gees Bend, Alabama.

Objective 3. Document the extent of heir property in acres and the economic value in Gees Bend, Alabama and Wilcox County.

Objective 4. Determine if there are significant differences in acres owned and value of property between: (1) heir property and non-heir property and (2) local heir property owners and absentee owners based on the address the tax bill is mailed too, which is either in Wilcox County, in state (out-of-county), or out-of-state.

The purpose of this study is to examine the socio-economic impacts of heir property on asset building, cultural continuity, and community development in Gee's Bend, Alabama, a rural African American resettlement community in the Black Belt. To meet this goal, I interviewed 23 respondents: 10 were residents of Gee's Bend and 13 residents of Wilcox County, including people in the county courthouse the tax assessor's office, lawyers, judges, commissioners, community organizers, educators, and residents in the community, others, white and black alike.

I also identified the amount and value of heir property in Gee's Bend and Wilcox County. I collected data on the extent of heir property in acres, number of owners, and economic value. I calculated the market, land, and improvement value of heir property and non-heir property, i.e., clear title, in Gee's Bend. The analysis focused on the relationship between heir property and the African American owners and the extent to which heir property constrained opportunities – their freedom to make decisions because title to heir property is clouded.

Chapter II: Research Setting and Demographics

A benefit of conducting research in Wilcox County was the close proximity to Auburn University, which is approximately a two hour and thirty minute trip. The close proximity helped save time and money as well as spend more time in the research community. Frequent visits to Wilcox County allowed me to develop relationships in the community and gain an understanding of the socio-economic dynamics in Wilcox County and Gee's Bend. I selected Wilcox County as my research community for several reasons. The grant that funded my research in Wilcox County was used to conduct research in Prairie Farms in Macon County, which is a resettlement community located in the black belt of Alabama. Wilcox County is located in the black belt of Alabama as well. Gee's Bend is located in Wilcox County. See Table 1, demographic data for Wilcox County.

Heir property is a primary cause of persistent poverty in African American communities in the rural South. Wilcox County was a suitable research setting because of the persistent poverty that has contributed to the socio-economic status of the African American residents. The Black Belt is home to 46 percent of African Americans, 83 percent of the non-metropolitan African American population and 90 percent of poor rural African Americans in the United States (Harris and Hyden 2017). Wilcox County is over 70 percent African American (U.S. Bureau of the Census 2017); it is one of the poorest counties in Alabama and the nation based on median household income (Kirby 2014). See Table 1, the demographic data for Wilcox County.

Wilcox County

Wilcox County is located in West Alabama; it is one hour and forty minutes West of Montgomery. Montgomery is the state capital; it is growing rapidly with a current population of 226,349 residents. It is the largest metropolitan statistical area near Wilcox County; it is common for the residents of Wilcox County with transportation to secure jobs and establish social and economic ties in Montgomery. Wilcox County is about 573,000 acres in size. The Chilatchee Creek is a majority of the northern border of the county; the Alabama River flows for about 62 miles nearly splitting the county into two equal portions (Heritage Publishing Consultants 2002: 2). In the 1800s, before bridges were built, county residents on the west side of the Alabama River had to cross the river to conduct business at the county courthouse, therefore, they often traveled to Clarke or Marengo County to conduct business (Heritage Publishing Consultants 2002: 4).

The first view I received upon entering Wilcox County from State Highway 21 was green pastures and forests with a bright sunny sky for as far as I could see. It was beautiful. I have worked as an ecologist and biological scientist in rural areas for the federal government for the last 10 years; I was blessed to see breathe taking views of nature in the U.S. and abroad like the Northern/Aurora Lights in Washington or the sunset in Belize. People in the Western U.S. referred to these areas as “God’s Country;” take the Ferry to Camden or Gee’s Bend in order to float along the Alabama River and you will see God’s Country in Wilcox County. It is the most serene natural landscape I have seen in my life.

I felt lost because all I saw was land and the road in front of me after turning south onto State Road 21 from Highway 80. The ride felt like it took hours. I was in a

place I had never been but the sign that read “Wilcox County” at the border reminded me of my location. On the ride I remembered leaving the interstate, which felt like I was leaving the “beaten path” and I was. As I traveled on State Road 21, I passed more churches than cars and people. Church/religion is the most powerful social institution in the African American community in Wilcox County and Gee’s Bend, which is supported by literature on rural African American communities.

Wilcox County is 1 of 18 counties in the black belt of Alabama (Harris and Hayden 2017). The Black Belt attained its name from the fertile, black soil in West Alabama and Northeast Mississippi, which prompted Europeans like Joseph Gee that wanted to capitalize on the newly acquired land from the Creek Nation to establish plantations in the area with large populations of African Americans as slaves (Cleland 1920). As a result the geographical range of the term was expanded to identify the Southern states that used slavery to provide labor on cotton plantation: Texas, Arkansas, Louisiana, Mississippi, Alabama, Georgia, Florida, Tennessee, North and South Carolina, and Virginia (Harris and Hyden 2017).

Wilcox County has a rich history of farming and agriculture due to the local climate (Heritage Publishing Consultants 2002: 3). Many of the wealthy county residents owned cotton plantations; the leading industry in Wilcox County was operating a cotton plantation during the 1800s (Heritage Publishing Consultants 2002: 3). Cleland (1920) refers to the Antebellum South as the “Cotton Kingdom” because during this era cotton was king, which is a common phrase in the South today. Cotton farming thrived on a system founded in racism and slavery, which spread to other regions of the black belt and Antebellum South due to the geographic conditions that supported crops that the

plantation owners wanted to sell (Cleland 1920). The relics of this culture remain in the South (Cleland 1920). Today the black belt continues to experience the legacy of slave-plantation social, political and economic dynamics (Harris and Hayden 2017).

Race is an important socio-economic factor in Wilcox County, especially in regards to class, land ownership, and tenure. People of color in Wilcox County have a history of fighting to retain ownership of land and transfer land from one generation to the next that dates back to the 1500s. The Humati and Uxapati Indians were among the first inhabitants of Wilcox County; in 1540 Hernando De Soto documented these tribes and their villages in modern day Wilcox County during his expedition of the Southeast. Wilcox County is about 50 miles east of the Mississippi state line; the county was originally part of the “Mississippi Territory” once the land was seized by war with native tribes in the area (Heritage Publishing Consultants 2002: 2).

In 1560, the expedition of Don Tristan de Luna traveled inland to the Indian Village of Nanipanca (Nanipacana/Ypacana) from the Gulf of Mexico, modern day Pensacola, FL, and established the first European colony in the Southeast. The village was along the Alabama River and supported a large population with over 80 “splendid” buildings but was deserted because the tribe fled to the North after the De Soto expedition burned the village. Several scholars identify the mouth of Pine Barren Creek in Wilcox County as the sanctuary that the Nanipacana used to establish their new village.

In 1733, DeCrenay’s men placed “Les vieux Mobiliens” or the old Mobilians near the proposed site of the Nanipacana civilization in Wilcox County. In 1733, DeCrenay identified the village of another tribe called the Chacteata on a map of Wilcox County. In

1960 a site that belonged to the Chacteata tribe was found in Wilcox County about 5 miles south of the Nanipacana village. An excavation was conducted at the site between 1961 and 1964 and confirmed the existence of a village that was 30 acres in size; archeological artifacts and 38 burial mounds were discovered at this site as well. The “Mobilians” inhabited this village during De Soto’s expedition and the French exploration of the southeast (Heritage Publishing Consultants 2002: 2).

In 1814, at the conclusion of the War of 1812 Andrew Jackson made the Creek Confederacy sign the Treaty of Fort Jackson and concede or forfeit over 21 million acres of land in present day central Alabama and southern Georgia from both the Upper and Lower Creek Tribes. Wilcox County was established with 580,480 of the acres obtained during this war. Wilcox County is named after Lieutenant Joseph Morgan Wilcox, an officer in the United States military; he was killed in 1814.

After the European invaders confiscated the land from the Creek Nation in 1814, race continued to play a key role in the socio-economics of Wilcox County. A majority of the European immigrants arrived in Wilcox County in 1815 and 1816 to acquire land from the US Government (Heritage Publishing Consultants 2002: 2). By 1816 the settlers, like George Morgan and Joseph Gee, instituted the racist economic system of slavery on plantations; they established ports along the Alabama River to sell crops like corn and cotton. Racism was a cultural norm and slavery was commonly practiced in Wilcox County. Social life in Wilcox County mirrored (was a mosaic of) cultural practices of the Antebellum South, i.e., plantation culture in other counties in the South (Heritage Publishing Consultants 2002: 2-3).

Education

Poor education and unskilled labor are major issues in Wilcox County (Kirby 2014). Employers have hired personnel that have graduated from high school but read at the seventh-grade level and were unable to use “basic tools like a ruler” (Kirby 2014). A high school diploma is required for many jobs in Wilcox County. Those who secure jobs are not likely to pursue post-secondary education; post-secondary education provides college graduates with opportunity to earn higher wages (Bukanya 2005:7). In the U.S. African Americans have the 2nd lowest high school graduation rate at 75 percent; Whites have the 2nd highest rate at 88 percent. In the Black Belt the levels of educational achievement are lower than the state and nation. People without a high school diploma or higher represent 13.3 percent in the U.S., 15.7 percent in Alabama, and 22.6 percent in Wilcox County (U.S. Bureau of the Census 2017). The people in the U.S, Alabama, and Wilcox County with a Bachelor’s degree or higher are 30 percent, 24 percent, and 13 percent respectively (U.S. Bureau of the Census 2017).

Only 54 percent of the graduates from Wilcox Central High School, the only public high school in Wilcox County, enroll at state institutions of higher learning. Students from Wilcox County are 75 percent more likely to be required to enroll in remedial math or English than the standard student in a state college or university (Kirby 2014). K-12 schools in Wilcox County remain segregated in 2017, which is a cultural norm established and perpetuated by local elites that control the local politics and economics. Wilcox Academy is a “segregation academy” that was established in Camden in 1970. Segregation academies are private schools that were founded by white parents that wanted to prevent their children from attending integrated schools after the Supreme

Court desegregated public schools in the Brown v. Board of Education case in 1954.

During the 2011-2012 school year 276 of the 278 K-12 students at Wilcox Academy were white. An African American resident told me “poor white kids attend the public schools with us, the rest attend private schools in Wilcox County.”

Poverty

Wilcox County was established in 1819; by 1820 white men in Wilcox County became overseers of the poor and county roads. An overseer was required to be a white male 21 years of age or older and to maintain a 12 mile section of the public road. The overseers of the poor were responsible for dispensing aid to citizens, defined as white people/residents, of the county. A fraction of the county tax receipts was placed in a fund to care for the poor white residents. The probate judge regulated the fund and gave money to the overseers to distribute (Heritage Publishing Consultants 2002: 3).

After the Civil War Alabamians, like many southerners, faced economic hardships, in part due to abolishment of slavery, which interrupted the economic system on cotton plantations. Wilcox County relied on cotton farmed by slaves, who then became sharecroppers, like the other counties in the Black Belt. American agriculture thrived due to high prices during World World I; after the war the price of agricultural commodities gradually declined. In 1921 the price of cotton reached 32 cents per pound; by 1932 the price declined to 5 cents per pound, which was the lowest price in Alabama since the 1880s. Farmers and other industries reduced production, the market became saturated, unemployment increased as people lost jobs; unemployment reached a peak at 25 percent in 1933 and remained consistent during the 1930s.

Today there are 8,851 residents (80 percent of the population) in Wilcox County 16 years of age or older, i.e., legal working age in the U.S. The labor force is comprised of 40 percent of the population; 32 percent are employed and 9 percent of the workforce is unemployed. The unemployment rate in the U.S. is 4 percent; the unemployment rate in Wilcox County is 21 percent, i.e. four times the national rate. There is a lack of skilled and unskilled labor in Wilcox County, which is a reason college graduates will not return after receiving degrees. In 2012 Wilcox County had an underemployment rate of 28 percent (U.S. Census Bureau 2017).

African American residents of the county told me that the students that attend college acquire jobs away from home after attaining college degrees. A resident told Kirby (2014) that, “providing employment for college graduates is difficult because companies shy away from an area with so few college grads. The residents who remain need more government assistance.” The lack of job opportunity has contributed to the population decline. A middle-class, white resident told me that the “lack of technology, like access to broadband Internet, is holding Wilcox County back;” many residents cannot access phones or the Internet, therefore, fail to receive info about job opportunities and submit an application (Kirby 2014).

It is common for Wilcox County residents to lack access to phones and the Internet. The government offices downtown struggled with the internet connectivity issues as well; when an outage occurred they operated without the internet for days, sometimes weeks. It rained a lot while I was conducting field work; on days that it rained residents reassured me that the county would experience phone and Internet outages.

