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JUSTICE?

Shirah Dedman

BLACK-OWNED BEEF: SHOULD BLACK BEEF PRODUCERS STAKE SPACE IN FOOD JUSTICE?

Shirah Dedman*

I. Introduction

On June 3, 2020, cheers erupted from a crowd gathered in front of the Discovery Green Park in downtown Houston, Texas. Astride horses, a trail-riding club trotted through the park with several of its members donning shirts that read “I Can’t Breathe.” That day, the Non-Stop Riderz travelled 20 miles through Houston to protest the murder of George Floyd, a Black man killed by a White police officer. As Black “cowboys,” the Non-Stop Riderz would make their mark on the consciousness of a modern-day social justice movement.¹

While there is growing interest in Black cowboys, the narrative is largely tethered to parades and urban and suburban saddle clubs, much like the fictional movie on Netflix, *Concrete Cowboy*. Missing from the narrative are today’s real Black cowboys: rural ranchers and farmers raising cattle for beef production and consumption.

The legacy of the Old West cowboy came out of Texas, in 1890 Texas, estimated one-third of cowboys were black and two-thirds by 1910.² Today, Texas continues to claim its rank as Black cowboy country. Not only do the highest number of Black cattle farmers call Texas home, but Texas also has the highest number of Black farmers and ranchers across the nation.³ Roughly a quarter of all Black producers in the U.S. live and work in Texas.⁴ Together with just eleven southern states, they account for 88 percent of all Black farmers.⁵

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¹ Cat Cardenas, *The Best Thing in Texas: A Black Trail-Riding Club Joined a Houston Protest on Horseback*, TEX. MONTHLY (JUNE 8, 2020), <https://www.texasmonthly.com/news-politics/black-trail-riding-club-houston-protest/>.

² Alwyn Barr, *Introduction to BLACK COWBOYS OF TEXAS* 10 (Sara R. Massey ed., 2d prtg. 2000).

³ NAT’L AGRIC. STAT. SERV., U.S. DEP’T OF AGRIC., ACH17-9, BLACK PRODUCERS 1 (2019).

⁴ *Id.*

⁵ *Id.*

Nearly half of all Black-operated farms specialize in cattle production.⁶ Yet insofar as it persists in the modern American imagination, the image of the Black farmer is predominately informed by images growing cotton and traditional Black staples like collard greens, okra and Black-eyed peas—even if these images don't reflect the realities of Black farming operations today.⁷ But the reality we can all agree on is that in the United States, Black farmers are becoming extinct. As of the 2017 Agricultural Census, the total number of Black producers accounted for just 1.3 percent of the country's 3.4 million producers.⁸ The already dwindling numbers of Black-operated farms had fallen three percent from 2012.⁹ While the largest number of Black producers—farmers and ranchers—may call Texas home, they account for just three percent of the state's total number of producers.¹⁰

While the current food justice movement seeks to bring Black farmers from the edge of extinction, many in the movement advocate their erasure—perhaps unwittingly—by calling for the end of beef production. Resulting from the realities of intensive industrialized animal agriculture, they portray all beef production as drivers of a public health crisis, environmental disaster, and White supremacy. However, this portrait leaves out important aspects of social equity and economic justice, especially for Black rural populations.

Instead of vilifying beef production, should we re-envision it as an integral part of food justice? This requires an investigation into whether beef production can sustain a healthy, environmental and socially conscious diet that supports thriving local food systems and racial equity. This paper explores the cultural challenges Black beef producers face, as well as economic barricades controlled by an intensive beef industry.

⁶ *Id.* Farm specialization refers to the North American Industry Classification System (NAICS). More than half of a farm's sales come from the commodity. *Id.*

⁷ A 1986 USDA report on Black farmers found that while a majority of Black-operated farms were classified as livestock operations, the likelihood that livestock was the major specialty decreased as sales increased. Sixty-eight percent of all Black-operated farms with sales of less than \$2,500 annually were classified as livestock (cattle and hogs) operations. For Black farms with annual sales of \$20,000 or more, livestock specialties were only 11 percent of the total. See VERA J. BANKS, ECON. RSCH. SERV., U.S. DEP'T OF AGRIC., RDRR-59, BLACK FARMER THEIR FARMS 9 (1986).

⁸ NAT'L AGRIC. STAT. SERV., U.S. DEP'T OF AGRIC., *supra* note 3, at 1.

⁹ *Id.*

¹⁰ *Id.*

II. A Public Health Crisis

African-Americans face an ongoing health crisis. According to the Centers for Disease Control and Prevention (CDC), the percent of Blacks aged 20 and over who are obese: 37.5 percent of Black men and 56.1 percent of Black Women.¹¹ Besides accidents, the leading causes of death are heart disease and cancer; both obesity-related conditions. In 2018, non-Hispanic blacks were twice as likely as non-Hispanic whites to die from diabetes.¹² Furthermore, SARS CoV-2 has opportunistically exploited diabetes as 39 percent of the U.S. COVID-19 related deaths were among diabetics.¹³

Much like the rest of Americans, nutrition-related illnesses amongst Black communities have climbed during the last forty years despite national nutritional standards set forth in the Dietary Guidelines. The Dietary Guidelines forms the basis of federal nutrition programs and guides local, state, and national health promotion and disease prevention initiatives.¹⁴ By law, school nutrition programs are required to be in line with the Dietary Guidelines.¹⁵ The National School Lunch Program serves a high percentage of Black public school students.¹⁶ Accordingly, Black youth's nutritional access and food culture are significantly impacted by the low-fat promoting Dietary Guidelines. Since adoption in 1977, Dietary Guidelines have vilified saturated fats (primarily found in

¹¹ Health of Black or African American Non-Hispanic Population, NAT'L CTR. FOR HEALTH STAT., CTRS. FOR DISEASE CONTROL, <https://www.cdc.gov/nchs/fastats/black-health.htm> (Feb. 16, 2022).

¹² Diabetes and African Americans, OFF. OF MINORITY HEALTH, U.S. DEP'T OF HEALTH & HUM. SERV., <https://minorityhealth.hhs.gov/omh/browse.aspx?lvl=4&lvlid=18> (Mar. 1, 2021).

¹³ Edward W. Gregg et al., *Diabetes and Covid-19: Population Impact 18 Months into the Pandemic*, 44 J. CLINICAL & APPLIED RSCH. & EDUC. 1916, 1919 (2021), <https://diabetesjournals.org/care/article/44/9/1916/138829/Diabetes-and-COVID-19-Population-Impact-18-Months>.

¹⁴ Introducing the New Dietary Guidelines for Americans 2020-2025, WEILER NUTRITION COMM'NS, <https://weilernutrition.com/2021/01/introducing-the-new-dietary-guidelines-for-americans-2020-2025/#:~:text=The%20US%20Dietary%20Guidelines%20have%20a%20significant%20impact,and%20national%20health%20promotion%20and%20disease%20prevention%20initiatives> (last visited Feb. 23, 2022).

¹⁵ The Nutritional School Lunch Program is statutorily required to be in line with the Dietary Guidelines. See 42 U.S.C.A. § 1758 (a)(1)(A) (Westlaw through Pub. L. No. 117-80); 42 U.S.C.A § 1773 (e)(1)(A) (Westlaw through Pub. L. No. 117-80).

¹⁶ See SUSAN AUD ET AL., NAT'L CTR. FOR EDUC. STAT., U.S. DEP'T OF EDUC., NCES 2010-015, STATUS AND TRENDS IN THE EDUCATION OF RACIAL AND ETHNIC GROUPS IV (2010).

animal products such as meat and dairy)¹⁷ while favoring plant-based unsaturated fats, even in highly processed foods and those containing trans fats.

Trans fats have been linked to increase heart attacks, stroke, and type 2 diabetes.¹⁸ Prior to the invention of Crisco and margarine (trans fats made from hydrogenated vegetable oils), Americans almost exclusively cooked with butter and animal fats. Consumers shifted away from traditional foodways as mechanization of hulling and pressing seeds and beans made vegetable oils cheaper than raising and slaughtering animals for butter or animal fat.¹⁹ Additionally, the federal government, scientists and aggressive advertising convinced consumers that unsaturated vegetable fats, and not animal fats, should be used as part of a sanitary and nutritious diet.²⁰ Unnoticed is the influence of the plant-based Seventh-Day Adventist church on our national food policy.

