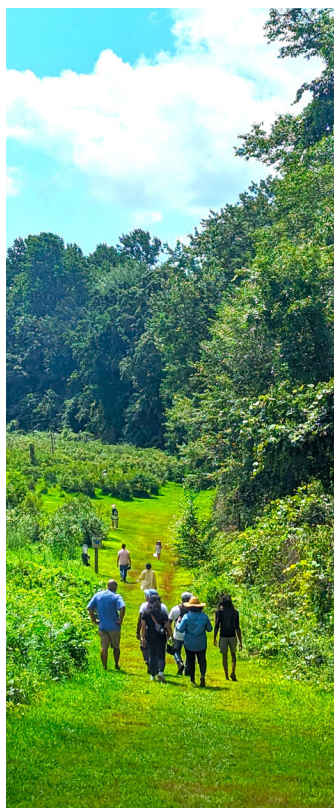


Land Justice & Land Trusts

A TOOL KIT



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INTRODUCTION

1

Land justice is a relatively new concept, and there is no single definition for what it means. We developed one to fit the particular aims of this guide, but other groups have also deeply explored this concept of land justice and developed their own definitions. For instance, Nuns & Nones - Now known as [Land Justice Futures](#) - defines land justice as "the practice of centering ecological, social, and racial justice in decisions about how land is used, loved, and governed by people." And the [Oregon Coalition of Land Trusts](#) defines land justice in the following way: "As a movement, land justice seeks to upend the inherent inequalities that stem from land ownership and access (or lack thereof) by shifting power to marginalized communities, especially Indigenous people, in order to promote their own self-determination."

2

<https://landtrustalliance.org/why-land-matters/land-conservation/about-land-trusts>

3

<https://landtrustalliance.org/land-trusts/gaining-ground/united-states>

4

For general information on indigenous history and indigenous land theft, see *An Indigenous Peoples' History of the United States*, by Roxanne Dunbar-Ortiz. Indigenous communities were forced onto lands 99% smaller than their original territories, to locations with different ecologies than their homelands and with far fewer and less valuable natural resources. For more: <https://www.science.org/stoken/author-tokens/ST-129/full>

Aspetuck Land Trust participated with Yale's Center for Environmental Justice and the Yale Center for Business and the Environment to create this toolkit which is intended to provide tools to the land trust community to preserve more land, specifically working lands that will contribute to stronger regional food production and distribution systems. Farms need farmers, and the more creative tools land trusts have to conserve land for farmers the better. This toolkit also provides information and resources about how this work relates to land justice outcomes and features examples that illustrate how these tools are being applied across the United States.

In this tool kit, land justice is defined as **efforts that enable land access, affordable ownership, and decision-making by individuals and communities who have traditionally been excluded from owning and stewarding land.**¹ Land justice particularly focuses on benefiting those who have been systemically excluded from ownership of and access to land and resources.

Land trusts, based upon their existing missions of preserving and connecting people to land, have a great opportunity to support and steward land justice work. There are over 1,300 land trusts in the United States, working in every state and 93% of counties in the United States.² The private land conservation movement in the United States has successfully galvanized private landowners to protect over 61 million acres of natural and community resources, including open spaces, forests, agricultural lands, and other natural and recreation areas.³ This tool kit is also relevant for conservation organizations more generally or community members interested in expanding their understanding of how tools to conserve private land can also serve land justice outcomes.

Many communities have experienced historical injustices that have impacted their ability to own and make decisions about land. Land and property ownership is unevenly distributed in the United States. It does not match the demographics of the country. The reasons for this date back to the founding of the United States, and the ways both policy and practice have been used to privatize land ownership and limit who can purchase land. Indigenous people were killed and forcibly removed from land they stewarded for generations by European settlers.⁴ Legal tools have also been used to restrict who has the ability to own land: women were legally restricted from owning land until 1900; restrictive covenants and policies prohibited land or home ownership by specific populations throughout history

(including Black, Jewish, Italian, and other communities); redlining in low-income neighborhoods in the mid-1900s restricted Black and immigrant communities to get bank loans to buy houses; and government-subsidized low-cost mortgages to enable home ownership, including the GI bill, were primarily offered to white males in the 1950's.^{5,6} Though many of these policies have since been reversed, their legacies continue, in particular for Black people, Indigenous peoples and many other people of color. These inequities have direct impacts on generational wealth as well as land access and ownership. While many groups have been marginalized in our history, attention to the specific historical and legal contexts, values, and worldviews of different groups will influence how they engage in land access and ownership today.