Cellular Service was poor in Camden, the county seat; it deteriorated quickly as I reached the edge of the town, which took a few minutes in any direction. Cellular service in Gee's Bend was poor and completely unavailable in certain places with my carrier. In my experience rain exacerbated the connectivity issues I was having with the Internet in town, which was unreliable without the rain.

Wilcox County is highly dependent on government funding (Kirby 2014). Approximately 44 percent of personal incomes in Wilcox County originate from "transfer payments," which include Social Security, Medicare, Medicaid, food stamps (Kirby 2014). It is common for residents of Alabama's Black Belt region to rely on these forms of income in addition to welfare and disability checks (Bukonya 2005). Wilcox County has become more dependent on government assistance in the past 20 years; in 1999 only 30 percent of residents in the Black Belt relied on "transfer payments" (Bukonya 2005). A store manager said businesses [here] are dependent on [public] assistance; I would have to layoff half of my workforce [without it]" (Kirby 2014).

In 2010 Wilcox County had a median household income of \$22,200 (U.S. Bureau of the Census 2017). By 2012 Wilcox County had the lowest median household income in the U.S. at \$24,212; the current median household income is \$23,750 (U.S. Bureau of the Census 2017). The median household income for Wilcox County is approximately 50 percent of the median household income of the Black Belt, the state of Alabama, and the nation (table 1). The median household income in the census tract near Gee's Bend is \$14,516, which is 67 percent below the average in Alabama (Kirby 2014).

After spending 4 months in my research community a white woman from Wilcox County who was familiar with my research and the power dynamics in the community

asked me “Did you see a lot of African American males employed in Wilcox County?” I pondered her question for 5-10 seconds in order to verify my first thought, which was “no,” and replied “not many,” because I only saw a few. I was surprised that she asked the question because I noticed the phenomena while conducting research in the county but no one ever mentioned it. After reflecting on the question for 24 hours I identified less than 10 African American males that were employed, five of them worked at one of three Black owned businesses I identified in Camden, which is the county seat. After I answered the white woman said, “That is because white people would rather employ women, their cousin or another white person instead of hiring a black man. The few African American males with degrees that have jobs in the county work in government; those are the only jobs they can get. White people own all of the business; they control the money.” Her comments echoed my experience in Camden as well as Wilcox County. African American males have low socio-economic status, power, or influence in Wilcox County and this is by design. An African American male that is a 2-time war veteran told me that the Post-Traumatic Stress Syndrome he experienced from racism in Wilcox County was worse than the PTSD he experienced from war.

Hospital

In August 2017, while I was working in the community, the John Paul Jones Hospital announced that it would close in September due to a declining population, poverty, and debt (Vansice 2017). The hospital received approximately 22 percent of the charges it billed to patients; \$1.3 Million (34 percent) of the charges were billed to Medicaid and Medicare (Vansice 2017). The hospital was billed for 10 percent of the Medicare and

Medicaid bills (Vansice 2017); the board chairman of the hospital said that the hospital loses \$1 million every year (Associated Press 2017).

Transportation & Access

Wilcox County is extremely remote. There are 11 interstate highways in Alabama but none serve Wilcox County (Heritage Publishing Consultants 2002: 2), which further exacerbates unemployment and poverty. Residents with cars from Wilcox County travel to neighboring counties, like Montgomery County, to secure jobs in cities like Montgomery. The trip is approximately 2 hours and 40 minutes from Camden. It is a 4 hour round trip from Gee's Bend to Montgomery; it takes 45 minutes to travel from Gee's Bend to Camden by vehicle. Residents that do not have transportation, own a vehicle, face extreme challenges to travel for goods and services in and outside of Wilcox County.

The Gee's Bend Ferry provides reliable transportation for residents and tourists traveling between Camden and Gee's Bend; the trip takes 15 to 20 minutes one way. The Ferry is \$3 for a person driving an automobile; it is \$1 without a vehicle. Residents of Gee's Bend that work in Camden rely on the Ferry to save time and money. They carpool to the ferry and ride together. See figure 1, photo of the Ferry schedule and fees. See figure 2, photo of the makeshift ferry at the terminal in Gee's Bend in the 1960s.

Traditionally residents in rural areas, like Camden and Gee's Bend, lack public transportation; there are poor residents of Gee's Bend that do not own cars. Public transportation in rural areas provides the residents with mobility and access to employment, goods (nutritional food), and services like health care facilities. Half of one

percent of non-metropolitan residents used public transportation to travel to work (U.S. Bureau of Census 2017).

The Freedom Quilting Bee

Gee's Bend is one of the most prominent towns in Wilcox County because of the quilts made by African American women at The Freedom Quilting Bee, a quilting cooperative that was modeled after the farming cooperative the founders' parents developed during the resettlement program. Quilting has been a cultural practice for multiple generations of women in the community. The Freedom Quilting Bee was born during the Civil Rights Movement in Rehoboth, Alabama on March 26, 1966 as a way for poor African American female artists from the Black Belt to earn money for their families by selling quilts. The quilts gained popularity in New York after being sold in auctions; the quilts were purchased and promoted by a prominent decorator, Sister Parrish, and featured in the fashion magazine Vogue and the Bloomingdale's department store for their unique quilting style and patterns. The quilts sparked a renaissance of quilting décor. The New York Times publicized an auction and wrote a review about the quilts calling them "some of the most miraculous works of modern art America has produced." See figure 3, photo of The Freedom Quilting Bee.

The Freedom Quilting Bee gained national attention for Wilcox County in the 1960s during the civil rights movement. The Freedom Quilting Bee used their income from selling quilts to fight against poverty and racism, which continue to plague Wilcox County today, by supporting the Civil Rights Movement in Camden, Selma, and Montgomery on issues like voting rights. Selma is 25 miles Northwest of Gee's Bend in Dallas County, which borders Wilcox County. During the Civil Rights Movement black

farmers in Wilcox County hosted Dr. Martin Luther King, Jr. Black farmers and a famous quilter from Gee's Bend told me stories of Dr. King coming to Camden the night before the Freedom March from Selma to Montgomery in 1965. The quilters challenged that status quo, which upset racist, white residents that controlled the local social, economic, and political system. See figure 4, photo of the ferry that was built in 2006 at the terminal in Camden.

African Americans from Gee's Bend began using the ferry to travel to Camden to register to vote during the Civil Rights Movement (Rural Southwest Alabama 2018). The ferry provides the residents of Gee's Bend with access to jobs, stores, medical care, and county offices like the tax assessor where property taxes are paid (Johnson 2006). In 1966, the local authorities, i.e., the "white courthouse gang," terminated the ferry service, a racist tactic that made a 15-minute ferry ride a commute of over 80 miles round trip for 40 years; the ferry returned in 2006 (Johnson 2006). See figure 5, photo of Governor Bob Riley at the reopening of the ferry in 2006.

Politics

Wilcox County residents have been active in local and national politics since it was founded. Joseph M. Wilcox graduated from West Point Military Academy; his first war was in Wilcox County. In 2017, Kay Ellen Ivey became the first female Republican Governor of Alabama; she is from Camden. In 2017, Jeff Beauregard Sessions III, a Republican from Wilcox County, became the United States Attorney General. Briana Westry-Robinson became the youngest African American woman elected judge in Alabama; her 6 year term in Wilcox County ends in 2023. Prince Arnold, the current Sheriff, became the first African American elected in 1978. Black farmers and residents

in Wilcox County, like Jesse Brooks, were civil rights activists that fought for local and national issues like voting rights (Gitin 2015). He became the first African American elected as Tax Assessor in 1978 (Gitin 2015); his successors have been African American. At the inaugural ball Mr. Brooks said:

I stand here before you as your tax collector but I also stand here tonight for someone else. I stand here as the grandson of a little Black slave boy who was brought down river from Charleston, South Carolina to Lower Peachtree, Alabama and sold for a thousand dollars. Thanks be to God there's not going to be any more bidding off of human beings (Gitin 2015).

Religion

The drive to Wilcox County becomes a scenic view of land from S.R. 21 with churches and rural communities scattered along the road. Church was a daily topic in conversations with African American residents of Wilcox County. I was invited to church regularly and attended bible study during my first week. The residents I met were heavily involved in the church and community; the church continues to be one of the strongest institutions in Gee's Bend. Religion is important to residents of Gee's Bend; during conversations, it was common for resident to use biblical verses to describe the morality or immorality in a person's actions.

In January 2014 Governor Robert Bentley called Wilcox County the "poorest county in the United States" during his State of the State Address (Kirby 2014). In 2015 data, Wilcox County was shown to have 33.2 percent of its residents living in poverty compared to 17.1 percent for Alabama and 12.7 percent for the U.S. (U.S. Bureau of the Census 2017). There are 2,430 families in Wilcox County (U.S. Bureau of the Census

2017); 33.2 percent of these families are living below the poverty line. The white population is 2,966 (27 percent) and 7 percent are living below the poverty level.

Genesis of Gee's Bend

Reverend Renwick Kennedy wrote stories about Gees Bend for the *Christian Century* in the 1930s. In 1937 he wrote: "Gee's Bend represents not merely a geographic configuration drawn by the yellow pencil of the river. Gee's Bend represents another civilization. Gee's Bend is an Alabama Africa. There is no more concentrated and racially exclusive Negro population in any rural community in the South than in Gee's Bend" (Black Families of Alabama's Black Belt 2006).

Gee's Bend is located on the edge of the Black Belt in Wilcox County. It is nestled by a deep bend in the Alabama River and enclosed by water on 3 sides, which is one of the reasons Gee's Bend is extremely secluded and was inaccessible by roads until the 1900s. The original road, lead to Alberta then Camden like State Road 29 today, was 40 miles of primitive travel; driving on the road on the days it was dry created clouds of dust. During the rainy season the road would be covered in mud. Camden is the county seat of Wilcox County, therefore, is the location of county government such as the courthouse, sheriff's department headquarters, and hall of records. Camden is 7 miles South of Gee's Bend when travelers use the Alabama River, which was the only way to access Gee's Bend from the South, East or West in the 1800s. In the 1800s the only mode of transportation across the river was a makeshift ferry that operated when the weather permitted. Today State Road 29 remains the only road that provides access to Gee's Bend (Heritage Publishing Consultants 2002: 4).

Gee's Bend originated from a cotton plantation in 1816 when Joseph Gee, the first white resident recorded in the area, named it Gee's Bend after himself. Joseph Gee was a white plantation owner from Halifax, North Carolina. He moved to Gee's Bend to establish a 10,000 acres plantation with 18 slaves, who were forced to walk from North Carolina to Alabama (Black Families of Alabama's Black Belt 2006). Cotton plantations are the legacy of the Black Belt. The "local legend" is that Joseph Gee operated a slave trading business with Neville Gee, his brother, between Gee's Bend and Halifax, North Carolina. Halifax is 10 miles from the resettlement community of Tillery Farms. The residents of Gee's Bend are the descendants of former sharecroppers and slaves that farmed cotton on Joseph Gee's plantation. Joseph Gee never married on record. He is believed to have married a woman from a Native Tribe; his family did not accept her. Marrying a person of color was forbidden; therefore, Joseph Gee could have been disowned and excluded from his father's will for the marriage.

Joseph Gee became ill of pneumonia and died in November 24, 1824. Charles and Sterling Gee, Joseph Gee's nephews, traveled to Alabama in order to inherit the Estate, which including 47 slaves. Charles became the manager of the plantation in Gee's Bend and Sterling became the slaver master in North Carolina; they continued to operate a slave trade between the two states. In 1845 Mark Pettway, who was the nephew of the Gee brothers, accepted the Gee's Bend Plantation from Charles and Sterling to pay off a \$29,000 debt. In 1846 Mark Pettway moved to Gee's Bend with his family and 100 or more slaves that were forced to walk. The Plantation retained the Gee name while the slaves were given the surname "Pettway," a name that is common in Gee's Bend and Wilcox County today. Anyone with the Pettway surname from Gee's Bend is believed to

be a descendent or married to a descendent of former slaves, who became sharecroppers after Emancipation.

John Pettway inherited the plantation once his father died in 1865. In 1895, as controller of the Pettway estate, he sold the plantation to the Dew family from Greene County, Alabama (Beardsley 2002). In 1900 Adrian Sebastian “Bass” Van de Graaf, Sr. purchased it. He practiced law in Tuscaloosa after graduating from Yale 1884 until he retired in 1917. He served as Circuit Court Judge in Tuscaloosa from 1915-1917. He served as a representative to the state legislature for Tuscaloosa County in 1919. In 1900 Van de Graaf, Sr. added 3,000 acres to the plantation; the family operated the “farm” as absentee landlords until Van De Graff died in 1936. His son Hargrove managed the estate until selling the land to the Farm Security Administration in 1937 (Black Families of Alabama’s Black Belt 2006).