Beyond the growing theological influence on its followers, the church is profoundly influential in how we understand nutrition. And the Dietary Guidelines reflect the more than 100 years of lobbying against meat and saturated fat. Founded in the mid-nineteenth century, Seventh-Day Adventist is a homegrown American religion. Since its inception, the church has promoted a grain-based, processed food diet.²¹ Some of its most famous followers were The Kelloggs brothers: Dr. John Harvey Kellogg, inventor of Kellogg's Corn Flakes®, and Will Keith Kellogg, founder of Kellogg's Cereal Company.²² But perhaps the most notable of the church's followers was Dr. Kellogg's mentee, Lenna Frances Cooper.

¹⁷ There are plant-based foods with large amounts of saturated fat, namely, avocado and coconut. The 2020 Dietary Guidelines still suggest using alternatives to coconut oil because of its high percentage of saturated fat. U.S. DEP'T OF AGRIC. & U.S. DEP'T OF HEALTH & HUMAN SERVS., *DIETARY GUIDELINES FOR AMERICANS 2020-2025: MAKE EVERY BITE COUNT WITH DIETARY GUIDELINES* 44 (2020).

¹⁸ Laura Cassidy, *Big Fat Controversy: Changing Opinions About Saturated Fats*, AOCS, <https://www.aocs.org/stay-informed/inform-magazine/featured-articles/big-fat-controversy-changing-opinions-about-saturated-fats-june-2015?SSO=True> (last visited Feb. 23, 2022).

¹⁹ *Id.*

²⁰ See NINA TEICHOLZ, *THE BIG FAT SURPRISE: WHY BUTTER, MEAT, AND CHEESE BELONG IN A HEALTHY DIET* 284 (2015).

²¹ See ELLEN G. WHITE, *COUNSELS ON DIET AND FOODS* 267 (1938).

²² Howard Markel, *The Secret Ingredient in Kellogg's Corn Flakes Is Seventh-Day Adventism*, SMITHSONIAN MAG. (July 28, 2017), <https://www.smithsonianmag.com/history/secret-ingredient-kelloggs-corn-flakes-seventh-day-adventism-180964247/>.

Cooper served as the first Supervising Dietitian for the U.S. Army, where she played a seminal role in setting nutrition standards during World War I. Her 1917 book, *How to Cut Food Costs*, was published during a time when the American public was being urged to reduce consumption of key staples feeding soldiers on the front lines. The book set forth the premise that meat shouldn't be eaten because it was unhealthy, and instead recommended a grain-based diet.²³ Cooper went on to co-found the Academy of Nutrition and Dietetics (formerly known as the American Dietetic Association), and write the textbook used in dietetic and nursing programs globally.²⁴

To this day, the Academy of Nutrition and Dietetics plays a major role in nutrition science by establishing the curriculum for university nutritional science programs,²⁵ publishing a magazine and peer-reviewed journal,²⁶ and lobbying state governments for mandatory state licensing for Registered or Licensed Dietitians in order to work in hospitals and public schools.²⁷ Of the twenty members of the 2020 Dietary Guidelines Advisory Committee, nine members were dietitians, arguably in violation of the Federal Advisory Committee Act (FACA).²⁸ FACA requires all federal advisory committees to be "fairly balanced in terms of the points of view represented and the functions to be performed by the advisory

²³ While beef is rich in calcium, cereals contain calcium only when fortified. Yet, in her book, Cooper found that "cereals, which include all kinds of bread stuffs, as well as breakfast foods, supply important building material for the bones." LENNA FRANCES COOPER, *HOW TO CUT FOOD COSTS* 16 (1917).

²⁴ See John Westerdahl, *Academy Co-Founder Lenna Frances Cooper: A Pioneer in Vegetarian Nutrition and Dietetics*, VEGETARIAN NUTRITION, <https://www.vndpg.org/vn/about/academy-co-founder-lenna-frances-cooper-a-pioneer-in-vegetarian-nutrition-and-dietetics> (last visited Feb. 24, 2022).

²⁵ See *Accredited Programs Directory*, ACAD. OF NUTRITION & DIETETICS, https://www.eatrightpro.org/acend/accredited-programs/accredited-programs-directory?rdType=url_edit&rdProj=acend_prog&rdInfo=dpd (last visited Feb. 24, 2022).

²⁶ See *Aims & Scope*, J. ACAD. NUTRITION & DIETETICS, <https://www.jandonline.org/content/aims> (last visited Feb. 24, 2022); *About Us*, FOOD & NUTRITION MAG., <https://foodandnutrition.org/about-us/> (last visited Feb. 24, 2022).

²⁷ See CAL. ACAD. OF NUTRITION & DIETETICS, <https://dietitian.org/> (last visited Feb. 23, 2022).

²⁸ See AGRIC. RSCH. SERV., U.S. DEP'T OF AGRIC., SCIENTIFIC REPORT OF THE 2020 DIETARY GUIDELINES ADVISORY COMMITTEE: ADVISORY REPORT TO THE SECRETARY OF AGRICULTURE AND SECRETARY OF HEALTH AND HUMAN SERVICES 1 (2020).

committee.”²⁹ Despite a cozy relationship with Big Sugar,³⁰ the Academy continues to have a stronghold on nutrition science.

In addition to new data calling into question previous findings on saturated fat, in 2016 researchers exposed Big Sugar’s funding seminal research linking saturated fat to heart disease.³¹ Yet antiquated positions on saturated fats continue to permeate our nutritional standards. Equating nutritional profiles of all beef penalizes beef cattle raised with practices that can ensure beef as part of a healthy diet. It also lets industrialized animal agriculture off the hook by not emphasizing how their practices degrade the nutritional quality of the meat they produce. There’s evidence that grass-fed beef is healthier compared to grain-finished, factory-farmed beef. Grass-fed beef has been found to contain higher amounts of conjugated linoleic acid (a fatty acid associated with reducing body fat levels),³² omega-3,³³ vitamins A and E,³⁴ and less monounsaturated fat³⁵ and omega 6 fatty acids (the consumption of which has been associated with elevated inflammation).³⁶

Emblematic of the current nutritional zeitgeist, journalists, hospital nutritionists, influencers and hip-hop artists are telling African-Americans to turn away from meat consumption.³⁷ And it’s working. A 2020 Gallup poll found that African-Americans were

²⁹ 5 U.S.C. App. §5(b)(2).

³⁰ See Alexandra Sifferlin, *Soda and Snack Food Companies Welcomed at Nutrition Conference*, TIME (Oct. 14, 2016), <https://time.com/4531268/junk-food-nutrition-diet/>.

³¹ See Cristin E Kearns et al., *Sugar Industry and Coronary Heart Disease Research: A Historical Analysis of Internal Industry Documents*, JAMA INTERNAL MED. (Sept. 16, 2016), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5099084/pdf/nihms816629.pdf>.

³² See Leah D. Whigham, et al., *Efficacy of Conjugated Linoleic Acid for Reducing Fat Mass: A Meta-Analysis in Humans*, 85 AM. J. CLINICAL NUTRITION 1203, 1203 (2007), <https://academic.oup.com/ajcn/article/85/5/1203/4632999.2>.

³³ See A.J. McAfee et al., *Red Meat from Animals Offered a Grass Diet Increases Plasma and Platelet n-3 PUFA in Healthy Consumers*, 105 BRIT. J. NUTRITION 80, 80, 87 (2011).

³⁴ See Cynthia A. Daley et al., *A Review of Fatty Acid Profiles and Antioxidant Content in Grass-Fed and Grain-Fed Beef*, 9 NUTRITION J. 1, 9 (Mar. 10, 2010), <https://nutritionj.biomedcentral.com/track/pdf/10.1186/1475-2891-9-10.pdf>.