Land trusts have an opportunity to broaden their approach. Between climate change's increasing demands on natural landscapes and increasing attention to promoting equitable access to land and natural resources, there is an urgency for the land conservation movement to consider how land protection efforts can more fully serve all people and ecosystems.

By embracing the connections between land justice and their core missions, land trusts can integrate land conservation with human and planetary health and achieve multiple benefits, promoting environmental sustainability, social equity, and community well-being.

For example, as part of their land conservation missions, land trusts may be able to make land available to farmers. The resulting benefits include opportunities for farmers to build generational wealth in the form of the agricultural businesses they create while supporting a more sustainable and diverse regional food production and distribution system that can be a vital resiliency strategy in the face of a changing climate. While many land trusts have begun to adapt their strategies to better represent the diverse populations living in their service areas—and 76% of U.S. land trusts have increased their community engagement efforts over the past five years⁷—there is room to expand. Land trusts can use existing tools to conserve land while creating more inclusive ownership and stewardship opportunities for underserved communities. Land trusts may also need to adopt new tools or adjust how they do their work to ensure their efforts truly benefit marginalized groups.

⁵
<https://www.annenbergclassroom.org/resource/womens-rights/>

⁶
Each of these legal tools and their use to restrict home and property ownership are detailed in: Rothstein, Richard (2017). *The Color of Law*, Liveright Press.

⁷
<https://landtrustalliance.org/land-trusts/gaining-ground/united-states>

Land conservation that meaningfully involves historically marginalized people can help land trusts better serve broader community goals, and in the process support stronger, more resilient communities and ecosystems.^{8,9}

8

<https://www.sciencedirect.com/science/article/pii/S0305750X98001612>

9

<https://ctconservation.org/programs/community-centered-conservation/#:~:text=When%20land%20trusts%20protect%20large,turn%2C%20support%20those%20same%20ecosystems.> And [https://www.cell.com/trends/ecology-evolution/full-text/S0169-5347\(23\)00037-X?_returnURL=https%3A%2F%2Flinkinghub.elsevier.com%2Fretrieve%2Fpii%2FS016953472300037X%3Fshowall%3Dtrue#secst0105](https://www.cell.com/trends/ecology-evolution/full-text/S0169-5347(23)00037-X?_returnURL=https%3A%2F%2Flinkinghub.elsevier.com%2Fretrieve%2Fpii%2FS016953472300037X%3Fshowall%3Dtrue#secst0105)

10

<https://www.science.org/stoken/author-tokens/ST-129/full>

11

<https://www.annenbergclassroom.org/resource/womens-rights/>

12

Legal tools and their use to restrict home and property ownership are detailed in: Rothstein, Richard (2017). *The Color of Law*, Liveright Press.

13

<https://www.census.gov/housing/hvs/files/currenthvspress.pdf>

14

<https://www.youngfarmers.org/wp-content/uploads/2022/09/NationalSurveyReport22-1.pdf>

15

<https://www.youngfarmers.org/wp-content/uploads/2022/09/NationalSurveyReport22-1.pdf>

This tool kit will explore tools to address longstanding inequities related to land access, use, and ownership. It is particularly focused on the following areas:

- **Addressing inequities in land access and ownership:** Land and property ownership rates in the United States do not match the demographics of the United States,^{10,11,12,13} and land conservation can support increased access and ownership opportunities.
- **Equitable farmland access to build resilient food systems:** According to the National Young Farmers Coalition, finding affordable farmland is the number one challenge facing young farmers today.¹⁴ This challenge is more acute for black and brown farmers and farmers without access to generational wealth.^{15,16,17,18,19,20} Land trusts across the country can address these challenges and support the regeneration of sustainable regional food systems by preserving farmland and creating equitable access to land for Black, Brown, and Indigenous farmers.
- **Restoring land sovereignty:** The process of supporting land sovereignty involves understanding, recognizing, and respecting traditional ways of being in relationship with land, especially for Indigenous communities who have been historically displaced or marginalized. Strategies for restoring land sovereignty include return or transfer of ownership of land and legally protected land access, and requires asking what types of land, with what if any restrictions, are important and appropriate for a given community.^{21,22,23}

Conservation in its best form is protection of land for the benefit of the natural world, including humans. In this moment, there is a great opportunity for land trusts to lead the way in addressing the intertwined challenges of climate change and social inequity.

Land trusts are well positioned to create ownership and stewardship opportunities for people and communities that have historically been denied opportunities in our nation.

By taking intentional steps to share decision-making power, land trusts can spearhead a meaningful shift towards more inclusive and community-centered conservation practices for the benefit of all.