The Great Depression led to extreme poverty on the plantation, which caused the Van de Graaf family to sell it to the government. The price of cotton fell to 5 cents a pound, therefore, sharecroppers could not cover the debts they owed to the merchant in Camden that financed their farm supplies with credit that accumulated over 3 years. The sharecroppers secured credit by using chattel liens on their possessions, which the widow of the merchant would collect when she foreclosed on their debts in the fall of 1932. She sent a group on the ferry with horses and pistols to take everything valuable and liquid from 68 families and more than 300 people.

The families were left with nothing; the families lived on the land rent-free; the families lacked the financial capital to farm (U.S. Congress House Select Committee 1943). The families were living on blackberries, rabbits, and fish from the Alabama River

when the FSA initiated the community (U.S. Congress House Select Committee 1943). The residents would have starved to death if the Red Cross had not supplied them with flour, meat, meals, and shoes during the winter of 1932-1933. The National Guard sent food as well. The homes were described as mud huts surrounded by extremely insanitary conditions (U.S. Congress House Select Committee 1943). The Red Cross campaign manager at the time, W.J. Jones of Oak Hill, AL, said: “You can’t imagine the horror of it. Starvation was terrific.” These events lead to the establishment of Gee’s Bend as a resettlement community. (Black Families of Alabama’s Black Belt 2006)

I selected Gee’s Bend as a research community because it is located in the Black Belt, predominately African American, has experienced persistent poverty, but at a point roughly 80 years ago all African American families owned the land they farmed. Their title was clear and merchantable. Examining heir property in Gee’s Bend will help to determine the immediate and long-term impacts of the New Deal policy and resettlement communities; the study allows for a focused analysis of how heir property develops.

Chapter III: Literature Review

In this section, the review of literature is organized around four themes: (1) the role of land as a key element to asset building and economic development for both African American landowners, families, and communities and (2) as a source of vulnerability to land loss; (3) the complex constraint of wealth that heir property ownership causes for families and communities; and (3) the impact of legislation on African American land loss.

Importance of Land Ownership to African Americans

Agricultural land used for its full productive potential retains a greater value for economic development, wealth creation, and can create an African American capitalist class, political power, independence, identity, and promote community development (Zabawa 1991). Landownership contributes to a sense of self-worth and security.

Traditionally black landowners have supported rural economies (Barlett 1993; Brown et al. 1994; Gilbert et al. 2002). During the civil rights movement, black landowners provided civic and political representation for African Americans (Gilbert et al. 2002). Land ownership is a key component of African Americans developing political power and improving the quality of life in rural communities (Beauford et al. 1984; Nelson 1979; Pennick 1990; and Smith 1991).

The Constraints of Heir Property. The economic constraints of heir property ownership have been documented since the 1970s. There are several issues linked to heir

property that are key inhibitors to wealth creation in African American communities (Figures 1971). Graber (1978a, 1978b), Tinubu (1977), Tinubu and Hite (1978), and Dyer and Bailey (2008) found that heir property is ineligible for federal funding (such as USDA programs), conventional home loans and mortgages; it cannot be used as collateral for a loan since the property has a clouded title. As a result, heir property constrains economic development; the Housing Assistance Council (1984) found similar issues with heir property. Zabawa (1991) found that farmers operating on heir property tended not to invest in improvements that would increase the productivity or value of the land since such improvements may encourage other co-owners to capture part of the increased value by selling their share of the land. There is no information available that adequately shows how much potentially productive black-owned land lies idle because it is heir property (Brooks 1983).

Land Loss and other Vulnerabilities

Heir property is a major source of land loss and wealth constraint for African American landowners, farmers, ranchers, and forestland owners in the South (Zabawa et al. 2015). The peak of African American land ownership occurred in 1910; African Americans acquired over 15 million acres of land (Dyer et al. 2009). By 2001 African Americans owned less than 2 million acres (Gilbert et al. 2002; Dyer et al. 2009; Bownes 2017), a decline of over 75 percent. Figures (1971) determined that heir property made property vulnerable to land loss by tax sales, partition sales, and mortgage foreclosures. Heir property includes the land and improvements on the land such as homes, buildings, minerals, and other investments; each has an economic value that cannot be used as equity (Bailey et al. 2016). De Soto (2000: 5-6) refers to heir property as “dead capital”

because it is economically constrained; heir property is an asset owned by the poor that cannot be used as collateral to secure a loan or as an investment.

Land speculators have used racial discrimination to acquire heir property owned by African Americans as well (Figures 1971). Racism, both past and present, is a major factor of land loss in the African American community (Gilbert et al. 2002). Creditors discriminated against African Americans by using unscrupulous credit agreements to gain title to property that African Americans owned once they defaulted on the debt (Figures 1971). People have used violence, exploited the legal system, used illegal practices, and deception to cheat African Americans out of land (Gilbert et al. 2002; Dyer and Bailey 2008).

In the rural South, white owned banks and agribusiness firms used racial discrimination to deny African Americans financial loans, limiting their ability to improve their property (Dyer and Bailey 2008). African Americans struggled to combat injustices in the South. It was challenging to find legal representation as well as understand and interpret the law, therefore, African Americans became victims to lawyers and other speculators that manipulated them (Figures 1971; Emergency Land Fund 1980; Gilbert et al. 2002). African Americans lacked local and federal financial support, as the USDA would lose the Pigford v. Glickman lawsuit in 1997 that identified their use of systematic discrimination in the denial of loans, inadequately funded loans, and untimely loans in order to limit or prevent farmers from harvesting crops (Gilbert et al. 2002; Dyer and Bailey 2008). A late loan caused later harvesting of crops, missing spring rain in the hottest days of summer, sometimes resulting in crop losses in turn leading to loss of the land.

Limited access to legal counsel. The legal implications, vulnerability, and the significant land loss associated with heir property have been documented in literature since the 1970s. Figures (1971) stated that African Americans were struggling with land retention due to land speculators, absentee landowners, inability to secure loans, lack of economic capital and financial institutions to pay for land costs, the probate process, and securing legal counsel for land disputes. African Americans have had limited access to lawyers, which has left them defenseless in land disputes, common legal mechanisms that land speculators have used to acquire land owned by African Americans (Figures 1971; Zabawa 1991; Gilbert et al. 2002).

A common challenge of heir property is identifying and locating the legal heirs, which is one of the vulnerabilities of heir property that has led to land loss by partition sales (Casagrande 1985). The legal mechanisms that have been used by non-family members to acquire heir property include: tax sales, partition sales, land sales to non-African Americans land speculators, forceful land takings, discrimination by government and private organizations, and failure of government and land grant institutions to meet the needs of limited resources land owners (Figures 1971; Zabawa 1991; Dyer and Bailey 2008). For example, Figures (1971) found that large timber corporations were concentrating wealth by buying land at below market value from African Americans.

Partition sales. Partition sales are a legal mechanism that land speculators have used to force the sale of land in order to divide the proceeds among the heirs (Figures 1971; Casagrande 1985). Heir property has consistently resulted in the court ordering the sale of the entire estate on the steps of the courthouse due to the property being indivisible in kind amongst the heirs (Dyer and Bailey 2008; Casagrande 1986). Partition

sales significantly contribute to land loss by African Americans in Alabama (Casagrande 1985). The rate of loss of black-operated farms in the U.S. between 1969 and 1978 was 2.5 times that of white-operated farms (Casagrande 1985). This significant loss of black owned land, which was termed "the 'largest single equity resource in minority hands' in the South," was said to be the result of partitioning sales (Casagrande 1985).

Partition sales serve as a source of constraint to economic stability in a community (Dyer and Bailey 2008), the wealth leaves the community as the land is sold to “outsiders,” i.e., people that may not be from the local community and are not related to the heirs themselves. Heir property from partition sales is usually sold at prices substantially below market value (Casagrande 1985; Dyer and Bailey 2008). The “heirs” are often poor and cannot bid successfully at auction where the property is sold to the highest bidder; land often is sold at a small fraction of the true market value. After paying fees for surveyors and lawyers as well as court costs, heirs often receive small sums while losing the present and potential economic value associated with the land (Dyer et al. 2009; Casagrande 1985). The lawyer fees include the costs of the lawyer representing the person that forced the partition sale (Dyer and Bailey 2008).

Another way partitions sales occur is by a co-tenant, or heir, petitioning the court to sell the land, sometimes at the behest of a land speculator (Casagrande 1985). It is common for a person that is not related to the heirs to purchase a share of heir property to force the sale of a land (Casagrande 1985). In other cases, individual heirs with little or no connection to the land believe they will receive a significant amount of money for their share of the land once it is sold and will force a sale, not understanding that a few acres of rural land in the South may not be worth much in financial terms. Owners of heir

property rarely make improvements to their land or homes (Dyer and Bailey 2008). Farmers feared investing in improvements to the land, like increasing the productivity of the farm, and home; this would increase the property value, then an heir would be encouraged to force a partition sale (Dyer and Bailey 2008). The farmers are scared that the proceeds of their investments to the land or sale of a new or improved home would be shared among all the heirs if the land was auctioned (Zabawa 1991). Dyer and Bailey (2008) found 12 cases of partition sales in 10 years in Macon County. This may suggest that partition sales are declining, but more research is necessary to confirm this finding.

Tax sales. Heir property can be lost for failure to pay taxes (Figures 1971; Casagrande 1985; Gilbert et al. 2002); Ball (1980) found that it was difficult for heir property owners to avoid forced tax sales. It is common for tax sales to force the land to be sold for the whole or a portion of the amount of taxes owed (Gilbert et al. 2002). Lewis (1979) suggests that low quality farmland, inefficient use of land, and land management expenses contribute to the inability to pay property taxes. Heirs are often dispersed and hard to notify, therefore, heirs are frequently unable to act together to save the property before a forced tax sale occurs (Gilbert et al. 2002). Dyer, Bailey, and Tran (2009) found that 30 percent of the people paying property taxes on heir property in Macon County, Alabama lived outside the state. Absentee owners live in a different place from their land, which may increase the possibility that property taxes would not be paid; failure to pay taxes creates the ability for the land to be legally sold at a public auction (Emergency Land Fund 1980; Bailey et al. 2016).

Failure to write a legal will. Failure to write a legal will can lead to heir property, a cultural practice of African American landowners in the rural South (Dyer and

Bailey 2008); it is a cultural practice for residents of Gee's Bend and Wilcox County as well. The Emergency Land Fund (1980) found that approximately 80 percent of rural African American landowners did not have wills. In 1971 Michael A. Figures, an African American working for an African American organization wrote one of the first articles about heir property. Figures (1971) claimed that most black owned land is heir property held in co-tenancy, multiple heirs that are co-owners. Figures (1971) referred to heir property as property that is jointly owned by the legal heirs as co-tenants. Heirs or co-tenants may own unequal shares of the heir property, which is one of the complex issues of owning heir property.

When a person dies without writing a legal will or method to transfer ownership, the title to the land becomes "clouded" if the legal heirs do not register the title in their names with the state; this form of co-tenancy or community property is called "heir property" (ELF 1980). Figures (1971) noted that the population of the Black Belt was predominately black but the white minority owned most of the land; land loss contributed to the concentration of land and wealth. Figures (1971) identified several factors that contributed to the immense "land loss problem" occurring among African American landowners; failure to write legal wills was a leading cause. As African Americans failed to write wills, the property would be inherited or distributed to the legal heir by intestate succession laws (Figures 1971).

The Emergency Land Fund (1980) determined that approximately 80 percent of rural African American landowners did not have wills. After studying farmers in a three-county area of North Carolina, Schulman et al. (1985) found that 88 percent of Black farmers did not have a will. In a study of five Black Belt counties in Alabama involving

120 African American farmers, 56 percent (67 farmers) did not have a will; 58 percent had what was termed “passive” reasons for not having a will such as “I haven’t gotten around to it” (Zabawa and Baharanyi 1992; Zabawa et al. 1994). 28 percent of the farmers without a will gave what was termed “active” reasons for not having a will, for example letting the heirs settle the issue (Zabawa and Baharanyi 1992; Zabawa et al. 1994). The remaining 14 percent lacked information about writing a will or the property/land (Zabawa and Baharanyi 1992; Zabawa et al. 1994).