³⁵ Mary E. Van Elswyk & Shalene H. McNeill, *Impact of Grass/Forage Feeding Versus Grain Finishing on Beef Nutrients and Sensory Quality: The U.S. Experience*, 96 MEAT SCI. 535, 536-37 (2014).

³⁶ See Daley et al., *supra* note 34, at 4-6, 9.

³⁷ Laura Reiley, *The Fastest-Growing Vegan Demographic Is African Americans. Wu-Tang Clan and Other Hip-Hop Acts Paved the Way*, WASH. POST (Jan. 24, 2020), <https://www.washingtonpost.com/business/2020/01/24/fastest-growing-vegan-demographic-is-african-americans-wu-tang-clan-other-hip-hop-acts-paved-way/>.

more likely to be flexitarians, those who have reduced meat consumption by eating a “flexible,” mostly vegetarian diet, and fully vegan.³⁸ Although vegetarians and vegans are still a small minority of the population, African-Americans are the fastest growing segment within veganism, with *The Washington Post* reporting that eight percent of African-American adults consider themselves vegans.³⁹ In a People for the Ethical Treatment of Animals (PETA) article on Black celebrity vegans, most of the celebrities point to health issues in embracing plant-based diets.⁴⁰ African-Americans are more likely to report food allergies than either Whites or Hispanics,⁴¹ and African-Americans with food allergies are more likely to be vegan or vegetarian.⁴²

Food allergies can point to larger health issues. For instance, one reason people shift to plant-based diets is due to maldigestion of meat. This maldigestion could be caused by an infection of *H. pylori*, a bacteria that hooks itself into its host’s stomach lining. Whereas the stomach acid required to digest meat would kill the bacteria, *H. pylori*’s main defense is to suppress stomach acid production, leaving the host with uncomfortable to painful gastritis. Two major cancers have been linked to *H. pylori*. It is the main cause of stomach cancer,⁴³ and linked to colorectal cancer in African-Americans⁴⁴ (the cancer which caused the untimely passing of the beloved King of Wakanda⁴⁵). The prevalence of *H. pylori* in African-Americans is stark: African Americans are thought to have a prevalence around

³⁸ See Justin McCarthy & Scott Dekoster, *Nearly One in Four in U.S. Have Cut Back on Eating Meat*, GALLUP (Jan. 27, 2020),

<https://news.gallup.com/poll/282779/nearly-one-four-cut-back-eating-meat.aspx>.

³⁹ Reiley, *supra* note 37.

⁴⁰ Zachary Toliver, *These 47 Black Vegans Who Save Animals Inspire PETA*, PETA, <https://www.peta.org/blog/black-vegans-saving-animals/> (last updated Feb. 3, 2022).

⁴¹ Cary Funk & Brian Kennedy, *The New Food Fights: U.S. Public Divides over Food*, PEW RSCH. CTR. 25 (Dec. 1, 2016), https://www.pewresearch.org/internet/wp-content/uploads/sites/9/2016/11/PS_2016.12.01_Food-Science_FINAL.pdf. 27 percent of Blacks, 13 percent of Whites, and 11 percent of Hispanics say they have food allergies. *Id.*

⁴² See *id.* at 11.

⁴³ See Łukasz Hołubiuk & Jacek Imiela, *Diet and Helicobacter Pylori Infection*, 11 GASTROENTEROLOGY REV., Mar. 2016, at 150, 150-54.

⁴⁴ Julia Butt et al., *Serologic Response to Helicobacter pylori Proteins Associated with Risk of Colorectal Cancer Among Diverse Populations in the United States*, 156 GASTROENTEROLOGY 175, 181 (2018).

⁴⁵ See UC Davis Comprehensive Cancer Center, *Chadwick Boseman: Actor’s Death Reflects a Rise in Colorectal Cancer Rates Among Young Adults*, SYNTHESIS, Winter 2021, https://health.ucdavis.edu/synthesis/issues/winter2021/patient_focus/chadwick-boseman.html.

50-60%, a 2- to 6-fold increased odds compared to Whites.⁴⁶ So instead of pushing a plant-based agenda, professionals and influencers should educate the African-American about the potential health issues food allergies may evidence.

III. An Environmental Movement

Food justice has its origins in the fight against pollution endemic to urban minority communities.⁴⁷ Today, environmental concerns weigh heavily in Black communities, with a majority of African-Americans being seriously concerned about climate change.⁴⁸ While climate change solutions are at the center of the current food justice movement, they are driven by an urban agricultural, plant-based regime advocated by wealthy donors, such as Bill Gates,⁴⁹ and the United Nations.⁵⁰ Industrialized beef production practices have been linked to climate change,⁵¹ yet the dominant solution narratives ignore the “industrialized” portion of this equation. In analyzing the work of eco-philosopher Thomas Berry, African-American environmentalist Carl Anthony summarizes Berry’s position on the problems created by industrialization as a dominant paradigm:

“On one side are those who believe in the power of science and industry to guide us to a safer and more abundant future... scientific materialism has caused us to lose touch with spiritual, ethical, and aesthetic dimensions of life and has led to mass extinctions and an increasingly toxic industrial environment.”⁵²

⁴⁶ Meira Epplein et al., *Race, African Ancestry, and Helicobacter pylori Infection in a Low-Income United States Population*, 20 *CANCER EPIDEMIOLOGICAL BIOMARKERS PREV.* 826, 827 (2011).

⁴⁷ CARL ANTHONY, *THE EARTH, THE CITY, AND THE HIDDEN NARRATIVE OF RACE* 26 (2017).

⁴⁸ See Matthew Ballew, et al., *Which Racial/Ethnic Groups Care Most About Climate Change?*, *YALE PROGRAM ON CLIMATE CHANGE COMMUN.* (Apr. 16, 2020), <https://climatecommunication.yale.edu/publications/race-and-climate-change/>.

⁴⁹ James Temple, *Bill Gates: Rich Nations Should Shift Entirely to Synthetic Beef*, *MIT TECH. REV.* (Feb 14, 2021), <https://www.technologyreview.com/2021/02/14/1018296/bill-gates-climate-change-beef-trees-microsoft/>.

⁵⁰ See generally Int’l Panel on Climate Change [IPCC], *CLIMATE CHANGE AND LAND: AN IPCC SPECIAL REPORT ON CLIMATE CHANGE, DESERTIFICATION, LAND DEGRADATION, SUSTAINABLE LAND MANAGEMENT, FOOD SECURITY, AND GREENHOUSE GAS FLUXES IN TERRESTRIAL ECOSYSTEMS 7* (P.R. Shukla et al., eds., 2019), https://www.ipcc.ch/site/assets/uploads/sites/4/2020/02/SPM_Updated-Jan20.pdf.

⁵¹ See *id.*

⁵² ANTHONY, *supra* note 47, at 141.

Instead of promoting de-industrialized beef production practices as a climate change solution, powerful institutions such as the United Nations (UN) promote industrialized plant-based solutions. An example of this is factory and laboratory crafted plant-based “meats,” with the UN naming Beyond Meat and Impossible Foods the 2018 Champions of the Earth, the UN’s highest accolade for the environment.⁵³ However, these plant-based meats rely on the same destructive surpluses of soybeans and corn that fueled the expansion of factory farming. In addition, the environmental impact and food safety of these products are unknown. Finally, shifting consumption away from beef to plant-based proteins flies in the face of environmental justice and racial and gender equity by placing the primary supply of protein into the hands of corporations, their investors, and their mostly White male executives.

Yet, there have been proposals to accelerate the shift of consumers away from beef and toward plant-based proteins by making meat more expensive through use of a meat tax, with proponents such as Vice President Kamala Harris.⁵⁴ According to FAIRR, a “global network of investors who regard the issues linked to intensive animal production and seek to minimize the risks within the broader food system,” a meat tax is now becoming increasingly likely as a result of the Paris Climate Accord.⁵⁵ There is little to no consideration that a tax would disproportionately impact food costs for low-income communities of color.

While Black communities face a possible regressive tax on their food to pay for the harmful impacts of industrialized animal agriculture, they are already paying the price of the destruction to their environments caused by concentrated animal feeding operations (CAFOs).⁵⁶ Whereas factory farming operations used to

⁵³ See Press Release, UN Env’t Programme, Plant-Based Meat Revolutionaries Win UN’s Highest Environmental Honor (Sept. 28, 2018).