We invite you to explore the resources and strategies outlined in this guide, and to join the leading organizations and projects described below in expanding how conservation is done to better serve the needs of diverse human and natural communities.

16

<https://farmland.org/active-policy-efforts-to-address-the-history-of-bipoc-land-theft-in-america/>

17

<https://www.blackfarmers.org/blog/timeline-black-farmers-and-the-usda-1920-to-present>

18

<https://www.farmaid.org/blog/heirs-property-90-percent-decline-black-owned-farmland/>

19

<https://inequality.org/research/owns-land/>

20

<https://crsreports.congress.gov/product/pdf/R/R46969>

21

Restoring full land sovereignty means it may not be appropriate for land trusts to retain any legal interest in land.

22

Private property ownership is a concept imported from Europe and may not be a goal in all cases.

23

For more information on this concept and strategies for supporting land sovereignty, see the Sogorea Te Land Trust's [Land Return Guide](#).

MODELS FOR LAND JUSTICE WORK

This section describes a variety of tools that can help advance land justice. Some of these tools come from the private land conservation sector, some are creative adaptations or extensions of traditional land conservation tools, and some do not involve private land trusts. Some have been around for a long time, and others are relatively new. These tools are arranged in alphabetical order.

TOOL	LAND TRUST HAS PERPETUAL LEGAL ROLE	LAND TRUST IS LEGAL OWNER OF LAND
Affirmative Agricultural Easements and other Agricultural Easement Tools	Yes- easement	No
Buy-protect-sell	Yes-easement and interim holder	Yes, but only for a short time
Community Land Trust (CLT)	Can be	Can be
Commons Model	Can be	Can be
Cultural Respect Easement	Can be	Can be
Heirs' Property	No	No
Land Back	No	No
Land Tax	No	Can be
Leases	Can be	Can be

(AFFIRMATIVE) AGRICULTURAL EASEMENTS AND OTHER AGRICULTURAL EASEMENT TOOLS

Some conservation easements contain specific language enabling and requiring agriculture on a given piece of land. Many of these tools legally guarantee that agricultural activities can take place, and can offer financial incentives for the additional conservation restrictions they create.

What is an Affirmative Agricultural Easement?

Affirmative agricultural easements specifically aim to protect farmland and agricultural resources. An affirmative agricultural easement includes language that states the primary conservation purpose of a parcel of land is to keep it in active agriculture, or that agriculture is primary and other conservation purposes such as protection of scenic, natural resources, or other purposes secondary.^{24,25} Under this type of easement, the landowner agrees to maintain the land for agricultural purposes, such as farming or ranching. This can help prevent the conversion of prime agricultural land into fallow fields, and ensure that agricultural resources are maintained. However, agricultural easements should also be written with a respect for farmers' needs for flexibility in an uncertain future, and thus they should not be overly prescriptive.

What is an Option to Purchase at Agricultural Value?

An option to purchase at agricultural value, or OPAV, is a legal agreement that grants someone the right, but not the obligation, to buy a piece of agricultural land that is for sale at its current agricultural value within a specified timeframe. This option can be included as part of a conservation easement, or subsequently negotiated and added to a pre-existing conservation easement. The agricultural value typically reflects the land's value for farming or ranching purposes, rather than its potential value for other non-agricultural uses, and is intended to prevent prime agricultural land from becoming a wealthy estate or hobby farm. This option provides a mechanism for preserving agricultural land by giving a designated party, typically a conservation easement holder (i.e. government agency or land trust),

²⁴
https://farmlandinfo.org/wp-content/uploads/sites/2/2004/07/Drafting_Ag_Conservation_Easements_March2019.pdf

²⁵
https://farmlandinfo.org/wp-content/uploads/sites/2/2019/09/Ag_Easement_Language_1.pdf

the opportunity to purchase the land at a price that reflects its intended use for agriculture if a non-farmer tries to buy the land. If the easement holder needs to step in and purchase the land, they would subsequently sell it to a qualified farmer. The OPAV is a tool regularly included in easement language as part of Vermont and Massachusetts' state-funded agricultural easement purchase programs. It offers a way for land trusts to ensure that land conserved as farms remains in productive agriculture.

Note: OPAVs might not be legal or regularly used in every state.

The Role of Land Trusts in Agricultural Easements

Land trusts are the holders of conservation easements. Farmers negotiate easement terms with a land trust, and once the parties reach agreement (documented in a recorded conservation easement), the land trust is perpetually responsible for stewardship, protection, and if needed, enforcement of easement terms on the farmer's land.