Owning farmland in the form of heir property is a tradition for African Americans (Schulman et al. 1985:41). Dyer and Bailey (2008) explain that heir property is a cultural practice that some of the poorest segments of society in the South use in order to maintain family relationships. African Americans neglected to write wills as a result of distrusting the legal system, superstition, lack of legal knowledge and education, and to prevent family conflict (Dyer and Bailey 2008; Zabawa 1991). Heir property allowed land speculators to use several tactics to acquire the land: tax sales, partition sales, and purchasing a family member’s share; the scarcity of black lawyers made African Americans defenseless. Creditors discriminated against blacks by using unscrupulous credit agreements to seize the title to property that blacks owned once they defaulted on the debt.

Constraints

De Soto (2000) argued that “dead capital” is an asset(s) that cannot effectively be leveraged into additional investments by their owners; dead capital constrains economic development. De Soto (2000) and Deaton (2007) referred to heir property as dead capital due to the land, which is a form of capital, being ineligible to be used as collateral; it is

ineligible for traditional home and government loans. Land is dead capital when it cannot be used as an investment to generate more income (Deaton 2007). Bailey et al. (2016) collected market value data on heir property in 6 counties in the South in order to determine the economic value of heir property. Bailey et al. (2016) estimated that in the state of Alabama heir property is valued at \$5-10 billion; the study estimated that the market value of heir property in the Southern U.S. could exceed \$100 billion. The \$100 billion is a substantial amount of dead capital, which contributes to the persistent poverty in African American communities in the south; it cannot be utilized to support investments like college tuition, starting a business, or other wealth generating activities.

Heir Property as a Constraint to Wealth Creation

The literature provides a clear demonstration that heir property represents serious constraints to economic development and land retention for co-tenants (Dyer et al. 2009). The cultural value of heir property causes co-tenants to retain clouded title with limited economic value like the inability to be used as collateral. But economic value is not the primary land use for many African American landowners (Dyer and Bailey 2008). Pearce (1973) suggests that the original landowners used co-tenancy, as a method to leave each of their family members a share of land. That author states that heir property is a result of a poor understanding of estate planning.

Dyer (2007) points out that heir property can serve as a refuge, a place to call home and live among members of an extended family. This quality may represent a small measure of control over their lives and a form of security. Families often live in compounds, sharing space and communal resources (Rivers 2006, 2007). In other cases, supportive family communities maintain a “homeplace” and reach consensus for the

benefit of all. While some cases of conflict result in land loss, many others result in agreements that can last years, or even generations. Maintaining these agreements becomes a challenge given the likelihood that as the number of interests increases, so too will the number of opinions concerning what should be done with the property and the complexity involved in settling legal disputes (Craig-Taylor 2000; Deaton et al. 2009). Researchers have shown that family infighting is a significant barrier to settling heir property issues (Deaton et al. 2009; Tinubu and Hite 1978; Rivers 2006; Dyer and Bailey 2008).

Heir property is common among many African Americans but there is limited information available that adequately shows how much black-owned land or other real property that is heir property (Brooks 1983). In 1980 The Emergency Land Fund submitted a 591-page report to the USDA, which provided an in-depth analysis of the severity of land loss that was occurring among African American landowners. The study was conducted in order to address the U.S. Senate's subcommittee concerns about housing, including the Farmers Home Administration (FmHA) role in discriminating against heir property owners by denying them loans (Brooks 1983). One of the three major findings in the Emergency Land Fund (1980) study was the scale of heir property owned by African Americans (Brooks 1983).

The Emergency Land Fund (1980) estimated that African Americans owned a total of 9,257,311 acres divided into 376,427 parcels of land; the average parcel size was 26 acres (Brooks 1983). The Emergency Land Fund (1980) estimated that 3,795,524 acres (or 41percent) of the land African Americans own in the Southeast was heir property, which was 101,635 (27 percent) of the total parcels African Americans owned

(Brooks 1983; Emergency Land Fund 1980). The average size of a parcel of heir property was 39 acres; non-heir property parcels averaged 19 acres (Brooks 1983; Emergency Land Fund 1980). Another major finding from the Emergency Land Fund (1980) study provided characteristics of heir property owned by African Americans in the southeast. The majority of rural land parcels were purchased; the majority of rural landowners inherited land via interest, therefore, were co-tenants and owned heir property. The average number of co-tenants was eight people; five out of eight of the co-tenants were absentee landowners. Heir property landowners struggled to secure loan financing; 85 percent never applied for any loans from non-FmHA sources (Brooks 1983; Emergency Land Fund 1980).

Ethnic groups impacted by heir property ownership. There are several ethnic groups that have owned community property in the territory now known as the United States of America. As mentioned earlier Native Americans owned community property prior to European settlement; around the early 1600s Indigenous Tribes owned the land in the U.S. in the form of communal property. By 1823 the Supreme Court ruled determined tribes could not sell land in the U.S. since the federal government controlled all the land with an exclusive title in the Johnson v. M'Intosh case. The tribes maintained a right to use and occupy the land (McCulley 2005).

In the 1830s relocated tribes from their native lands to Indian Territories like Oklahoma and reservations. The Indian General Allotment Act or Dawes Act passed in 1887 in order to strip tribes of the ownership and control of tribal land from the tribes; it privatized tribal lands by dividing it into private property and conveying the land to individuals. The goal of the federal government was to assimilate native tribes by forcing

them to adopt foreign cultural norms like private property, European civilization, and American citizenship (McCulley 2005).

Similar to Native Tribes, Hispanic people owned land in the Western territories (California, New Mexico, Colorado, Arizona, Utah, and Nevada) prior to the settlement of the U.S. Hispanic people had important social and cultural norms tied to their land. 90 percent of their land was owned and used as community property. After a war from 1845-1848, Mexico surrendered Texas to the U.S.; the land transfer transitioned approximately 70,000 residents into the U.S. common law and custom of property law. The Treaty of Guadalupe Hidalgo protected Mexican land grants, which was the form of community ownership for the native Hispanic residents. President James Polk wanted to ensure that the land grants could be exploited. (Gonzales 2003)

Surveyors reviewed land ownership documents in order to determine if the Mexican landowners or the U.S. Mexican land grant owners were marginalized as surveyors did not speak Spanish nor did they understand Mexican civil law or precedents. The U.S. legal system further exacerbated the structural inequality by failing to notify the Hispanic landowners, which violated the rights of the legal heirs of the land grants and the Treaty of Guadalupe Hidalgo. Similar to issues African Americans faced, land speculators purchased a share of the land from a property owner and then forced partition sales. Failures to write wills led to land loss (Gonzales 2003).

Deaton (2005) found that white heir property owners from rural areas of Kentucky lived in persistent poverty due to economic constraints and limited land use. Heir property owners were discouraged from investing in the land or paying the property taxes when other heirs do not assist (Deaton 2005). Mineral companies purchased a share

of heir property in order to gain access to the mineral resources (oil, gas, and coal) that were owned in common by the entire family (Deaton 2005). The local residents viewed heir property as a legal mechanism that mineral companies used in order to mine the minerals on the entire property (Deaton 2005). Once mineral companies purchased a share of a property, they mined the resources without the consent of the other legal heirs or co-tenants (Deaton 2005).

Policy and Legislative Issues

In the literature, Dyer et al. (2009) found that authors estimated the extent of black-owned heir property ranging from “one-third of black-owned land from North Carolina to Mississippi” (Graber 1978b) to “40 percent of black-owned rural land” (Gilbert and Sharp 2001); Rivers (2006) estimated “more than half of all ‘black-owned’ property in the rural South.” The authors failed to present a clear methodology and sources for their estimations. We could find only three systematic efforts to examine the extent of heir property.

Mitchell (2005) stated that access to data on heir property and partition sales is limited, which is a major issue. The data and case files are inaccessible because they “exist only in local courthouses that tend to be located in small towns scattered across the rural South” (2005:599). Because there is little data of any kind about partition sales of heir property, Mitchell said, most scholars rely on unreliable data and statements made by advocacy organizations. Advocacy groups generally are not able to conduct in-depth research because of financial, time, and labor constraints. The poor quality of data, Mitchell states, makes it difficult to evaluate the impact of heir property and partition sales on black landownership. He stresses the importance of conducting empirical

research on this understudied legal topic, and how such data would be useful in shaping public policies and programs of advocacy organizations. Mitchell proposes employing a “bottom-up” data collection approach to gain a better understanding of how the law affects people in their everyday lives (Dyer et al. 2009).

Intestate succession laws. The first major finding of the Emergency Land Fund study in 1980 was an analysis of laws and practices that contributed to the creation, use, marketability, and land loss (vulnerability) of heir property (Brooks 1983). Writing wills was not a cultural nor social norm for non-European ethnic groups; the land transfer techniques that these ethnic groups used was not founded on capitalistic principles, therefore, conflicted with the U.S. government’s goal for land use (Dyer and Bailey 2008). The property of a person that dies without a legal is transferred to the legal heirs by the intestate succession laws of the respective state where the property is located (Figures 1970; Emergency Land Fund 1980; Deaton 2007; Dyer and Bailey 2008).

Intestate succession laws and land division strategies are complicated and create complex issues for heir property owners (Emergency Land Fund 1980). Intestate succession laws determine the legal heirs, such as the spouse and other family members, of the property as well the property rights granted to the legal heir(s) (Deaton 2007). Intestate succession laws are based on three issues: descent, distribution, and marital status (Deaton 2007).

Inheritance rights are transferred to heirs immediately upon death of the owner; therefore, heirs inherit property immediately (Deaton 2012). A clear title is not immediately conveyed to the legal heirs; a court proceeding may be necessary to clear the title (Deaton 2012). Clouded title is the social construct created by intestate succession laws that place economic constraints on heir property ownership; therefore, intestate

succession laws are a form structural inequality. Intestate succession laws create clouded title, which makes heir property susceptible to land loss and places economic constraints on heir property.

The regulation of heir property by intestate succession law constrains the cultural practices of underrepresented groups of society, usually resulted in land loss. Intestate succession laws do not respect or incorporate non-European cultural land use and kinship practices (Dyer and Bailey 2008). According to Deaton (2007) tenancy in common is not necessarily the result of the laws of intestate succession; it is the result of an inter-generational transfer of property through intestate succession. Another perspective is that intestate succession is a form of structural inequality that constrains the economic capital, as well as the social and cultural behavior of co-tenants. Heir property and clouded title are bi-products of intestate succession law, which lead to complicated legal issues and economic constraints for the co-tenants (Dyer and Bailey 2008). It would be useful to conduct a study to analyze how many families retain ownership of land that is transferred by intestate succession.

Establishing Record to Title: The Legal Issue and Solution to Heir Property

De Soto regarded the land registry system as a major factor of wealth by allowing the land to be used as a fungible asset, a form of capital that could be used for collateral for a loan and or for access to government programs (Meyer 2008). Land registry systems determine the type of property that is “heir property,” non-heir property, and the way heirs establish clear title. Western title systems determine the laws of private property and regulate the fungibility of property by publicly recording real estate transactions of each parcel of land at county or parish courthouses.

Meyer (2008) found that there were heirs that did not desire to clear title by recording the transfer of ownership with the county and state government. In the aftermath of Hurricane Katrina, the First American Title Insurance Company of Louisiana (FATIC-L) found that 15 percent of the property titles did not have records in the claimants name; the organization estimated that 20,000 or more titles are “non-merchantable.”

Meyer (2008) identified 4 causes of heir property: (1) it was too expensive to establish clear title, (2) people fear losing land in the process required to establish a clear, merchantable title, (3) belief that clouded titles could protect the land from creditors, and (4) desire to deny property rights and capital gains to other heirs.

Authors, like Michael Figures, have been publishing literature on heir property since 1971; neither adequate resources nor a viable solution have been implemented for African American heir property owners, which is a reason heir property issues persist. There is a lack of quality quantitative data to document the extent and economic value (market, land, use and improvements) of heir property (Bailey et al. 2016). Such data would be useful for gaining the support of policymakers in order to create viable solutions and mitigate the negative consequences of heir property (Dyer et al 2009; Mitchell 2005: 599).

Mitchell (2005: 599) stated that the lack of quality data makes it challenging to evaluate the heir property of African American landowners. Mitchell (2005:599) stated that it is difficult to collect and analyze heir property data because it is stored at county courthouses in small towns across the rural South; neither the state nor federal government collect data on land ownership, especially heir property. My study of Wilcox

County represents an addition to the systematic collection of data on heir property utilized by Dyer et al (2009). I provide a basis for estimating the number of parcels (families affected) with clear and clouded title and the acres and wealth constrained in heir property, i.e. clouded titles. “Dead capital,” i.e. heir property, is a form of wealth that can change the economic, political, and social fabric of the Black Belt if the economic and legal constraints are mitigated (Dyer et al 2009).