⁵⁴ See Amanda Radke, *Politician Vows to Tax Producers to Make Beef More Expensive*, BEEF MAG. (Sept. 20, 2019), <https://www.beefmagazine.com/beef/politician-vows-tax-producers-make-beef-more-expensive>.

⁵⁵ FARM ANIMAL INVESTMENT RISK & RETURN [FAIRR], THE LIVESTOCK LEVY: PROGRESS REPORT 9 (Jun. 30, 2020).

⁵⁶ There isn’t much data on whether beef cattle CAFOs (concentrated animal feeding operation) are concentrated in predominately African-American communities. Although most cattle farms are found in the Black Belt, most beef cattle CAFOs are in midwestern states. See S. M. Rafael Harun & Yelena Ogneva-Himmelberger, *Distribution of Industrial Farms in the United States and Socioeconomic, Health, and Environmental Characteristics of Counties*, 2013

be found in urban areas, they've mostly been relocated to rural areas.⁵⁷ Thus, ironically, rural populations are now getting the brunt of the harmful impacts of CAFOs which are used to feed an increasingly urbanized world.

Largely overlooked are the increasing number of studies that find cattle raised in regenerative agricultural settings could play an important part in climate change mitigation. A 5-year study by researchers from Michigan State University and the Union of Concerned Scientists found that as opposed to continuous grazing or feed-lot finishing systems, grass-fed beef from adaptive multi-paddock (AMP) grazed and finished cattle not only offset their greenhouse gas emissions, but may also be net carbon-negative by virtue of sequestering carbon in the soil.⁵⁸ And when you add to this the fact that the organic matter sequestering this carbon also retains a massive amount of water in the soil, AMP grazed beef could actually be one of the most environmentally sustainable foods for some climates and ecosystems.⁵⁹

IV. An Anti-Racist Movement

In addition to environmental justice underpinnings, proponents of plant-based diets raise racial equity issues. For instance, Black veganism itself carries a racial justice component. As one writer explains: "To be a Black Vegan is a revolutionary act. Why? Because it takes courage to unlearn what we've been taught both by our families and by governmental agencies who allegedly

GEOGRAPHY J. 3, 4 (July 15, 2013), <https://downloads.hindawi.com/archive/2013/385893.pdf>. It is likely that because these states lack significant African-American populations outside of urban areas, there aren't many studies on the issue. However, a study of Ohio's CAFOs found that African-American, Hispanic, and poor communities were disproportionately impacted. See Julia Lenhardt & Yelena Ogneva-Himmelberger, *Environmental Injustice in the Spatial Distribution of Concentrated Animal Feeding Operations in Ohio* in POLITICAL ECOLOGIES OF MEAT 127, 133 (Jody Emel & Harvey Neo eds., 2015). The most significant research on the detrimental impact of CAFOs on African-American communities was on hog CAFOs in North Carolina. See generally Nicole Wendee, *CAFOs and Environmental Justice: The Case of North Carolina*, 121 ENV'TL HEALTH PERSPECTIVES, June 2013, at 182, 183 (2013).

⁵⁷ See WILLIAM KANDEL, ECON. RSCH. SERV., U.S. DEP'T OF AGRIC., RECENT TRENDS IN RURAL-BASED MEAT PROCESSING 1 (2009).

⁵⁸ See Paige L. Stanley, et al., *Impacts of Soil Carbon Sequestration on Life Cycle Greenhouse Gas Emissions in Midwestern USA Beef Finishing Systems*, 162 AGRIC. SYS. 249, 250 (2018).

⁵⁹ See Jong-Yoon Park, et al., *Evaluating the Ranch and Watershed Scale Impacts of Using Traditional and Adaptive Multi-Paddock Grazing on Runoff, Sediment and Nutrient Losses in North Texas, USA*, 240 AGRIC., ECOSYSTEMS & ENV'T. 32, 36 (2017).

‘want the best for us.’”⁶⁰ Many have animal welfare concerns and added to these concerns are the vestiges of slavery when African-Americans were legally considered property, like animals, and treated inhumanely.⁶¹

However, anti-colonialism rhetoric misses the irony that the nutrient-dense superfoods they rely on are products of colonialism. From coconut oil to avocados, these foods are plucked from abroad per American trade hegemony. The Global South’s small farmers, farmworkers, food autonomy, and environment suffer to feed our insatiable appetite for tropical plants. For instance, the ethics of plant-based protein cashews should be questioned as cashew harvesting requires laborers to work under unbearable conditions, often suffering burns from the caustic acid within cashew shells.⁶² Additionally, anti-racist stances against beef production and consumption miss the important role cattle have played in American racial justice movements.

Churches serving northern, urban Black populations preached the importance of farming within self-support systems. Religious leaders like Father Divine would lead his followers from his interracial Harlem-based church to a farm in New York’s rural Hudson Valley. Among other livestock, they would raise cattle for their own use or to sell.⁶³ The Nation of Islam, founded in Detroit, would set up a farm in the 1960s (though it was shuttered by the

⁶⁰ Danni Roseman, *How Black Veganism Is Revolutionary and Essential for Our Culture*, BLAVITY (Jun. 25, 2017), <https://blavity.com/black-veganism-is-revolutionary?category1=community-submitted&subCat=health&category2=health>.

⁶¹ The MOVE organization was a social justice driven organization active in Philadelphia during the 1970s through the mid-1980s. Radical environmentalists and vegans, most members were killed in 1985 when Philadelphia police dropped two bombs on their house, which led to several residential blocks being burnt to the ground within the African-American enclave of West Philadelphia. In a written interview, one of the only surviving members recounts: “We exposed the crimes of government officials on every level,” Janine Africa wrote to me. “We demonstrated against puppy mills, zoos, circuses, any form of enslavement of animals. We demonstrated against Three Mile Island [nuclear power plant] and industrial pollution. We demonstrated against police brutality. And we did so uncompromisingly. Slavery never ended, it was just disguised.” Ed Pilkington, *A Siege. A Bomb. 48 Dogs. And the Black Commune that Would Not Surrender*, THE GUARDIAN (July 31, 2018), <https://www.theguardian.com/world/2018/jul/31/a-siege-a-bomb-48-dogs-and-the-black-commune-that-would-not-surrender>.

⁶² See Jack Coulton, *Cashew Nuts: A Toxic Industry*, SLOW FOOD (Mar. 5, 2020), <https://www.slowfood.com/cashew-nuts-a-toxic-industry/>.

⁶³ *A Virtual Tour of Father Divine’s Ulster County ‘Heavens’*, TIMES HUDSON VALLEY MEDIA (Feb. 13, 2019), <http://timeshudsonvalley.com/stories/a-virtual-tour-of-father-divines-ulster-county-heavens,4016>.

1990s).⁶⁴ Farrakhan is quoted in the organization's Final Call newspaper, as describing farming and animal husbandry as "the first professions," and "*the engine* of every nation."⁶⁵ The Pan African Orthodox Christian Church, also founded in Detroit, looked to the South to purchase farm land to feed its congregation and to "strike a devastating blow to the myth of Black inferiority and the pattern of dependency that still shackles the minds of far too many," and "offer hope to young people who feel that their only hope is to beg for employment from corporations that have already proven they don't need them or risk their lives in the illegal economy."⁶⁶ Today, while their dream wasn't fully realized, their farmland is leased to a Black beef cattle producer.⁶⁷

Though the Civil Rights era catapulted vegan ideology amongst northern, urban Black populations,⁶⁸ southern "back to the land" agricultural cooperatives made plans to raise cattle as part of self-sufficiency. Among them was Freedom Farmer Cooperative, which was established by journalist and anti-poverty activist Fannie Lou Hamer.⁶⁹ There was also New Communities, a cooperative land trust co-founded by Charles Sherrod, a founding member of Student Nonviolent Coordinating Committee (SNCC) in southwest Georgia, and SNCC's first Field Secretary.⁷⁰ Still in operation today, the Federation of Southern Cooperatives, a cooperative association of Black farmers, landowners, and cooperatives, used cattle in their training farm to promote cooperative economic development as a

⁶⁴ Nafeesa Muhammad, *The Nation of Islam's Economic Program, 1934-1975*, BLACK PAST, (Apr. 1, 2020), <https://www.blackpast.org/african-american-history/the-nation-of-islams-economic-program-1934-1975/>.