Land trusts can add specific, agriculturally-oriented language to their conservation easement purposes and terms. This language must be negotiated and mutually agreed upon with farmers as part of easement negotiations.

Agriculture is by its nature dynamic, and farms are ever-changing operations. As a result, it is important to craft agricultural easements with a great deal of flexibility, and to accommodate future, unforeseen needs that are necessary to support the viability of an agricultural operation. Such flexibility is needed to ensure that new infrastructure (barns, fences, housing, etc.) can be built on the property to adapt to a farm's needs, and so that farmers have the ability to make decisions quickly. As holder of the easement, it is incumbent upon the land trust to ensure that infrastructure changes respect the terms of the easement and that the farmer knows what they have the authority to do. Ideally, land trusts are maintaining a close relationship with land owners through regular easement stewardship. While site visits are needed to ensure the terms of easements are being upheld, the land trust should act with respect for the landholder's privacy and the operations being conducted on their land.

Land trusts can also co-hold easements. Federal or state funding programs for agricultural lands may also require that the funding agency be a named easement co-holder. This can also be a strategy if a given project would benefit from the combined expertise of multiple land trusts. For example, the American Farmland Trust has projects in which they co-hold an easement with a local land trust.

Organizations Leading in This Area

- **American Farmland Trust**
The American Farmland Trust works across the United States to protect important agricultural land, promote sustainable agricultural practices, and advocate for policy and funding that support farmers.
<https://farmland.org/>
- **Vermont Land Trust**
The Vermont Land Trust is a statewide land trust in Vermont with a robust agricultural land protection program. They regularly use the OPAV as a tool for farmland affordability.
<https://vlt.org/how-we-help/farmers-farmland/>
- **Marin Agricultural Land Trust**
The Marin Agricultural Land Trust advances farmland protection and preserves agriculture throughout West Marin in California.
<https://malt.org/farmland-protection/>
- **New York Agricultural Land Trust**
New York Agricultural Land Trust is a community supported non-profit organization founded by farmers and farm communities to conserve important working agricultural and forest lands in upstate New York.
<https://www.nyalt.org/>
- **Maine Farmland Trust**
Maine Farmland Trust is a nonprofit organization dedicated to protecting farmland, supporting farmers, and advancing the future of farming in Maine through activities like farmland conservation, farm business planning, and policy advocacy.
<https://www.maineFarmlandTrust.org/>

- **Connecticut Farmland Trust**

The mission of Connecticut Farmland Trust is to preserve Connecticut farmland for current and future generations of farmers.

<https://ctfarmland.org/>

Examples of Agricultural Easements

- ***Conservation And Affordability Of Working Lands: Nine Case Studies Of Land Trusts Working With Next-Generation Farmers***, from California Farm Link

See the case study of Thornton Ranch for a specific example of an agricultural conservation easement

https://walandtrusts.org/wordpress/wp-content/uploads/2018/02/land_trust_case_studies_march20151.pdf

- ***Case studies of Ricketson Farm (p. 7-8) and Primmer Farm (p. 8-9)***, from the Vermont Housing and Conservation Board: <https://www.vhcb.org/sites/default/files/pdfs/pubs/2022-VHCB-Annual-Report-web.pdf>

Pros and Cons of Agricultural Easement Tools

HOW CAN AGRICULTURAL EASEMENT TOOLS ADVANCE LAND JUSTICE OUTCOMES?

- Agricultural easements ensure that prime agricultural lands will remain in agriculture.
- Agricultural easements reduce land costs by valuing it for agricultural use rather than development, making it more affordable for farmers to purchase or lease.
- Tools like the OPAV can keep prime agricultural land in active farming and affordable for farmers, rather than allow it to become a wealthy estate owner's private retreat.

WHAT ARE THE CHALLENGES OF USING AGRICULTURAL EASEMENT TOOLS TO ADVANCE LAND JUSTICE OUTCOMES?