Heir Property in Resettlement Communities

Bownes (2017) conducted the first study of heir property in a resettlement community, Prairie Farms, an African American community in Macon County, Alabama. The data was used to determine if significant differences existed between titled property and heir property. Bownes (2017) used the address on the tax bill to determine if landowners lived in county, out of county, or out of state. Bownes (2017) determined that more heir property tax bills were mailed to individuals further away from their property than non-heir property owners. While 33 percent of non-heir property owners lived within Macon County, 44 percent of heir property owners resided outside of Macon County. Bownes (2017) determined that non-heir property owners have a greater incentive to remain on or near the land. In addition, non-heir property owners held up to three times more acres of land than heir property owners. Regardless of the landowner residence location, non-heir property owners held more acres of land than heir property owners. However, heir property owners owned twice the average number of acres in comparison to non-heir property owners. This explained by the small number of heir property owners in the area in comparison to non-heir property owners.

In addition, the study concluded that, regardless of the landowner residence location, non-heir property owners had a higher total and average value of property than heir property owners. This suggested that land value is associated with whether or not title to the property was clouded or clear. Furthermore, non-heir property owners had two times the current use value of their land, and over ten times the total improvement value for their land. Investments and improvements were higher, the closer the landowner was to Prairie Farms. The current land use and improvement values were zero for heir property owners that reside out of Macon County, but in Alabama. This further implied that non-heir property had higher returns and incentives for investments than that of heir property owners, and the relationship between property ownership and distance was significant.

The value of land was found to be statistically significant between the following relationships: non-heir property and heir property out of county; non-heir property in Macon County and out of county; heir property in Macon County and out of state. For total acres, there was a significant difference between heir property in Macon County and heir property out of county. There was also a significant difference between the following relationships for total current use values: non-heir property and heir property out of county, non-heir property in Macon county and out of state; non-heir property out of county and out of state; heir property in Macon County and out of county; heir property in Macon County and out of state.

Chapter IV: Theoretical Framework

The economy is based on landownership; therefore, property rights provide landowners with fundamental freedoms. Property rights provide landowners with social, political, psychological and economic freedoms that are denied to landless people. Key to this economic freedom is a merchantable title, meaning clear title to the land and the ability to rent, lease, or sell the property at full economic value. Private property law protects the property rights of landowners with clear title.

The law requires landowners to follow specific procedures in order to transfer property rights to heirs; heir property owners are denied the freedoms granted to private property owners because the deceased landowner failed to follow the state's private property laws. An example is the denial of property rights to the heirs of a landowner who died without writing a legal will. Each state has intestate succession laws that place social economic constraints on heir property; for example, these laws determine the legal heirs of heir property. The theoretical framework defines the freedoms associated with private property rights and the unfreedom or denials of property rights to heir property owners.

Property Rights

Property rights are a social relationship between people; it is the distribution of freedom and unfreedom (Brace 2004:1). Property rights provide fundamental freedoms to landowners because land is a primary form of capital in the U.S. Property rights provide

landowners with social, political, psychological and economic freedoms that are denied to landless people. Private property is a bundle of rights that grants a landowner the social freedom to deny non-owner's access to the property and resources on the property (Brace 2004:1).

Property rights provide landowners with the economic freedom of a merchantable title; therefore, the property has full economic use and value, which is protected by law. Full economic use of property rights includes the ability to use property as collateral for a loan, obtain a mortgage, and sell the home at market value. A landowner with a clear, merchantable title can create generational wealth for a descendent when title and associated property rights are transferred through a probated will.

Landowners can use property rights to increase economic development, wealth creation, and political power, independence, identity, and community development by economically developing land (Zabawa 1991). During the civil rights movement, black landowners provided civic and political representation for African Americans doing so from the security of their land and homes (Gilbert et al. 2002). Land ownership is a key factor allowing African Americans to improve the quality of life in rural communities (Beauford et al. 1984; Nelson 1979; Pennick 1990; and Smith 1991). Property rights contribute a sense of self-worth and security, which provides psychological freedom to landowners. Renters can be evicted and sharecroppers can be thrown from the land, but owners of property have a degree of security that is of enormous value to a minority population. African Americans that became landowners in resettlement communities said that landownership "has given me a chance to be free" (McGee and Boone 1976: 174); "I feel like a man, like I'm somebody" (McGee and Boone 1976: 173).

Freedom and Unfreedom

Freedom is the process that orients social behavior and the opportunities for people, given their personal and social circumstances (Sen 1999: 17). Freedom is a “social product” of the reciprocal relationship between (1) the social actions used to expand individual freedoms and (2) the use of individual freedoms to improve the lives of an individual/group and to make the social norms more favorable and effective for the individual/group (Sen 1999: 31). The perception and use of freedom differs by race, gender, and class (Brace 2004: 4); each factor impacts the ability to own property. Private property rights give a landowner power over natural resources; the power to deny people access to resources and fundamental freedoms (Brace 2004:1).

People experience unfreedom, i.e., are denied fundamental freedoms, through inadequate opportunities to achieve their minimal desires, which are embodied in social, political, economic, and psychological freedom; these fundamental freedoms are often associated with property rights. The freedoms of landless people are violated by denials of political and civil liberties, like the right to vote or own land; landless people are denied the freedom to participate in the social, political and economic life of the community. The lack of economic freedom results in poverty and denies millions of people the basic freedom to survive (Sen 1999: 4).

The absence of such fundamental opportunities has led to premature mortality, preventable morbidity, and involuntary starvation. The lack of fundamental freedoms are directly related to economic poverty, which dispossesses people of the freedom to satisfy hunger, to achieve sufficient nutrition, to obtain remedies for treatable illnesses, to be

adequately clothes or sheltered, to enjoy clean water or sanitary facilities, and access effective institutions for the maintenance of local peace and order (Sen 1999: 31).

Denial of Property Rights

Modern freedom includes the freedom to own private property (Brace 2004: 2). John Locke believed that property was an economic resource that provided freedom and independence to its owners; he was called a hypocrite for his belief that private property ownership is a natural right of all humans, except African Americans and Native Americans (Brace 2004: 35). In 1705, Virginia legislators used the term “white” for the first time to make the racial distinction that land ownership and citizenship was for “white” people. Native Americans who did not voluntarily remove themselves nor become “pseudowhite,” became indistinguishable within the categories of “Negro” and “slave.” White Virginians used race and bondage to further usurp indigenous people of the land (Lewis 2017: 22).

Europeans have used the law to deny people of color the freedom to own private property; this is an unfreedom Native and African Americans experienced in Wilcox County. In 1814, Andrew Jackson established Wilcox County for white citizens with The Treaty of Fort Jackson; the agreement legally denied the Creek Confederacy of private property rights to their land. African Americans were legally denied the freedom of landownership during slavery in Gee’s Bend.

Slavery was designed to be impossible to escape to prevent slaves from attaining freedom. An individual cannot sell him or herself into slavery, or use their freedom to give up their freedom. It is impossible for an individual to enter into a contract, which puts him under the absolute, arbitrary power of another who can take away his life when

he pleases, and so confirms that he is unable to preserve or defend himself. It was central to Lockean liberalism that every individual had a right to natural freedom, not to be subjected to the will or authority of any other man, and that ‘no body has an absolute Arbitrary Power over himself, or over any other, to destroy his own life, or take away the life or property of another.’” Slaves were subject to the absolute dominion and power of their masters; slaves forfeited their lives, liberties and estates and were considered savages lacking the capacity to enter into the community or become members of the civil society (Sen 1999: 167-168).

African Americans were legally classified as “3/5 a human” in order for Europeans to morally and legally justify enslavement and exploitation. Slavery makes it impossible to start our political theories, social contracts or property histories with the paradigm that all humans have been recognized as equal or human. The slave was a symbol of extreme dependency, objectifying other people’s fears of being effaced, and of losing their continuing links and their home in the social world. They also symbolized the dangers of not being protected by the social contract. They personified the dangerous consequences of being stripped of property as well as the protections and security that property ownership provides.

Constrained Property Rights

The decedents of former slaves gained the freedom to own land in Gee’s Bend in the FSA’s resettlement program. The FSA failed to educate African Americans on estate planning, therefore, the cultural practice of verbal land transfer, i.e. heir property, persisted. The African Americans that owned heir property in Gee’s Bend failed to transfer private property rights to their descendants and as a result the title became

clouded, i.e. heir property. Heir property owners are denied the economic freedoms of property rights because title is clouded; the law deems property with clouded title as non-merchantable.

Landowners with a clear, merchantable title enjoy full economic freedom, i.e., equity, government programs, security, and ability to sell the property because the title is clear. Heir property is considered “dead capital” because the law constrains the economic freedom of clouded title, therefore, owners are denied the fundamental freedoms associated with non-heir property. Heir property cannot be used as collateral to secure a loan or investments since the property has a clouded title. Heir property is ineligible for federal funding, such as USDA cost-share programs that provide financial assistance to landowners. Heir property is ineligible for conventional home loans and mortgages. Heir property owners often fail to invest in improvements because the co-tenants benefit without incurring a cost (Zabawa 1991). Private property owners are granted the freedom to profit from improvements to private property.

Heir property is vulnerability because owners struggle to legally use the land. Heir property owners are denied the freedom to manage land without the consent of each co-tenant. Heir property owners are denied the social freedom to restrict co-tenants of access to property). Family members sell their interest to non-family members and generational wealth is vulnerable to speculators, which leads to partition sales. Heirs that fail to pay the taxes have experienced land loss at tax sales. The freedoms that heir property owners are denied cause land loss and persistent poverty for African Americans in the rural South.

Chapter V: Methods

Both primary and secondary data was collected and analyzed. The primary data was collected by qualitative methods; I conducted semi-structured interviews with participants and non-participant observations in order to understand the social dynamics of Wilcox County and the impact of heir property. I conducted semi-structured interviews using an interview guide with open-ended and closed ended questions that allowed me to explore unanticipated information, which created a natural flow in the interviews where the respondents were able to establish what kind of information s/he believed to be relevant and important (Creswell 2008; Savin-Baden and Major 2013). Interviews started with a broad and very open invitation to discuss heir property along the lines of “Please tell me about your family’s experience with heir property.” The interview guide contained specific questions and prompts as well. I did not use a recording device; I took detailed notes from which I reproduced direct quotes from participants.

Participant and non-participant observation are standard methods used by anthropologists and other social scientists (Bernard 2006: 343). These approaches help researchers in the field provide context and depth of understanding that will be helpful in analyzing primary data. Researchers will spend extended time in the study communities and have ample time to observe interactions and take part in discussions and community activities outside of the formal interview setting. Carefully constructed case studies allow for detailed investigation of socially and historically complex phenomena (George and Bennett 2004: 6). I took my son to the field with me; sociologists, like Carol Stack

(1996), had in the past.

A key informant that I have known for 10 years provided me with information that was essential to establishing several of the interviews I conducted. I collected the primary data by interviewing heir property owners and individuals that are knowledgeable with the legal implications of heir property. It was common for respondents to suggest a person for me to talk with, therefore, the snowball method was used to find participants. I interviewed 23 respondents, 21 owned heir property; others were lawyers, probate judges, circuit clerk, and the County tax office. The interviews provide information on how African Americans in Wilcox County manage and transfer heir property. The interviews lasted 30 minutes to 2 hours. The professionals I interviewed spoke about heir property from a personal and professional perspective.

During interviews I adhered to the procedures in the Institutional Review Board (IRB) to prevent harm or risk to participants. Participants were given a letter containing information about the research project. The letter contained the contact information (name, phone number, and email addresses of the individuals on the research project to allow the participants to contact the team with any questions or concerns. The participants' answers are confidential, which is stated in the letter as well; confidentiality is an important protection when interviewing vulnerable populations. Confidentiality is key to protecting the land owned by our participants, which is a valuable and endangered asset of African Americans. I used pseudonyms for the names of the participants.

Data Collection

Secondary data was collected and analyzed based on quantitative methods in order to calculate the extent of heir property. Gaining access to and understanding courthouse

records is challenging; they are old and housed in rural courthouses. Each county has its own nomenclature to record property; county governments are not required to record heir property, therefore, I developed a method. Parcels of heir property were identified in order to quantify/determine the extent of heir property in Gee's Bend and Wilcox County. I received a list of all of the parcels of property in Gee's Bend and Wilcox County from the Tax Assessors office. A key informant from Gee's Bend reviewed the list of parcels in Gee's Bend and identified parcels of property registered to a deceased person, i.e., heir property. The Tax Office personal identify heir property as parcels with "EST" or "Estate" written after the owner's name in the tax records.