⁶⁵ Ridgely Mu'min Muhammad & Abdul Arif Muhammad, *Fox News Lies: Louis Farrakhan Receives No Government Funding*, NATION OF ISLAM, https://www.noi.org/fox-news-lies_03-14-2014/ (last visited Mar. 3, 2022).

⁶⁶ *The Beulah Land Farms Story- Mortgage Paid in Full October 2018*, SHRINES OF THE BLACK MADONNA, (last visited June 24, 2020), <https://www.shrinesoftheblackmadonna.org/beulah-land-story/>.

⁶⁷ *America's Best Young Farmer & Ranchers: Gary Coleman Jr.*, PROGRESSIVE FARMER, <https://spotlights.dtnpf.com/abyfr/GC2013.cfm> (last visited June. 21, 2020).

⁶⁸ See Amariah Mercer, *A Homecoming*, EATER (Jan. 14, 2021), <https://www.eater.com/22229322/black-veganism-history-black-panthers-dick-gregory-nation-of-islam-alvenia-fulton>.

⁶⁹ MONICA M. WHITE, FREEDOM FARMERS: AGRICULTURAL RESISTANCE AND THE BLACK FREEDOM MOVEMENT 65 (2018).

⁷⁰ Shirley Sherrod, *The Struggle for the Land: A Story from America's Black Belt*, NONPROFIT Q., (Feb. 18, 2020), <https://nonprofitquarterly.org/the-struggle-for-the-land-a-story-from-americas-black-belt/>.

philosophy and to advance the stewardship of Black-owned land and other natural resources in rural, low-income communities.⁷¹

In sum, cattle have played an important role in the African-American journey for personal freedom and the economic welfare of rural development. It naturally follows that the Black farmer's ability to continue to produce beef is key to economic justice for rural communities. However, they face many hurdles in succeeding in the industry.

V. Black Producers' Beef with the Industry

The United States is the largest producer of beef, primarily grain-fed beef for domestic and export consumption.⁷² In 2018, cattle production was a \$67 billion market that represented roughly 18 percent of all agricultural commodities cash receipts.⁷³ Even so, in this lucrative market, Black beef producers face many challenges, namely one of profitability. As a Georgia farmer puts it, "We're in the game of raising cattle, but [White farmers] are in the business of raising cattle."⁷⁴ Most Black farmers run a few heads of cattle to diversify their operations,⁷⁵ as usually crops and cattle succeed inversely to the other.⁷⁶

The U.S. beef industry consists of two production sectors: cow-calf operations and cattle feeding.⁷⁷ While there may be some exceptions, Black beef producers run cow-calf operations: farms or ranches where calves are born and raised to weaning age, and subsequently sent to a stockyard, sold at auction, or sold to a concentrated animal feeding operation (CAFO), where they are fattened up on grain.⁷⁸ Cow-calf operations are the backbone of the beef industry; they're mostly smaller operations with less than 100

⁷¹ See JESSICA GORDON NEMBARD, *COLLECTIVE COURAGE: A HISTORY OF AFRICAN AMERICAN COOPERATIVE ECONOMIC THOUGHT AND PRACTICE* 118, 121 (2014).

⁷² *Cattle & Beef, Sector at a Glance*, ECON. RSCH. SERV., U.S. DEP'T OF AGRIC., <https://www.ers.usda.gov/topics/animal-products/cattle-beef/sector-at-a-glance/> (last updated Nov. 29, 2021).

⁷³ See *id.* Data on 2018 cash receipts.

⁷⁴ Interview with Handy Kennedy, Operator, HK Farm LLC, Co-founder, AgriUnity (Dec. 2, 2021).

⁷⁵ Interview with Ben Burkett, President, Nat'l Family Farm Coal. (Mar. 9, 2020).

⁷⁶ Interview with Albert Jones, Farm Program Dir., Ark. Land & Cmty. Dev. Corp. (June 9, 2020).

⁷⁷ *Cattle & Beef: Overview*, ECON. RSCH. SERV., U.S. DEP'T OF AGRIC., <https://www.ers.usda.gov/topics/animal-products/cattle-beef/> (last updated Jan. 22, 2021).

⁷⁸ See JAMES M. MACDONALD ET AL., *ECON. RSCH. SERV., U.S. DEP'T OF AGRIC., EIB-189, THREE DECADES OF CONSOLIDATION IN U.S. AGRICULTURE* 37 n. 20 (2018).

cows.⁷⁹ In an industry that's becoming increasingly vertically integrated, dominated by a few meat packing companies, cow-calf operations are one of the few refuges in the meat industry for small-scale, independent producers.

Cow-calf operations take on the most risk as they only get paid when they deliver healthy and hearty cattle to a feeding operation. If a Black producer can manage to sell his cattle to a stockyard, they'll see more money in their pocket, instead of the pockets of the middlemen at the auction or CAFOs.⁸⁰ But most Black producers don't have the paperwork to prove their cattle's pedigree, and a stockyard isn't going to take cattle without it. And the price cattle demand at the auctions and CAFOs also depend on pedigree, because it's going to determine the beef grade, a uniform system for valuing a feeder cattle based on the frame and muscle.⁸¹ A Black producer's payday may further be cut by discrimination: Many have complained that their cattle will be incorrectly graded.⁸² But when it comes to pricing, all cattle farmers are hurt from industry-wide low prices of cattle. Even before the Covid-19 pandemic hit, the price of beef cattle had dropped to lows while the price consumers paid kept inching up. The cause of this seemingly paradoxical situation is the industry's structure, and the bottleneck created by the meatpacking companies.

The American public first learned about the machinations of the meatpacking industry from Upton Sinclair's famous novel, *The Jungle*,⁸³ which detailed its atrocious working environment at the turn of the 20th Century. Less than two decades after this exposé was published, a 1919 Federal Trade Commission (FTC) report concluded that the then "Big Five" meat packers had "attained such a dominant position that they control at will the market in which they buy their supplies, the market in which they sell their products, and

⁷⁹ See ANIMAL & PLANT HEALTH INSPECTION SERV., U.S. DEP'T OF AGRIC., SMALL-SCALE U.S. COW-CALF OPERATIONS i (2011).

⁸⁰ Interview with Handy Kennedy, *supra* note 74.

⁸¹ *Feeder Cattle Grades and Standards*, AGRIC. MKTG. SERV., U.S. DEP'T OF AGRIC., <https://www.ams.usda.gov/grades-standards/feeder-cattle-grades-and-standards> (last visited Mar. 7, 2022). United States Standards for Grades of Feeder Cattle, 65 Fed. Reg. 39,587 (June 27, 2000).

⁸² U.S. COMM'N ON CIV. RTS., 7 *RACIAL AND ETHNIC TENSIONS IN AMERICAN COMMUNITIES: POVERTY, INEQUALITY, AND DISCRIMINATION: THE MISSISSIPPI DELTA REPORT* (2001).