- Conservation easements designed for a specific farming operation can constrain future operations. For example:
 - Many easements restrict commercial activities that are not related to a farm. However, with the rise of agritourism, farm stays, and other on-farm “accessory” businesses, these distinctions become blurry and farmers can be frustrated by restrictions.
 - Easements prevent development. Some easements, particularly older easements, may categorically prevent the construction of needed infrastructure like barns or housing for farmers and farm workers.
- Conservation easements can create restrictions that may be barriers to future activities (i.e. needed housing or farm infrastructure, or limitations on land use practices) especially if land is transferred to a new owner. Because easements are perpetual documents, they are challenging to amend or change.
- Relationships between landowners and a land trust can be challenging if easement terms hinder desired activities.
- Because many land trusts are governed by white people, there may be complex relationships and power dynamics between white-led land trusts working with BIPOC farmers or land owners/lessees.
- The Option to Purchase at Agricultural Value, while creating permanent protections on land affordability at the outset, restricts the resale value of land. Land tends to be a farmer’s greatest asset, and this could mean they won’t fully realize the appreciation of their land.
- The Option to Purchase at Agricultural Value requires land trusts to verify and make judgements about who is a qualified farmer when land is up for sale. This can lead to legal disputes when non-qualified farmers try to purchase land with an OPAV on it, and the land trust needs to intervene.

Tools and Links for Agricultural Easement tools

- **Farmland Access & Ownership: An Overview of Barriers, Models, and Actions to Increase Land Access for Connecticut's BIPOC Farmers**, from the Connecticut Land Conservation Council
https://portal.ct.gov/-/media/doag/boards_commissions_councils/diversity-working-group/access-to-secure-land-tenure/ct-doag-farmland-access-and-ownership-final-march-2024.pdf
- **Protect Your Land: Overview of Agricultural Land Protection Tools**, from the American Farmland Trust
<https://farmlandinfo.org/protect-your-land/>
- **Overview of Affirmative Agricultural Easements**, from the Farmland Access Legal Toolkit
<https://farmlandaccess.org/affirmative-agricultural-easements/#overview>
- **Overview of Agricultural Conservation Easements**, from the American Farmland Trust
<https://farmlandinfo.org/wp-content/uploads/sites/2/2024/02/AFT-agricultural-conservation-easements-fact-sheet.pdf>
- **Farmland Conservation 2.0: How Land Trusts can Protect America's Working Farms**, from the American Farmland Trust
<https://www.youngfarmers.org/reports/conservation2.0.pdf>
- **Option to Purchase at Agricultural Value**, from the Farmland Access Legal Toolkit
<https://farmlandaccess.org/opavs/>
- The Vermont Housing & Conservation Board has a number of policies describing their specific programs to purchase agricultural easements and OPAVs on farmland:
 - **Policy for Funding Conservation Of Agricultural Land**, from the Vermont Housing and Conservation Board. See the list of agricultural easement affordability tools on page 6:
<https://www.vhcb.org/sites/default/files/programs/conservation/conservation%20policies/agriculture.pdf>
 - **Option to Purchase at Agricultural Value Policy**, from the Vermont Housing and Conservation Board
<https://vhcb.org/sites/default/files/policy/conservation/OPAV-3-2021.pdf>

- ***Process and Configuration Guidelines for Selling Development Rights on Farmland***, from the Vermont Housing and Conservation Board
<https://vhcb.org/sites/default/files/programs/conservation/conservation%20policies/PDR-process-guidelines.pdf>
- ***Model Agricultural Easement***, from the Connecticut Farmland Trust
<https://ctfarmland.org/site/resources/model-agricultural-easement/>
- ***Farmland Advocates Share Ideas that Increase Farmers' Access***, by Bill Labich, Highstead Foundation
This article from the Highstead Foundation provides an overview of farmland access and land justice needs.
<https://highstead.net/insights/farmland-advocates-share-ideas-that-increase-farmers-access/>

BUY-PROTECT-SELL

What is Buy-Protect-Sell (BPS)?

Buy-Protect-Sell (BPS) is a conservation strategy where a conservation organization acquires a piece of land at its full market price, places a conservation easement on it, and then sells the land with conservation restrictions in place at the conserved price.

This approach is most commonly used in farmland conservation projects, aiming to preserve agricultural and natural resource values while making the land more affordable for farmers (who typically cannot afford the full purchase price of land). Typically, the conservation easement is placed on the land simultaneous to its transfer to new owners, as conservation organizations cannot hold easements on their own properties.

Buy-protect-sell transactions can be crucial in competitive markets where land is in high demand (meaning it is both expensive and sells quickly), allowing conservation organizations to secure land swiftly while they arrange financing to preserve it and sell it to an appropriate buyer. In Buy-Protect-Sell projects, conservation organizations purchase land at the market price, gather public and private funding or financing to conserve it, and then sell it to suitable buyers at the conserved price. Conservation organizations are responsible for securing funds (generally through private fundraising or commercial loans) so that they can purchase the land at the full market value. As 501c3 non-profits, land trusts can solicit forms of philanthropic capital like donations or grants.