I found 404 parcels of land in Gee's Bend. I identified 143 parcels of heir property in Gee's Bend and 304 in Wilcox County. In Gee's Bend, I identified 79 owners of heir property and 197 owners of non-heir property. The tax records, which are public record and available online, provide the market, building, and land value for each parcel and the address used to mail the tax bill. I used this data to calculate three economic values of heir property in Gee's Bend and Wilcox County. I calculated the value of heir property based on the location of the landowner: in Wilcox County, Alabama (out of county), or out of Alabama. My study represents heir property in Wilcox County at the time of my field work; I am not generalizing my results to the South or Black Belt but the material may illuminate a common phenomenon.

In 1969 the Army Corp of Engineers created the William "Bill" Dannelly Reservoir, better known as the Millers Ferry Lock and Dam; thousands of acres of farm land was flooded in Gee's Bend. The African American residents said that they were paid "pennies" for their land. The submerged land has no economic value, which would skew

the data and statistical analysis, therefore, these records were removed from the data for a total of 393 parcels of land.

Chapter VI: Results and Conclusions

I found a significant difference between heir and non-heir property because non-heir property is significantly more valuable than heir property. The economic value and scale of heir and non-heir property in Gees Bend is in table 2. Non-heir property owners held 171 more acres of land with a significantly higher economic value than heir property owners; absentee ownership had a significant impact on the economic value of property in Gee's Bend, see table 2. I found 314 parcels of heir property in Wilcox County; 143 parcels of heir property in Gee's Bend. Owners in Gee's Bend held 45 percent of the heir property in Wilcox County; therefore, it is highly concentrated in Gee's Bend because it is a cultural practice for 28 percent of the owners (table 3). In Gee's Bend, 72 percent of the owners held non-heir property.

There is a significant difference between the market value of heir property and non-heir property owner's. Non-heir property was more valuable than heir property regardless of the owner's location. More non-heir property owners were absentee owners and their property was significantly more valuable than heir property. The value of land decreases for heir property as the owner's distance from Gee's Bend increases; non-heir property owners that reside out of state had a higher land value than non-heir property owners that lived out of county. There was a significant difference between the improvement value of heir property and non-heir property; the improvement value of non-heir property owner's was over \$3.1 million more than heir property owner's. The

total market value of property in Gee's Bend was \$15,696,180; the market value of heir property was \$5,661,340. Non-heir property owners had the highest market value at \$9,948,930.

Mr. Johnson was a white man that worked in the county courthouse; he said "Every African American in this county needs a copy of this pamphlet on heir property because it is a major issue for African Americans here." Mr. Taylor is one of the white lawyers I met in the courthouse; he told me that "My wife owns heir property; I just finished handling her case but over 90 percent of my heir property clients are black." Heir property was owned in the family of every African American I interviewed. The family of each respondent from Gee's Bend gained property rights, i.e. landownership, from the resettlement program; Sister Mary Clarence and her husband moved into the area from a neighboring community; they married and purchased a home. Sister Clarence said, "heir property is in both of our families."

How Heir Property Developed

The issues of heir property arose in the context of pervasive racism. Mr. Davis served two tours in Desert Storm and earned a purple heart. He told me that white people would not sell food to African Americans when he was a child in Wilcox County. He said, "the PTSD [post traumatic stress disorder] I experienced growing up here is worse than war." In similar views, Dr. Jay spoke about his experience as an African American Tax Assessor.

It was not easy being tax assessor. I was the first African American tax assessor in Wilcox County then became the clerk of court. I was succeeded by African Americans. There was a big landowner in the county that was white and when

directed by a white female employee to see “Mr. Jay” he said in the hallway in my presence “Do not call that nigger mister.” To which the white female employee said “Please do not use that word in my presence.”

I highlighted the power of white landowners in Wilcox County and the rural South in the literature review; Dr. Jay had no legal way of changing the hostility the white landowner held. His power rested in his ability to come to work daily and help African Americans prevent land loss. He worked tirelessly to educate landowners on estate planning.

David Foster is an African American landowner that lives on riverfront property now; his land is used as the Ferry Terminal in Gee’s Bend. I rode the ferry to Gee’s Bend one day with a group of white people; they refused to speak and gather by any African Americans during the ride. I was exiting the ferry one day when I noticed them sitting, talking, and relaxing on Mr. David Foster’s land. None of them acknowledged his presence or asked. I approached Mr. Foster and we talked about heir property.

Mr. Foster said, “The property had no access prior to building the dam. Once the dam was built that property became water front property and became accessible.” The government flooded thousands of acres of land owned by African Americans in order to build a dam that serviced white communities; residents of Gee’s Bend told me they received “pennies” for their land. The land is still on the tax records without an economic value due to being submerged in water.

African Americans discussed the power white landowners and lawyers possessed. Respondents discussed their fear of losing land to white people and white people using the law to purchase heir property. Respondents discussed white people using their capital to purchase land in an African American community and restrict their access to the area

with a gate. Heir property is another legal method white people use to disposes African Americans of land. Judge Clark told me that, “the white lawyer that you spoke to today that was standing there [in the probate office] today purchased a piece [heir property] recently.” I learned this the day that the white lawyer spent avoiding me because we had an interview scheduled. He was nice the first day we met; I informed him that I was conducting research on heir property. He told me his office was across the street and to come over anytime if I need help. We scheduled an appointment but he avoided me all summer. He told me heir property was prevalent in Wilcox County during our first conversation. I saw him in the courthouse on the first day he avoided our interview, he said, “come talk to me after you meet with him [a local, white lawyer].” He disappeared for the rest of the afternoon; I never saw him again.

The literature attributes the high concentration of heir property in African Americans communities to the lack of legal wills. Gloria Foster lived on heir property in Gee’s Bend acquired by her grandfather in the resettlement program; her job required her to know the legal steps for estate planning but told me:

I do not have a will; I never thought about it or brought it up. We have been trying to clear Heir property for 3 years. Family members up north do not respond. We are trying to survey and split the land. It costs \$4-\$5,000. We want them to send their portion of the money to the lawyer which includes survey fees but they haven’t responded. There are 17 heirs; I do not know all of the heirs. Some of them live in other states and have never been to Boykin.

Mr. Foster told me “I do not have a will. My wife and children will inherit the land.” The land Mr. Foster owned was heir property, acquired by the resettlement program, that he

co-owned with a sibling. “Yes heir property works for our family but not all families if you cannot get along. We do not have family disagreements over land.” All of the African American respondents owned heir property; the respondents with wills had to purchase additional land in order to obtain a will and the freedoms associated with private property rights. Dr. Jay is an African American that retired from the tax assessor’s office. He said “Heir property developed from a lack of wills because people were scared they may die because they were discussing wills. African Americans separated land by verbal boundaries so the heir property problem gets larger. It never shrinks. It makes division of land difficult.” Dr. Jay is referring to the freedom that co-tenants possess to constrain each other’s property rights, which will be discussed in the literature as one of the factors that prevents co-tenants from making improvements to heir property.

Judge Clark was an African American probate judge; he probated the wills in Wilcox County. He said:

It is not common for African Americans in Wilcox County to have a will. Most times we have find a family member to be administrator of estate. 90 percent of the wills I probate come from white people. Very seldom does a will come from a black family. The ones I see are from educators. They taught school and know the value of property and will it to siblings. The problem is the lack of education.

Mr. Thomas is a white male that worked at the courthouse and worked with African American landowners. He said:

Heir property persists because there is a lack of education; people do not understand the probate process or how to transfer land. People do not know they own land [they are an heir]. People think that they own the land if they have the

[actual] deed that is registered in their grandmother or great grandmother's name and pay the taxes.

The African Americans that owned heir property failed to write wills. According to Mr. Lee, who worked in local government:

I have a will. Its proper planning. I convinced my mother and father to write a will. Mom felt like we were pushing her to die. Father woke up when his younger brother died in an accident. My father inherited land that was cut out of the will; it became heir property because my aunt never probated the will because she did not want the wife of her son to get the will. Then several people passed. Children didn't understand how intestate succession laws work. It took them 2 years to sell the property.

Mrs. Jackson was an African American that worked in the county tax office; she said:

I don't know what it will take for us (black people) to prioritize [land]. We don't know the value of owning property in a rural area. People travel from big cities here to hunt, fish, and just relax to get away when they are tired of the big city. It's growing. River lots are used for hunting, fishing, and to relax. "Perfect area to be!" I hear people say that all the time. You can go to the river to relax or go outside. Close enough to say I have a neighbor, to see green pastures and horses in one direction and neighbors in the other.

Mrs. Jackson failed to write a legal will. "I have a survivorship deed. I have one child; she will get everything anyway." Janet, Mrs. Jackson's daughter, failed to write a will as well.

My mother does not have a will. She is not going to honor my wishes if something happens to me. I got sick in 2003 so I decided I needed to draft a will. I did not want to put the responsibility on my parents or family. A lot of people in Wilcox County do not have wills for whatever reason.

Charlene and Leola Foster were sisters that returned “home” to Gee’s Bend to live on and manage their family’s heir property; they told me stories of farming the land with vivid descriptions. Their grandfather owned over 80 acres of land in the resettlement program. “5 generations of our family has lived on the land. It is common in the area for parents to will land to one child.” I am not sure if Ms. Foster meant that parents gave land to one child with verbal agreements because she said “I think fewer people have wills than that have them; we do not have wills. We don’t know how much land we own.”

Their father legally transferred the land but it became heir property once a relative failed to write a will.

Father deeded land because he needed social security, which he could not receive if he owned too many assets and income to high like a lot of government programs. My sister and I live together so we don’t worry about food programs; we don’t qualify because we are roommates. We paid taxes; we need the grandchildren’s’ signatures and it won’t happen. Confusion about clearing title and the vulnerability of heir property: If we had the money to survey it we would. We need to talk to the lawyer. Haven’t cleared the title to the land because no one wants to do the work even after we tell them what needs to be done.

Heir property owners lack the capital to clear title. Land management requires capital; heir property owner's cannot use the equity in their land; therefore; have to access other sources of capital in order to manage their land.

Land Loss

White people have moved into Gee's Bend and purchased land along the riverfront. African Americans sold the land to them for cheap because they needed the money.

Charlene Foster said,

You could sell land and buy a car or house lot. People were poor. People sold land now they come to visit they have nowhere to stay. Paradise point is gated; they thought whites would let them come fishing but they won't. I didn't want them to buy it but if you sell land then a person has a right to live on it. They [white people] nice, I still know they are white. They don't treat us equal. They want to steal our land.

Charlene and Leola Foster me about me about their father and grandfather's land.

Leola Foster said,

My grandfather bought land because it was the thing to do. I don't know how much land we own. Most of it is heir property. All grandfather's land is heir property. People stopped selling to my grandfather because they were jealous and evil; they would rather sell it to a white person. Daddy had a mouth (he would brag).

Unpaid property taxes lead to land loss at tax sales; the Foster's may fail to pay the taxes on their land because they are oblivious to owning it, which is another vulnerability of heir property ownership.

Mr. Foster had extensive knowledge and memories of the “Roosevelt homes” established by the resettlement community. Mr. Foster saw me reading history of Gee’s Bend on the historic marker and asked me if I wanted to talk: “Follow me to the house; it’s just up the road.” Within seconds of exiting the car Mr. Foster began providing me with the history of Gee’s Bend starting with the RA Administration in the 1930s.

The RA Administration [in the 1930s] built 100 houses in Gee’s Bend. Each house had 3 bedrooms and costs \$4,000 each. We grew up in this house right here. [He pointed to a home on my left.] It is the original house we purchased from the Resettlement Administration. These homes were called Roosevelt homes/houses. The government did not teach landowners about estate planning. Mr. Foster pointed beside the house then moved his arm from left to right to what is the back yard, which includes the space between the house and his workshop. When he looked to the left he said:

When I was a boy all of this was the farm. This was sweet potatoes [he pointed to the house, shop, and all the land that he owned.] We farmed cotton, okra, peas, squash, and cucumber; we took it to Union Town to pickle it. 12 acres of cotton. Everything we ate we made it.

The USDA succeeded at deeding family farms to African Americans but failed to educate African Americans in estate planning, like writing legal wills; therefore heir property persisted as a cultural practice. Lack of knowledge and legal assistance contributed to the issue as documented in the literature. Dr. Jay said “I use to do a lot of work helping African Americans with heir property; a lot of people didn’t know and

white folks wasn't gone tell you. My father had a deed but another person's name was on it but we got it straight. Court is a mess."

African Americans were vulnerable to land loss from being unaware of the legal requirements of managing private property like paying taxes and transferring the title to the land; this created and exacerbated heir property issues in Gee's Bend. Dr. Jay said,

Tax Assessor has the authority to make people sign the Assessor book every: 1, 3, or 5 years. You get signed a 10 percent penalty plus \$10 to your tax book. It allowed me to meet property owners. My educational efforts made a huge difference; people asked a lot of questions. Even in the white community because my predecessor took care of it for them; he spoiled them. I had to get people in the mindset to pay taxes and sign assessment book. The purpose is to make sure all of your land it still there.