⁸³ *The Jungle* was published serially in 1905 and as a single-volume book in 1906. An exposé of conditions in the Chicago stockyards, the book caused a public outcry which led to the passing of the U.S. Pure Food and Drug Act. The 1906 act helped improve conditions in slaughterhouses. Kate Lohnes, *The Jungle: Novel by Sinclair*, ENCYC. BRITANNICA, <https://www.britannica.com/topic/The-Jungle-novel-by-Sinclair> (last visited Mar. 7, 2022).

hold the fortunes of their competitors in their hands.”⁸⁴ Following these FTC findings, Congress passed the Packers and Stockyards Act of 1921.⁸⁵ While the Act was initially successful in breaking up the meatpacking industry, by the 1980s reconsolidation began.⁸⁶ While the Big Five meatpackers in 1921 controlled 70 percent of the market, the Big Four meatpackers currently sitting atop the American beef industry— Tyson Foods, Cargill, National Beef, and JBS— process about 85 percent of beef on the market.⁸⁷ In 2019, several anti-trust lawsuits were brought against the Big Four claiming they colluded to fix prices, including reducing capacity or closing plants. It wasn’t until the Covid-19 pandemic hit that the USDA and Justice Department started investigating these allegations.⁸⁸

Even prior to the pandemic, the Big Four were making record profits. But with the pandemic came an increase in demand, and prices went up further.⁸⁹ According to a 2021 White House blog post, the Big Four’s profit margins increased 300 percent during the pandemic.⁹⁰ This occurred during a time when processing capacity at plants were cut due to Covid-19 spreading amongst the labor force. Longstanding unsafe conditions made plants a breeding ground for the virus.⁹¹ Among the large immigrant workforce are Somali refugees, Black laborers who routinely face discrimination.⁹² Until

⁸⁴ Christopher R. Kelley, *An Overview of the Packers and Stockyards Act*, 2003 ARK. L. NOTES 35, 37.

⁸⁵ *See id.* at 38.

⁸⁶ *Id.*

⁸⁷ Leah Nylen & Liz Crampton, ‘*Something Isn’t Right*’: *U.S. Probes Soaring Beef Prices*, POLITICO (May 25, 2020), <https://www.politico.com/news/2020/05/25/meatpackers-prices-coronavirus-antitrust-275093>.

⁸⁸ *Id.*

⁸⁹ *See* Chelsey Cox, *Fact Check: Cattle Farmers Are Paid Less, Consumers Pay More Amid Beef Shortage*, USA TODAY, <https://www.usatoday.com/story/news/factcheck/2020/06/05/fact-check-farmers-paid-less-consumers-pay-more-amid-beef-shortage/5311455002/> (last visited June 12, 2020).

⁹⁰ Brian Deese et al., *Recent Data Show Dominant Meat Processing Companies Are Taking Advantage of Market Power to Raise Prices and Grow Profit Margins*, THE WHITE HOUSE BLOG (Dec. 10, 2021), <https://www.whitehouse.gov/briefing-room/blog/2021/12/10/recent-data-show-dominant-meat-processing-companies-are-taking-advantage-of-market-power-to-raise-prices-and-grow-profit-margins/>.

⁹¹ Michael Haedicke, *Meat Factory Work Is Dangerous in Normal Times. The Same Conditions Spread Covid-19*, IN THESE TIMES (May 11, 2020), <https://inthesetimes.com/article/meat-processing-factory-farm-covid-19-coronavirus-unions-worker-organizing>.

⁹² *See* Chico Harlan, *For Somalis, Hope Falls to the Cutting Floor: Refugees Entrapped by Popular Meat Industry*, THE WASH. POST (May 24, 2016),

their arrival Black labor in the meatpacking industry had been on the decline, having been replaced by Latino immigrants though some Blacks did find work in supervisory positions.⁹³ A brutal job for low-skilled employees who work on fast lines with dangerous machinery, the virus ravaged workers' health, while plant closures sent them to join the unemployed. In the wake of safety issues, the deputy director of the Food and Agriculture Organization of the United Nations (FAO) said he expects human labor to be "increasingly replaced by machines."⁹⁴ In the meantime, the Big Four are rolling out their own plant-based "meats."⁹⁵ So while meatpackers make unprecedented profit,⁹⁶ they seemingly have no intention of protecting American beef production nor employment for rural communities and people of color.

That the Big Four's oligopolistic hold of the market detrimentally impacts cow-calf operators was never more apparent when at the beginning of Covid-19 shutdowns beef shortages hit grocery retailers although there was no shortage of beef cattle. Because of the meatpacking bottleneck cattle prices plummeted, and without an end buyer in place, auctions had fewer buyers attending.⁹⁷ For Black producers, who mostly sell through auctions, this would mean foregoing a sale altogether.⁹⁸ The pandemic did increase opportunities to sell directly to consumers who were worried about access and about the safety of their meat.⁹⁹ Unfortunately, for Black cattle producers who'd like to process and sell their own beef, there are major hurdles to getting around the Big Four. While Black producers supplying beef to local communities were selling out, they

<https://www.washingtonpost.com/sf/national/2016/05/24/for-many-somali-refugees-this-industry-offers-hope-then-takes-it-away/>.

⁹³ See VANESA RIBAS, *ON THE LINE: SLAUGHTERHOUSE LIVES AND THE MAKING OF THE NEW SOUTH* 32, 61 (2016).

⁹⁴ Arthur Neslen, *Rise of the Robo-Slaughtermen*, POLITICO (May 25, 2020), <https://www.politico.eu/article/coronavirus-rise-of-the-robot-slaughtermen/>.

⁹⁵ Chloe Sorvino, *The World's Largest Meat Seller Embraces Plant-Based Proteins as Pandemic Demand Surges*, FORBES (June 18, 2020), <https://www.forbes.com/sites/chloesorvino/2020/06/18/the-worlds-largest-meat-seller-embraces-plant-based-proteins-as-pandemic-demand-surges/>.

⁹⁶ See Joe Fassler & H. Claire Brown, *Why Covid-19 Plant Shutdowns Could Make the Big Four Meatpackers Even More Profitable*, THE COUNTER (May 14, 2020), <https://thecounter.org/covid-19-meat-plant-closures-food-prices-cattle/>.

⁹⁷ Samantha Masunaga et al., *People Want Beef. Ranchers Have Cows. Here's What's Going Wrong*, L.A. TIMES (May 16, 2020), <https://www.latimes.com/business/story/2020-05-12/how-coronavirus-disrupted-california-meat-plants>.

⁹⁸ Interview with Albert Jones, *supra* note 76.

⁹⁹ Lillianna Byington, *As Meat Giants Face Scrutiny, Small and Niche Producers Capitalize*, FOOD DIVE (June 8, 2020), <https://www.fooddive.com/news/as-meat-giants-face-scrutiny-small-and-niche-producers-capitalize/578687/>.

were unable to meet the increased demand for their product because of the backlog at custom processing abattoirs.¹⁰⁰

Processing infrastructure remains a critical bottleneck in the supply chain. Under current law, meat offered for retail sale must be butchered under the supervision of a USDA Food Safety and Inspection Service (FSIS) employee or by inspectors in states with FSIS equivalent certification. Only 27 states operate equivalent inspection programs.¹⁰¹ While these are states that hold a significant number of Black-operated farms, there still aren't enough independent slaughterhouses—i.e., abattoirs—or USDA inspectors to service most small to mid-size cattle producers locally or even regionally, and without a constant throughput smaller facilities aren't profitable and are soon shuttered.¹⁰² Black-owned beef abattoirs are nonexistent.¹⁰³

Several years earlier legislation was introduced in the House that would lower barriers for new meatpacking facilities. Introduced in 2015, the Processing Revival and Intrastate Meat Exemption (PRIME) Act, would have allowed states to legalize the sale of custom-processed meat direct to household customers and to restaurants, hotels, grocery stores, farmers' markets, and other establishments that directly serve consumers in a state.¹⁰⁴ The PRIME Act never left committee.¹⁰⁵ While cow-calf operators and Muslims, whose halal practices require strict animal welfare

¹⁰⁰ See P.J. Huffstutter & Rod Nickel, 'How About Next June?' *Small Meat Processors Backlogged as Virus Idles Big Plants*, REUTERS (May 26, 2020), <https://www.reuters.com/article/us-health-coronavirus-meatpacking/how-about-next-june-small-meat-processors-backlogged-as-virus-idles-big-plants-idUSKBN23217V>.

¹⁰¹ A subset of the 27 states that have Meat and Poultry Inspection Programs also have Cooperative Interstate Shipment agreements with the FSIS that allows meat to be sold across state lines. These are mostly northern states, which don't have a significant number of Black-operated farms. See *FSIS and Iowa Sign Cooperative Interstate Shipment Agreement*, FOOD SAFETY & INSPECTION SERV., U.S. DEP'T OF AGRIC. (May 21, 2020), <https://www.fsis.usda.gov/news-events/news-press-releases/fsis-and-iowa-sign-cooperative-interstate-shipment-agreement-0>.