In 2018, the Farm Bill made Buy-Protect-Sell farmland conservation projects eligible for funding from the Natural Resources Conservation Service (NRCS). The NRCS defines such transactions as arrangements where an eligible entity, with NRCS support, secures an agricultural land easement on eligible land and transfers ownership to a qualified farmer or rancher. This funding expansion facilitates more Buy-Protect-Sell transactions, although such transactions are contingent on land trusts securing interim financing so that they have sufficient funds to purchase the property. The first NRCS-funded Buy-Protect-Sell project closed in Vermont in early 2024.²⁶

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<https://vermontbiz.com/news/2024/february/22/mad-river-valley-dairy-farm-acquires-land-through-new-farmland-protection>

Some land trusts, such as the Vermont Land Trust, have well-established Buy-Protect-Sell programs to support farmers in obtaining land. They maintain lists of farm seekers and notify them when suitable properties become available. They have developed an internal revolving loan fund they can use to purchase farms when they come up for sale.

The Role of Land Trusts in Buy-Protect-Sell

With Buy-Protect-Sell, the land trust plays an essential role. Land trusts typically serve as interim holders in a buy-protect-sell transaction. They need to identify and secure funding to be able to complete these types of projects. Land trusts can use their sources of philanthropic capital or take out loans to purchase land and carry the costs of owning the land until they can use conservation tools to reduce the purchase price of the land for new landowners. Land trusts typically lease land to farmers while they are holding the land. Land trusts are also responsible for navigating the process with NRCS (and other federal or state-level funders) to apply for and secure grant funds for the easement, and negotiating an acceptable conservation easement. Once the land trust makes the newly purchased land available to a given farmer, they become the long-term easement holder and steward.

Organizations Leading in this Area

- **Vermont Land Trust**

The Vermont Land Trust's Farmland Access Program matches farmers with available farmland, and in some cases VLT serves as an interim holder.

<https://vlt.org/>

- **American Farmland Trust**

As one component of its multifaceted mission, the American Farmland Trust (AFT) purchases, conserves, and transfers farms to farmers.

<https://farmland.org/>

- **The Conservation Fund's Working Farms Fund**

The Conservation Fund's Working Farms Fund helps farmers access land and resources by purchasing farmland, protecting it with a conservation easement, and then selling it to farmers.

<https://www.conservationfund.org/our-work/working-farms-fund>

Examples of Buy-Protect-Sell

- **Conservation And Affordability Of Working Lands: Nine Case Studies Of Land Trusts Working With Next-Generation Farmers**, from California Farm Link

See the case study of High Ground Organics (page 6) for a specific example of a buy-protect-sell transaction.

https://walandtrusts.org/wordpress/wp-content/uploads/2018/02/land_trust_case_studies_march20151.pdf

- **Mad River Valley dairy farm acquires land through new farmland protection program**, from Vermont Business Magazine

This story is about the first NRCS-funded buy-protect-sell project in the nation, DeFreest Farm in Waitsfield, VT.

<https://vermontbiz.com/news/2024/february/22/mad-river-valley-dairy-farm-acquires-land-through-new-farmland-protection>

- **A first-of-its-kind project will advance river conservation, climate resilience and recreation in Vermont**, from Land Trust Alliance

This is a story about the DeFreest Farm project, the first-in-the-nation Buy-Protect-Sell project completed using NRCS funds.

<https://landtrustalliance.org/blog/mad-river-valley-project>

- **Red Fire Farm**, from Kestrel Land Trust

Kestrel Land Trust purchased 14 acres of land and, once conserved, sold the land to Red Fire Farm

<https://www.kestrreltrust.org/red-fire-farm-14-acres-conserved/>

- **How AFT's Buy, Protect, Sell Strategy Helps a New Generation Gain Access to Farmland**, by Alison Volk (American Farmland Trust)

This article describes how the American Farmland Trust (AFT) purchased, conserved, and transferred Singing Hills Farm in Minnesota to the Lor family.

<https://farmland.org/how-afts-buy-protect-sell-strategy-helps-a-new-generation-gain-access-to-farmland/>

Pros and Cons of the Buy-Protect-Sell Model

HOW CAN BUY-PROTECT-SELL PROJECTS ADVANCE LAND JUSTICE OUTCOMES?