Judge Clark explained linked the prevalence of heir property to misunderstanding the law. He said,

I try to educated people about heir property. People in Gee's Bend feel that if they change the legal status of heir property (do anything to it) they will lose it. Most of the land in the county is heir property. It's [the title of the property] still in their mama or daddy's name who has been dead 40-50 years. It's hard to get the children to understand to transfer the title to their name in order to manage the property. You have to get the younger generation to understand better than the older generation. The issue is the lack of education. The government didn't teach landowners about land tenure. They gave them 40 acres and a mule. They could not receive loans to purchase crops and did not have capital. Heir property is very

common here. Tax issues lead to land sales, absentee landownership and land loses values. Lots of people attain property this way.

Legal Vulnerabilities:

Mr. Lee said:

People understand the vulnerability of heir property and that is how we have got so far behind. Every year they [Wilcox County] has a land sale and white people go. We drove the price to make them drop off. We bought property on the river. They have taken a lot of our land at tax sales. We helped people retain it by buying it.

The law was used to deny Native and African Americans property rights because they were considered property in Wilcox County; white people owned property. The denials of property rights during slavery personified the dangerous consequences of being stripped of property as well as the protections and security that property ownership provides; heir property perpetuates this vulnerability. Heir property is a continuation of the elite using the law to control vulnerable populations. The law provides security to white private property owners by granting them property rights that are denied to African American heir property owners; the law makes heir property vulnerable to land loss to some one with the capital to purchase it at a tax sale or from a relative then force a partition sale.

Mr. Turner is an African American lawyer that aided African Americans with legal and financial assistance in court to prevent land loss in the Black Belt during the 1960s.

The law was structured to strip African Americans of land. The family members could buy that person out but the Supreme Court reversed that decision but they interpreted it so that a person could buy in so that didn't help. Whatever we did they found a way around it. We fought it with everything we had.

Partition Sale

Dr. Jay told me about how heir property can be disposed by an attorney with legal knowledge; heir property owners lack legal knowledge and legal counsel in Wilcox County, i.e. are vulnerable to people with legal knowledge. The only attorneys I met in town were white; their offices surround the courthouse, which is in the center of the town in a perfect square. Dr. Jay said, "Attorneys stay in the courthouse and go through the deeds to find heir property, then buy interest of an heir, and initiate a partition sale. It happens often here. No one lives on it. Everyone wants to keep it in the family; No one [family members] tried to force a partition sale." The family wanted to preserve the heir property in order for other descendants to inherit it; the family failed because an heir may have been unaware of the ability to force a partition sale after purchasing an interest in heir property.

In 2014, Alabama passed The Uniform Partition of Heir Property Act. The Uniform Partition of Heirs Property Act was designed to preserve the wealth of families with heir property because families with smaller estates are more likely to use a simple will or to die intestate. The law provides a series of property rights to heir property owners that are basic due process protections: notice, appraisal, right of first refusal, and if the other co-tenants choose not to exercise their right and a sale is required, a commercially reasonable sale supervised by the court to ensure all parties receive their

fair share of the proceeds (Uniform Law Commission 2018). I asked the attorneys and government officials that I interviewed about the impact of the law on heir property in Wilcox County; only Mr. Taylor and Judge Clark knew about the law. Both of them said “no impact so far.” Heir property owners and county governments need to be educated on The Uniform Partition of Heir Property Act in order to benefit from the law.

Land Speculator

Mr. Thomas described a local African American man that made a living purchasing land and selling timber. He said,

Heir property owners don't know the value of land. He was the wealthiest African American in the state. Mr. Light purchased 6,000 acres of land. He was sitting right there when he bragged about the deal where he made \$90K off the sale of timber from land he purchased from a man. He gave the man \$10,000. He said “I made 90,000 off him by selling the timber. He didn't know what it was worth.”

The white landowner was illiterate so when someone like Mr. Light offers you \$500-\$1,000 per acre for land they paid \$200 in the 60s or 70s they jump at it.

Mr. Light was well known in the community; he worked on the school board with a high school diploma. There were a few people in the community that expressed anger with Mr. Light.

I had to work with him for 30 years and I hated it. He did not care; he did not hide what he did. People knew. I am sure there were other African Americans and white men that did the same thing before him. This was the day before he passed. He knew something. He purchased land at taxes sales and directly from

landowners by taking advantage of poor people from Butler County [Alabama] to Mississippi.

Mr. Thomas believed that Mr. Light's land was heir property. He said,

His wife, well, ex-wife called two days ago asking me about a piece of property he owned to figure out the size and location. He had a will but no team or co-workers. He did everything himself so his ex-wife doesn't know how much land holding he had; they divorced and his two daughters are a lawyer and doctor.

Poverty contributed to land speculation as well. Lori Foster, a well-known quilter, told me that African Americans sold land because "we were poor and under value land. They didn't have money. People needed cars so they sold land."

Mr. Johnson was forced return to Gee's Bend and retire from his career on the East Coast in order to manage the heir property his grandfather purchased from the FSA. He told me about a tax sale and partition sale that occurred in Gee's Bend. He told me about the partition sale first. Mr. Johnson said, "the court forced a sale and held an auction. 38 acres of land was sold to the highest bidder, outside of the family to a white person. In this community we don't have money so when things like this happen white people get the land." These people were his neighbors; African American residents that gained land ownership in the resettlement program. Mr. Johnson told me about the tax sale; he said, "the Young's people sold and moved to Mobile. The Young estate was lost in tax sale last year."

Constrained Property Rights

The decedents of former slaves gained the freedom to own land in Gee's Bend in the FSA's resettlement program. The African Americans that owned heir property in Gee's

Bend failed to transfer private property rights to their descendants through probated wills. The results of my study in Gee's Bend and the study by Bownes (2017) confirmed that there are significant differences in the economic value of heir property and non-heir property (see table 3 for the comparison of the resettlement communities). The value of heir property in Gee's Bend and Prairie Farms is significantly lower than non-heir property; heir property owners cannot use the economic value of their land because clouded title as non-merchantable. Millions of dollars is constrained in heir property as dead capital. The inability to use property as capital has contributed to persistent poverty in Gee's Bend and Prairie Farms.

Dr. Clark was raised in Gee's Bend. He returned to Wilcox County to become an educator after completing his PhD. "They [African American residents of Gee's Bend] do not think they can do anything [obtain clear title] with heir property. That is why they just build trailers because they know they cannot build a house because they need money and cannot attain a loan. Trailers are mobile in case they lose the property." Judge Clark said:

Owning land is a burden today; [heir property is] a hindrance for black landowners especially in this community. 1 way the white man holds us back. In the 60s and prior farming was the only way we survived to feed our families. In the 60s McDowell hired blacks to log trees and work, other than that black people had to farm or be educators at Alberta Boykin Catherine School (ABC School).

Judge Clark described the inequality constrained property rights causes for African American landowners.

The white man clears the title to heir property. If they die their children have rights to theirs [heir property]. If we die all of our family has our belongings tied

up. All of it hits my desk. Sometimes I want to scream. If they want to divide it, then I have too. Take a family with 108 heirs with over 80 acres of land. A majority of the heirs want to clear the title. They all live in Pennsylvania. 1 son claims he bought and owns 75 percent of it and shall get [plans to buy] the other 25 percent to sell [the land]. He wants to sell because he is getting older, no children, can't keep traveling here. His parents left him inheritance to property left brother money, dad passed belongings to mother with a deed.

Mr. Turner told me how white people used the law to steal land from African Americans in the 1960s. Mr. Turner said:

They used adverse possession, which occurs when you take someone's land by getting a false deed to it. After 10 years you own it. If you can show that you have possession and color of title then you own it. A false deed is color of title. Or if someone had it changed into their names and paid the taxes on it because all of the heir were scattered: Chicago, New York, Detroit, California, that is just a few places but it was all over.

Mr. Turner said,

People were defenseless against land loss as heir property owners; the Emergency Land Fund retained Michael Figures and I as lawyers to protect African American landowners. There are not enough resources because people do not have enough money to deal with it. It was common for African Americans to lose land in tax or partition sales. Heir property was a major issue and still is for African Americans today. Even if you address tax and partition sales or change the law, they find other ways. I took a break because the time and energy it required. It was very

draining for me. In 1981 I decided I was going to take a break for 6 months. I decided I wanted to be a farmer; it was always a dream. Once I farmed I decided that I wanted to be a farm owner. I want to own the farm.

The literature documented the challenges heir property owners experienced managing heir property as a result of constrained property rights. Mr. Johnson said “I’m the oldest child or stayed on the land the longest. Property has been drilled for oil and each heir received funds. My uncle has power of attorney to sign for heirs. It is time for timber to be sold as it is going now it is going to be a mess.”

Illegal sale of timber on Heir Property:

Each heir is required to sign the legal documents in order for the land to be managed for income like cutting the timber, which gets complicated if heirs are unknown and unreachable.

Mr. Thomas said, “The one thing that you said wrong in this pamphlet was about selling timber. I worked in timber (marking and logging) for 20 years. Five years ago I began working for the county. There are a group of African Americans in Wilcox County that cut timber on heir property. They take small tracts of timber with each cut; they make multiple cuts to keep a low profile to prevent detection or issues. Then take it to the mill. They know the mill. There is a guy from Wilcox County that cuts timber on heir property in Macon County everyday. That is where he makes his money.”

Dead Capital

Heir property constrains capital; De Soto (2000) argued that “dead capital” is an asset(s) that cannot effectively be leveraged into additional investments by their owners; dead capital constrains economic development. The 28 percent of heir property owners

represent approximately a third of a community that cannot use their land as collateral or capital nor secure capital to invest in their land. Meyer (2008) found that there are heirs that prefer non-merchantable titles by refraining from participation in the “integrated [land] registry system.” The title of heir property is non-merchantable, which represents the interest of each heir, which is a vulnerability of heir property that is a disincentive to invest. The investments of heirs are not protected like they are in private property or non-heir property, which disincentivized heirs (Zabawa 1991). The management of heir property is complex, especially if a management decision requires numerous signatures of heirs around the country or world.

The management of heir property is complex because a management decision requires the signature of each heir; co-tenants or heirs of land in Gee’s Bend lived around the country. Heirs living in Gee’s Bend owned land with relatives ‘I’ve never met because they have never visited.’ State Road 29 is the only road to Gee’s Bend; the entire road is filled with unmanaged longleaf pine plantations that needed to be harvested. I recognized the valuable timber because I have been a forester for 10 years. Loggers cannot legally harvest the timber without each heirs’ signature; therefore; timber on heir property cannot be sold. Heir property owners cannot contact the Alabama Forestry Commission and establish a management plan because the title is clouded. The potential profit was dead capital because timber dies once timber stands become over mature and overstocked; clearing the title would generate income for landowners in Gee’s Bend.

A respondent from Gee’s Bend told me: “Half of the residents in Gee’s Bend live in homes and the other half live in trailers.” Several respondents made similar statements. Trailers may be an indicator of heir property in Gee’s Bend because the

federal government and other organizations provided access to home ownership for residents. In my conversations with respondents, heir property belonged to the family; trailers provided heirs an affordable home to live in on the land and plenty of land for each heir.

Non-heir property owners have more equity than heir property owners. The market, building, and land value of non-heir property is higher than heir property. Brace (2004) refers to private property as freedom and the ability to deny freedom; clear title to land grants a person the rights of private property. The clear title to land makes the land fungible, i.e. “merchantable;” it is referred to as a “merchantable title.” Clear title grants the freedom of private property rights to landowners by registering the land of non-heir property owners in the “integrated property system.” Non-heir property owners have equity because their title is merchantable; heir property owners are denied the freedom of equity. The title of heir property is non-merchantable, i.e. dead capital, therefore; heir property is not a form of generational wealth. The non-merchantable title causes heir property to be a source of persistent poverty; it denies African Americans the freedom to engage in capitalism and vulnerable to white Americans by maintaining the power structure from since the early days of Emancipation.

In Gee’s Bend, 72 percent of the landowners owned non-heir property, therefore; the resettlement program was successful and had a positive impact increasing the opportunity for African Americans to own land and prevent issues of heir property. The resettlement administration did not train the residents in estate planning but the families learned about land management and share information in the community via the cooperative, which was transferred to future generations. The social institutions in Gee’s

Bend produced teachers, civil rights activist, judges, and African American tax assessors, collectors, and probate judges that educated African Americans on estate planning.

Managing Heir Property

Mr. Johnson told me that “heir property can work; I am living on it.” His father had a will but the land became heir property. Mr. Foster described how he managed the property he inherited: “Selling timber I have 2 choices: you have to get 7 bids or you take the first low offer. I always pay the taxes on it. We wanted to pass it down to our sons.”