¹⁰² See ROB HOLLAND & HAL PEPPER, UNIV. OF TENN. EXTENSION, *INITIAL CONSIDERATIONS FOR STARTING A SMALL-SCALE LIVESTOCK HARVEST AND PROCESSING FACILITY* 2-3 (2014).

¹⁰³ In interviews with Black producers in Arkansas, Georgia, Mississippi, North Carolina, and Tennessee, and an unofficial survey of members of the National Black Farmers Association, no one could point to a black-owned beef abattoir. The author was able to locate a formerly black-owned abattoir in Tennessee that had shuttered in around 2017-2018, and an abattoir in North Carolina slated to open February 2022.

¹⁰⁴ Processing Revival and Interstate Meat Exception (PRIME) Act, H.R. 3187, 114th Cong. (2015).

¹⁰⁵ *Id.*

methods, advocated for the PRIME Act, it was the pandemic that resulted in its political resurgence due to the general public's growing awareness of the food security and safety issues posed by the consolidated meat supply chain.¹⁰⁶

VI. UnCOOL Land and Marketing Issues

The United States is a net beef importer, purchasing lower-value beef destined for processing.¹⁰⁷ Since 2015, foreign beef processed in the U.S. can legally be labeled "Product of U.S.A." even if the animal was raised a continent away.¹⁰⁸ As a response to a successful suit for unfair trade practice filed with the World Trade Organization (WTO) by Canada and Mexico, the USDA rolled back Country of Origin Labeling (COOL) for beef and pork products, allowing meat to be sold without disclosing its home country on the label.¹⁰⁹ And as purveyors of beef that is graded low,¹¹⁰ Black producers are less able to compete with these cheaper imports. So in order to compete in a market with odds stacked against them, more Black cow-calf operators are selling their grass-fed beef directly to consumers. Grass-fed beef commands a premium for being healthier and more environmentally sustainable. So, the ability to distinguish themselves based on their production practices and country of origin is critical to their brand for the sake of food safety and traceability. And with Covid-19 consumers are becoming more wary of the food safety issues of industrialized meat. Large meatpacking companies can produce a single USDA-inspected beef product that contains more than 100 animals hailing from multiple countries.¹¹¹

¹⁰⁶ Stephen Robert Miller, *Amid Covid-19 Bottleneck in Meat Industry, PRIME Act Gains Support*, FERN'S AGRIC. INSIDER (June 3, 2020), thefern.org/ag_insider/amid-covid-bottleneck-in-meat-industry-prime-act-gains-support/.

¹⁰⁷ *Cattle & Beef: Overview*, *supra* note 77.

¹⁰⁸ Joe Fassler, *Foreign Beef Can Legally Be Labeled "Product of U.S.A." It's Killing America's Grass-Fed Industry*, THE COUNTER (July 16, 2018), thecounter.org/grass-fed-beef-labeling-fraud-country-origin/.

¹⁰⁹ JOEL L. GREENE, CONG. RSCH. SERV., RS22955, COUNTRY-OF-ORIGIN LABELING FOR FOODS AND THE WTO TRADE DISPUTE ON MEAT LABELING (2016).

¹¹⁰ Cattle finished on grass typically have lower USDA quality grades, an indication of fat within the muscle, than grain fed cattle. *Grass-Fed Beef Production*, PENN STATE EXTENSION (Mar. 7, 2018), <https://extension.psu.edu/grass-fed-beef-production>.

¹¹¹ McDonald's, a JBS client, openly states their practice of buying beef patties that contain multiple beef sources in a website FAQ: "Do McDonald's burgers contain beef from lots of different cows? We only use whole cuts of 100% beef in our burgers, from over 16,000 British and Irish farmers. Our patty supplier buys whole cuts of forequarter and flank from approved abattoirs across the U.K. and Ireland. Here the beef is prepared by skilled butchers before being minced and

The pandemic's disruption of the beef supply chain caused an animal welfare and food waste catastrophe as thousands of cattle were being culled on farms.¹¹² It also brought the first shipment of grass-fed beef imported from Namibia.¹¹³ Just the year prior to the repeal of COOL, U.S. producers accounted for more than 60 percent of the domestic grass-fed market.¹¹⁴ But by 2017, after the repeal of COOL, American ranchers' share of the domestic, grass-fed beef market plunged.¹¹⁵ Now, American producers are estimated for only 15 percent of the grass-fed market.¹¹⁶ Without COOL, meat labeling can easily confuse consumers into believing a beef product is American produced. As a grass-fed beef producer explains:

“The splashy consumer-facing label features a USDA organic seal, a USDA inspection sticker, and, in smaller print, the phrase “processed in USA” alongside Trader Joe’s corporate address in Monrovia, California. Of course, foreign beef can still be certified USDA organic, and all imported meat goes through USDA inspection.”¹¹⁷

But even with COOL in place, Black producers would still struggle to compete in the grass-fed market because grass-finishing cattle requires a lot of land, and African-Americans were historically kept out of land ownership. After the Civil War, stock laws would end traditional Southern agricultural practice of allowing livestock to be grazed in the commons, and this served as one of the biggest drivers of emigration from the South in search of economic opportunity.¹¹⁸ For those who were able to obtain land, there were

shaped to create our hamburger patties. In the blending process, we do mix beef from different delivery batches and the resulting batches can be made up of the meat from more than 100 cattle.” *Do McDonald’s Burgers Contain Beef from Lots of Different Cows?*, MCDONALDS, [mcdonalds.com/gb/en-gb/help/faq/18908-do-mcdonalds-burgers-contain-beef-from-lots-of-different-cows.html](https://www.mcdonalds.com/gb/en-gb/help/faq/18908-do-mcdonalds-burgers-contain-beef-from-lots-of-different-cows.html) (last visited Feb. 24, 2022).

¹¹² See Sophie Kevany, *Millions of Farm Animals Culled as US Food Supply Chain Chokes Up*, THE GUARDIAN (Apr. 29, 2020), <https://www.theguardian.com/environment/2020/apr/29/millions-of-farm-animals-culled-as-us-food-supply-chain-chokes-up-coronavirus>.

¹¹³ See Charmaine Ngatjiheue, *Namibia’s First Beef Batch Reaches US*, MEAT IMPORT COUNCIL OF AMERICA (Apr. 23, 2020), <http://www.micausa.org/namibias-first-beef-batch-reaches-us/>.

¹¹⁴ Fassler, *supra* note 108.

¹¹⁵ *Id.*

¹¹⁶ *Id.*

¹¹⁷ *Id.*

¹¹⁸ MATTHEW HARPER, *THE END OF DAYS: AFRICAN AMERICAN RELIGION AND POLITICS IN THE AGE OF EMANCIPATION* 85 (2016). Under the old open grazing

legal mechanisms used to divest them of it.¹¹⁹ Some African-Americans would migrate to the West, but had limited access to Homestead Acts' land grabs.¹²⁰ Known as exodusters, only the best land was already taken and generally what was available was land not fit for growing crops; and this kind of land is utilized to support animal agriculture, which is why many turned to raising cattle for subsistence.¹²¹ With these historical limitations and continuous limited access to capital, Blacks aren't able to compete for the best land when acquiring farms, thus the total value of products sold per acre are all significantly lower for Black farmers reflecting poorer quality of land¹²² as well as less land.¹²³ *Pigford vs. Glickman* brought attention to the plight of Black farms' survival and the USDA's racially discriminatory policies that unfairly led to the foreclosure of farms owned by African-Americans.¹²⁴ While farmers ultimately won a settlement, many had already lost their land.

Finally, a major barrier to Black beef producers supplying local communities is a lack of communications infrastructure in rural areas. A lack of internet access—and sometimes even a phone connection—has already plagued Black farmers by creating a barrier to receiving USDA programs and services.¹²⁵ This digital divide also poses a challenge to connecting with customers through direct online marketing.

system, responsibility for protecting crop lands lay with farmers, who had to build fences around their fields to keep animals out. Stock laws shifted liability and cost of fencing from the crop cultivator to the livestock owner. *Id.*

¹¹⁹ Vann R. Newkirk II, *This Land Was Our Land: How Nearly 1 Million Black Farmers Were Robbed of Their Livelihood*, 324 ATLANTIC MONTHLY, Sept. 2019, at 74, 76, 78-80.