- Buy-protect-sell transactions can facilitate land access to a new generation of farmers and farmers who are unable to purchase land at market (unconserved) prices.²⁷ Once land is conserved, its purchase price can be reduced significantly. Thus, buy-protect-sell transactions lower the purchase price and make land ownership possible in cases where it might not otherwise be.
- Land trusts can lease the land they own while they are the interim holder. This can be especially helpful for farmers, because it enables them to get to know their land and build markets before purchase, and gives them extra time to assemble funds to be able to purchase their land.
- Some land trusts have defined justice-oriented criteria for who can purchase properties through their buy-protect-sell transactions. For instance, they might purposely select farm owners like new or beginning farmers, farmers of color, or veterans.
- The 2018 farm bill permitted federal NRCS funds to be used to in buy-protect-sell transactions, allowing expanded use of this tool.

WHAT ARE THE CHALLENGES OF USING BUY-PROTECT-SELL PROJECTS TO ADVANCE LAND JUSTICE OUTCOMES?

- It requires a new skill set and additional capacity for land trusts to become property owners and be in lease arrangements with farmers.
- Land trusts need to raise sources of capital to facilitate these transactions.
- Land trusts may need to hold land for an uncertain or long amount of time, depending how long it takes for easement funding to come through or how long it takes a farmer to assemble capital to purchase the land.
- Even if land trusts do have capital and competencies to do buy-protect-sell projects, they are unlikely to be able to do enough of these projects to meet all demand for affordable land.
- In areas with high land prices and/or competitive markets, the placement of a conservation easement alone may not be an adequate tool to ensure affordability.

²⁷ <https://ctconservation.org/wp-content/uploads/ct-doag-farmland-access-and-ownership-final-march-2024.pdf> (see pages 46–49 for a specific discussion of Buy-Protect-Sell) and <https://www.youngfarmers.org/wp-content/uploads/2015/01/NYFC-Finding-Affordable-Farmland.pdf>

- Depending on the arrangement with the land trust, farmer agency may be restricted, particularly if an easement is negotiated with a prior farmer rather than the current owner.

Tools and Links for Buy-Protect-Sell

- **Buy-Protect-Sell Request for Proposals, from the Vermont Land Trust:**
Sample Buy-Protect-Sell RFP documents
https://farmlandinfo.org/sample_documents/vermont-land-trust-buy-protect-sell-request-for-proposals/
- **Part 308 – Agricultural Conservation Easement Program - Agricultural Land Easement (ACEP-ALE) Buy-Protect-Sell Transactions**, from the United States Department of Agriculture:
USDA document detailing the Agriculture Conservation Easement Program’s Buy-Protect-Sell Transaction program
<https://directives.sc.egov.usda.gov/OpenNonWebContent.aspx?content=46604.wba>
- **Webinar: NRCS and Buy-Protect-Sell**, from the Land Trust Alliance:
Land Trust Alliance and NRCS webinar about buy-protect-sell
<https://landtrustalliance.org/resources/learn/explore/nrcs-buy-protect-sell>
- **Buy-Protect-Sell: Bridging gaps to incoming farmers – Farm Management**, from the University of Wisconsin Madison:
<https://farms.extension.wisc.edu/articles/part-3-of-3-making-farmland-transition-available-to-landowners/>
- **Buy-Protect-Sell Webinar Series**, from the American Farmland Trust:
<https://farmlandinfo.org/media/buy-protect-sell-webinar-series/>

COMMUNITY LAND TRUST (CLT)

What is a Community Land Trust?

Community land trusts (CLTs) are nonprofit organizations dedicated to enhancing affordable access to land and resources. They achieve this by separating the value of land from the resources situated on it through a mechanism called a ground lease. This enables a shared equity arrangement where multiple parties jointly own an asset and share associated costs and benefits, particularly in terms of land appreciation. The CLT model is primarily associated with affordable housing, and much of the language below focuses on this application. However, some of the examples below describe other applications of the CLT model, and there is increasing interest in creative applications of this shared equity model, particularly for farms.

Typically, CLTs secure funding from philanthropic or public sources to purchase land, establishing long-term leases with tenants who inhabit housing on the land. This often involves fundraising efforts by the CLT and may include housing development or land provision. By excluding the cost of land from the purchase price, CLTs significantly lower barriers to land access and homeownership.

The ground lease is a key tool CLTs use to make property affordable. In this arrangement, the CLT, as the landowner, leases land to a tenant for an extended period, usually 50 to 99 years. The tenant typically pays rent to the landowner for the use of the land. In a ground lease, the tenant usually has the right to develop the land and construct buildings or other improvements during the lease term, subject to any restrictions or conditions outlined in the lease agreement. At the end of the lease, the land and improvements typically revert to the CLT unless renewal or purchase options are outlined.