In order to avoid land tenure issues the church used a different method to protect the property rights. Mr. Foster said “the church owns 262 acres we setup in a corporation.” Mr. Foster understood that the property rights granted to corporations are denied to heir property owners; he determined that the legal structure of a corporation is more beneficial.

The Preservation of Heir Property

Mr. Foster represents an heir property owner that gained social, economic, and psychological freedom from the land purchased in the resettlement program. He uses heir property as if it has merchantable title.

Daddy inherited 180 acres land in the swamp. We own 100+ acres of heir property. We [me and my brother] keep it as heir property so no one will sell it. I deeded land to my son so he could build a house. We deed whatever [amount of land] they [family members] need. That’s what daddy wanted. Take ‘em to Camden, sign the paper.

The land registry system protects the rights of the landowners by recording and regulating the title of each parcel of land at the county level; the Foster family could clear

the title to the land by being a joint owner with his brother or establish an LLC. Either option will provide the protection of private property rights without the vulnerabilities of economic constraints and land loss; Mr. Foster preferred heir property.

Absentee Landownership

In the review of literature Figures (1971), Zabawa (1991), Emergency Land Fund (1980), and Bailey et al. (2016) identified how absentee landownership contributes to heir property and land loss. There were significant differences in the value of heir property and non-heir property based on the owner's location: in county, out of county, or out of state; therefore, I rejected the null hypothesis that $\mu_{\text{In-county}} = \mu_{\text{In-state}} = \mu_{\text{Out-of-state}}$. Based on the finding, I determined that absentee ownership had a significant impact on heir property ownership with a 95 percent confidence interval, which supports the current literature on the impact of absentee landownership on heir property. Non-heir property is more valuable than heir property in Gee's Bend. Table 3 depicts the economic value and size of heir property and non-heir property, which declines with absentee ownership in Gee's Bend. The economic value and size of heir property declined as the owner's distance from Gee's Bend increased, out of Wilcox County or Alabama respectively.

Comparison of Gee's Bend to Prairie Farms

Bownes (2017) conducted the first study of heir property in Prairie Farms an African American resettlement community in Macon County, Alabama. The data was used to determine if significant differences existed between titled property and heir property. I compared my results to Bownes (2017) in table 3; I found significant differences between heir property and non-heir property as well. See table 3, comparison of Gee's Bend to Prairie Farms.

In Gee's Bend, heir property owner's more than doubled compared to Prairie Farms. Heir property owners in Gee's Bend owned three times the acreage of land and building value compared to heir property owner's in Prairie Farms. The market, land, and building value of heir property in Prairie Farms is a third of the value of heir property in Gee's Bend, this held true when I analyzed absentee ownership. Heir property owners in Gee's Bend held four times the land value of heir property owner's in Prairie Farms. There is a higher economic value and scale of heir property in Gee's Bend. Heir property is dead capital, therefore, none of the owners have equity to use as capital.

Conclusions

The central finding of this study is that heir property is prevalent in Wilcox County and Gee's Bend; landowners in Gee's Bend held approximately 45 percent of the heir property in Wilcox County. The high concentration of heir property in Gee's Bend supports the literature on the cultural practice of heir property by African Americans in the rural South. The resettlement program succeeded at making African Americans landowners; it failed to educate the landowners on estate planning, which has led to the high concentration of heir property in Gee's Bend. I determined that the resettlement program had minimal impact on the prevalence of heir property by failing to educate landowners on estate planning; heir property constrained asset building and community development in Gee's Bend.

Heir property has been referred to as the most common form of landownership for African Americans in the U.S.; heir property denies African Americans social, political, psychological and economic freedom. Heir property owners wanted their land to be available for family members to use and "call home;" owners wanted to be able to

manage the land without the constraints of heir property. The economic constraints of heir property lead to land loss and poverty for African Americans in Gee's Bend. Salamon (1979) found that 42 percent of the original land owners experienced land loss by 1973.

Despite the efforts to document heir property issues the government has not addressed it; the government has been given viable solutions (Gilbert et al. 2002). Heir property owners need legal services and education on property law (Emergency Land Fund 1980; McGee and Boone 1979; Mitchell 2001; Gilbert et al. 2002). The first solution to heir property issues is to educate land owners on estate planning; heir property owners can protect capital or equity, generational wealth, and family values by establishing a land trust. The land trust will allow the land to receive the benefits of private property and preserve the property right of each heir; the owners will improve their access to capital. Education will provide landowners with the proper process to clear title, which includes notifying all heirs in order to determine a management plan among the heirs. If the heirs decide to clear the title, I suggest securing a lawyer in order to sign the proper documents and follow the legal procedures. Writing a legal will or deed of survivorship are two of the legal methods residents of Gee's Bend used to prevent heir property.

The Emergency Land Fund (1980) suggested increasing education on the importance of writing wills and estate planning for better protection (intestate succession laws) for heir property owners, and for loans and insurance programs to find ways to support heir property owners in order to prevent forced sales. A probate judge told me

that “the education starts with the children” because they will tell their parents, grow up with information and transmit it to future generations of their family.

In order to limit or prevent black land loss, Gilbert et al. (2002) suggest: better enforcement of the United States’ civil rights laws, funding for the USDA to provide education with outreach and technical assistance programs; the government, community based organizations, and land-grant institutions need to increase their efforts to aid limited resources farmers. (Emergency Land Fund 1980; McGee and Boone 1979; Mitchell 2001; Gilbert et al. 2002)

The solution will require amendments to state property laws. Meyer (2008) suggested adopting legislation like Mississippi that allows an heirship affidavit to establish ownership and “merchantable title,” especially for decedents with relatives that have been dead for awhile; this strategy will incorporate heir property owners into a transparent title system with a simple, affordable judicial process. Meyer (2008) suggested curtailing the right to partition heir property in order to provide the judge with other ways, like a buy out over time, to dissolve the community property, which is an option in the new uniform partition code in Louisiana and Alabama. These activities can aid heir property owner’s clear title making it “merchantable” by including it in the legal framework of the real estate market. The Housing Assistance Council (1984) suggest passing legislation at the state and federal level that discourages land speculators from taking advantage of co-owners of heir property.

Policies need to eliminate the economic constraints and land loss vulnerabilities of heir property; intestate succession laws need to reflect cultural land practices. Banks and lending services need to increase access to public and private funding sources for heir

property owners. Policy makers need to work with heir property owners and legal advocates like Alabama Appleseed and the Center for Heir Property Preservation to make policy revisions. Researchers need to continue gathering reliable heir property data, which can be determined to calculate the value and extent of heir property. More research needs to be conducted on the legal methods to transfer land in each state; the information needs to be made available to African American landowners. Researchers need to evaluate the effectiveness of the Uniform Partition of Heir Property Act and educate heir property owners and government officials, especially at the county level. African Americans that understand property law, vulnerabilities to land loss, and estate planning will be more equipped to prevent the dispossession of land and heir property.

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Appendix

Figure 1: The Ferry Schedule from Gee's Bend to Camden. Source: James Patterson.

**The Gees Bend Car Ferry runs daily
between Camden and Gees Bend, AL.**

2011 FERRY SCHEDULE & PRICING

CRUISE	TIME	DEPART
1	6:15 am	Camden
2	7:00 am	Gees Bend
3	7:45 am	Camden
4	8:30 am	Gees Bend
5	11:15 am	Camden
6	12:00 pm	Gees Bend
7	2:00 pm	Camden
8	2:45 pm	Gees Bend
9	4:45 pm	Camden
10	5:30 pm	Gees Bend

TICKET PRICES EACH WAY

Autos, pickup trucks & vans with one driver	\$3.00
Motorcycles	\$2.00
Trailers and boats	\$2.00
Motor homes with one driver	\$10.00
Each additional passenger per vehicle	\$1.00
Children under 12	FREE
Pedestrian Charges – Walk-on	
Adults	\$1.00
Children under 12	FREE
Special Charters available by appointment:	Contact Office

Figure 2: The makeshift ferry in 1960 in Gee's Bend along the Alabama River. Source: Marion Post Wolcott.



Figure 3: The Freedom Quilting Bee in Gee's Bend. Source: James Patterson.



Figure 4: The ferry in Camden in 2006. Source: Dirt Sports.





Figure 5: Governor Riley at the reopening of the ferry in Gee's Bend in 2006.

Source: Rob Carr.

Table 1: Demographic profile of Wilcox County, Black Belt, Alabama, the U.S.

Variable	Wilcox County 2016	Wilcox County 2010	Black Belt of AL 2010	Alabama 2016	United States 2016
Population	10,986	11,670	4,779,736	4,863,300	323,127,513
African American Population (%)	7747 (70.5%)	8,496 (72.8%)	2,381,264 (49.8%)	26.80%	13.30%
Population 65 years and older	18.8	15	12.50%	16.10%	15.20%
Families Below Poverty (%)	33.2	36.1	N/A	18.50%	13.5
Median Household Income (\$)	\$23,750	\$22,200	\$48,451	\$43,623	\$53,889
Less than High School Degree (%)	22.6	26.7	N/A	15.6	13.3
Disability Status (%)	13.9	17.7	N/A	16.3	8.6
Source: U.S. Bureau of the Census 2017					

Table 2: The Economic Value (\$) and Scale (Acres) of Heir and Non-heir Property in Gee’s Bend, Alabama. Source: Wilcox County tax assessor’s office 2018 tax data.

Total					
	Total Owners	Total Acres	Market Value	Land Value	Building Value
Non-HP	197	2545	9,948,930	6,509,026	3,447,954
HP	79	2374	5,661,340	4,199,850	1,472,300
Total	276	4919	15,610,270	10,708,876	4,920,254
Owner Lives in Wilcox County					
Non-HP	81	1120	5,277,650	2,891,800	2,273,350
HP	49	1408	3,510,320	2,453,890	1,042,820
Total	130	2528	8,787,970	5,345,690	3,316,170
Owner Lives Outside of Wilcox County, in AL					
Non-HP	57	318	1,724,541	1,402,690	340,060
HP	15	461	1,158,700	905,560	253,140
Total	72	779	2,883,241	2,308,250	593,200
Owner Lives Out-of-State					
Non-HP	59	870	2,053,080	1,643,550	453,030
HP	15	505	992,320	825,140	176,340
Total	74	1375	3,045,400	2,468,690	629,370

Table 3: The Economic Value (\$) and Scale (acres) of heir and non-heir Property in Gees Bend, Alabama.

	Gee's Bend: Total Owners	Prairie Farms: Total Owners	Gee's Bend: Total Acres	Prairie Farms: Total Acres	Gee's Bend: Market Value	Prairie Farms: Market Value	Gee's Bend: Land Value	Prairie Farms: Land Value	Gee's Bend: Building Value	Prairie Farms: Building Value
Non-HP	197	184	2545	2079	\$9,948,930	\$7,080,981	\$6,509,026	\$3,600,180	\$3,447,954	\$3,480,801
HP	79	32	2374	828	\$5,661,340	\$1,652,280	\$4,199,850	\$1,307,420	\$1,472,300	\$344,860
Total	276	216	4919	2907	\$15,610,270	\$8,733,261	\$10,708,876	\$4,907,600	\$4,920,254	\$3,825,661
In County										
Non-HP	81	123	1120	1227	\$5,277,650	\$5,363,000	\$2,891,800	\$2,129,300	\$2,273,350	\$3,233,700
HP	49	18	1408	379	\$3,510,320	\$884,720	\$2,453,890	\$542,580	\$1,042,820	\$342,140
Total	130	141	2528	1606	\$8,787,970	\$6,247,720	\$5,345,690	\$2,671,880	\$3,316,170	\$3,575,840
Out of County, in AL										
Non-HP	57	41	318	411	\$1,724,541	\$835,841	\$1,402,690	\$641,120	\$340,060	\$194,721
HP	15	4	461	14	\$1,158,700	\$30,500	\$905,560	\$30,500	\$253,140	\$0
Total	72	45	779	425	\$2,883,241	\$866,341	\$2,308,250	\$671,620	\$593,200	\$194,721
Out of State										
Non-HP	59	20	870	441	\$2,053,080	\$834,749	\$1,643,550	\$829,760	\$453,030	\$4,989
HP	15	10	505	435	\$992,320	\$734,612	\$825,140	\$734,340	\$176,340	\$272
Total	74	30	1375	876	\$3,045,400	\$1,569,361	\$2,468,690	\$1,564,100	\$629,370	\$5,261

Note: Comparison of heir property in Gee's Bend and Prairie Farms. Source: Wilcox County tax assessor and Bownes (2017).