¹²⁰ The 1862 Homestead Act and Kinkaid Act of 1904 allowed for public domain land to be acquired free of charge with a modest filing fee. *See* Homestead Act of 1862, ch. 75 § 1, 12 Stat. 392; Kinkaid Act, Pub. L. No. 58-233, 33 Stat. 547 (1904).

¹²¹ BRUCE A. GLASRUD & CHARLES A. BRAITHWAITE, AFRICAN AMERICANS ON THE GREAT PLAINS: AN ANTHOLOGY 7 (2009); 1 ENCYCLOPEDIA OF AFRICAN AMERICAN HISTORY 1896 TO THE PRESENT: FROM THE AGE OF SEGREGATION TO THE TWENTY-FIRST CENTURY 30 (Paul Finkelman et al. eds., 2009).

¹²² *See* BANKS, *supra* note 7, at 10-11, 15.

¹²³ According to the 2017 Ag Census, 85 percent of Black farms vs 70 percent of U.S. farms generally, had fewer than 180 acres. *See* NAT'L AGRIC. STAT. SERV., U.S. DEP'T OF AGRIC., *supra* note 3.

¹²⁴ CONG. RSCH. SERV., RS20430, THE PIGFORD CASES: USDA SETTLEMENT OF DISCRIMINATION SUITS BY BLACK FARMERS 1 (2013).

¹²⁵ *See* Greg Kaufmann, *Black Farm Families Face a Struggle for a Share of COVID-19 Aid*, SPOTLIGHT ON POVERTY & OPPORTUNITY (May 5, 2020), <https://spotlightonpoverty.org/spotlight-exclusives/black-farm-families-face-a-struggle-for-a-share-of-covid-19-aid/>.

VII. Envisioning Equitable Beef

Rather than advocating policies that would eradicate Black beef production, food justice activists should advocate for a revamped beef industry: Small-scale, humane, and soil enriching beef production supporting food security for local communities. The FAO has also recognized that livestock contribute to poverty alleviation by building resilience and supporting the livelihoods of large numbers of rural people by providing food security and economic opportunity.¹²⁶ Among economic benefits is the circulation of money back into Black and rural economies. As the FAO warns about global famines from global food supply chain disruptions due to Covid-19, localized food chains are more important than ever.¹²⁷ The following are policy considerations to help build a racially equitable beef industry:

Revisit nutritional standards. In recognizing that beef is the basis of a culturally relevant, nutritious diet, advocating for rigorous evidence-based data around nutrients, including saturated fats.

Reject calls for a meat tax. Unfair imposition of a tax will detrimentally impact small beef producers, thus having a disproportionate impact on Black producers. It also places a regressive tax on low-income consumers. Instead, advocate for the removal of government subsidies on corn and soybean so that the price of meat increases to reflect the true cost of production. In addition, this would make CAFOs less profitable, if at all economically viable.

Increase producer participation in local food systems. Nutritious, affordable, and high-quality food is out of reach for many low-income neighborhoods, communities of color, and rural areas: Eight percent of African Americans live in a tract with a supermarket, while 20 percent of rural counties are food deserts.¹²⁸ Increasing direct-to-consumer opportunities (CSAs, farmers' market, and online) for Black beef producers could help meet this need. As custom processed beef has higher costs, affordability may be a

¹²⁶ Food & Agric. Org. of the United Nations [FAO], *Shaping the Future of Livestock* 5 (Jan. 2018), <https://www.fao.org/3/18384EN/i8384en.pdf>.

¹²⁷ See *FAO Needs \$350 Million to Avert Rising Hunger as Countries Reel from COVID-19 Pandemic's Impact*, FOOD & AGRIC. ORG. OF THE UNITED NATIONS (May 18, 2020), <https://www.fao.org/news/story/en/item/1276081/icode/>.

¹²⁸ SARAH TREUHAFT & ALLISON KARPYN, POLICYLINK, *THE GROCERY GAP: WHO HAS ACCESS TO HEALTHY FOOD AND WHY IT MATTERS* 7 (2010).

factor.¹²⁹ One way to address this issue would be to include producers in Supplemental Nutrition Assistance Program (SNAP) authorized retailers and provide assistance in doing so where there are no SNAP authorized retailers.

Offering training in sustainable production. Utilizing extension programs, provide producers with training on regenerative animal agricultural practices. Operations cost will decrease as less feed will be needed. Sustainable production would transform farms from specialized to diversified operations, including reverting back to traditional practices of having multi-use cattle that provide a wide diversity of products, ranging from milk, leather, tallow, and beef to increase income and cut food waste. This closed system would also increase total farm productivity by providing natural fertilization for crops, and in turn using crop residues into cattle feed into valuable protein. Fertilizer could also present an additional income source, as they are needed in the booming organic farming industry. Finally, by aiding producers toward raising animals in a natural environment, producers will move away from using inputs that have cattle competing for human-edible food.

Expand custom processing. Decentralizing meat distribution wrests in producers' ability to process their animals for director-to-market sales. An additional benefit of producing beef for local consumption is animal welfare. Local processing would cut down on injury to the cattle during transportation and would decrease unnecessary cattle harvesting adding to the glut of speculative demand to supply domestic and international grocery stores, thereby also cutting down on food waste caused by spoilage or food chain disruptions. Thus, eliciting congressional support for the federal PRIME Act is essential. Alternatively, constituents can advocate for state laws that allow intrastate meat sales. One example is Wyoming's Food Freedom Law that allows ranchers to process cattle on the farm and sell cuts of meat directly to in-state consumers by making those consumers part-owners of the cattle.¹³⁰ Another example would be, The Kentucky Proud Meat Grader Program funded by the Kentucky Department of Agriculture, which provides USDA-certified meat grading services to Kentucky Proud members as a service designed

¹²⁹ See RENEE CHEUNG & PAUL MCMAHON, BACK TO GRASS: THE MARKET POTENTIAL FOR U.S. GRASSFED BEEF 30 (2017), https://www.stonebarnscenter.org/wp-content/uploads/2017/10/Grassfed_Full_v2.pdf.

¹³⁰ WYO. STAT. ANN. §11-49-103 (West, Westlaw through 2021 Sess.).

to provide small producers and processors a level playing field with large-scale businesses at retail.¹³¹

Support worker-owned abattoirs. Cooperative organizations have long been at the heart of the Black economic independence movement. Whereas the purpose of an agricultural cooperative is to augment leverage through aggregation, a worker cooperative puts the workers at the core of the enterprise. By having workers own the business and they participate in its financial success on the basis of their labor contribution, the cooperative ensures assets are owned and controlled by the communities that depend on them for livelihoods, sustenance, and ecological well-being. Most importantly, with workers having the power to influence their workplace conditions, workers would be in a position to better respond to pandemic and other food safety issues.

Funding programs for new producers. Finally, while farmers of all races are aging, the Black farmer is on average the oldest. Congress should ensure funding for the Beginning Farmer and Rancher Development Program, which was cut under the current administration. The program supports new minority farmers and ranchers.

Increase Access to Farmland. In order to help Black farmers secure farmland and to remediate previous discriminatory practices, the federal government should provide grants, low-interest loans, and 99-year leases of public land.

VIII. Staking Space in Food Justice

In conclusion, food justice advocates should reframe mainstream narratives that push out Black farmers. Already marginalized by the highly industrialized meat industry, Black beef producers should not be further marginalized by calls for the end of beef production. Rather, supporting policies to create equitable beef production is not only good for Black producers, but all American beef producers and consumers.

¹³¹ Ray Bowman, *KDA Initiates Beef Grading Program*, KENTUCKY FARM BUREAU (May 4, 2015), <https://www.kyfb.com/federation/newsroom/kda-initiates-beef-grading-program/>.