Shared equity clauses often accompany ground leases, regulating property appreciation. Shared equity involves joint ownership of assets, where parties contribute funds proportionate to their ownership share and agree on expense distribution. This model allows multiple parties to engage in property ownership, promoting accessibility and affordability. CLTs often limit asset appreciation and split appreciation between the CLT and the lessee/homeowner to ensure long-term affordability while enabling some benefit from appreciation.

Most CLTs have a 'standard' lease with a set term and appreciation formula; however, both of these things can vary or be negotiated. Template CLT leases are linked below as models to learn from and, where appropriate, emulate.

CLTs typically adopt a 'tripartite leadership' model for their boards, which means that their board is made up of three equally represented groups: community members or leaseholders, general representatives, and public representatives. This structure empowers tenants in decision-making about land and property usage.

CLTs may impose income or other criteria to ensure service to target communities. A chief advantage of the CLT model is its ability to allow lessees to accumulate equity without full home or property ownership.

The Role of Land Trusts in Community Land Trusts

Conservation organizations and conservation land trusts are increasingly interested in the CLT model for creating land access arrangements without outright ownership. The board structure and shared equity model are particularly attractive for sharing decision-making, ownership, and maintaining permanent affordability.

Arguably, conservation land trusts and community land trusts are different branches off of the same family tree, and there are increasing interconnections between the work of each. Conservation land trusts and community land trusts can learn from each others' tools, focuses, and constituencies.²⁸ Community land trusts tend to work in urban areas, while conservation land trusts tend to work in more rural areas. However, there are some examples of conservation land trusts supporting CLTs to purchase land (such as Forterra helping Africatown CLT purchase land in downtown Seattle,²⁹ or the Trust for Public Land helping create a CLT in Bozeman, MT, and developing a mixed-income housing development next to a park³⁰). There are also tools that can be shared across the two types of organizations. For instance, land trusts have used ground leases to structure long-term leases with farms (for instance, Red Fire Farm's ground lease with Mount Grace Conservation Land Trust³¹).

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<https://www.lincolnst.edu/publications/working-papers/building-collaboration-among-community-land-trusts-providing-affordable>

29

<https://www.bloomberg.com/news/articles/2018-03-21/when-rural-land-banks-look-to-the-city-for-solutions>

30

<https://www.tpl.org/stories/story-mill-park-bozeman-montana>

31

<https://www.mountgrace.org/visit/conserved/red-fire-farm>

Organizations Leading in this Area

- **Athens Land Trust**

Athens Land Trust is both a conservation and a community land trust, with a mission to “improve quality of life for all by preserving, protecting, and strengthening the fabric of the community through education and the stewardship of land for purposes of affordable housing, conservation, agriculture, and economic development. We respond to community-identified needs and build individual and collective power among historically marginalized people.”

<https://athenslandtrust.org/>

- **Center for Community Land Trust Innovation**

International resource organization for CLTs

<https://cltweb.org/>

- **Grounded Solutions**

Grounded Solutions is a resource organization for CLTs

<https://groundedsolutions.org/>

- **New Communities Land Trust**

New Communities Land Trust was the first CLT. It was created by visionaries including Charles and Shirley Sherrod to ensure Black farmers had access to farmland, housing, and community spaces in southwest Georgia.

<https://www.newcommunitiesinc.com/>

- **The Schumacher Institute for New Economics**

The Schumacher Center is a thought leader on the topic of CLTs and hosts many excellent resources on their webpage.

<https://centerforneweconomics.org/apply/community-land-trust-program/>

Examples of Community Land Trusts or Creative Adaptations of Community Land Trust Structures

- **Indian Line Farm**, from the Schumacher Center for New Economics
Indian Line Farm was protected by combining tools from the conservation land trust and community land trust worlds: the property is protected by a conservation easement held by The Nature Conservancy, and the Community Land Trust in the Southern Berkshires holds title to the land and has a long-term ground lease with the farmers. The ground lease includes provisions protecting the agricultural and natural resources of the land and preventing ‘speculative’ resale of the land. The Schumacher Center for New Economics helped establish this structure, and their webpage below shares resources like the lease agreement, land use plan, and articles describing the history of this project.
<https://centerforneweconomics.org/apply/community-land-trust-program/indian-line-farm/>
- **Caretaker Farm**, from the Farmland Legal Access Toolkit
Caretaker Farm is an innovative farmland protection project with farmland transfer and affordable housing dimensions. As retiring farmers were planning what to do with their farmland, they wanted to find a way to continue to live on the farm while making it available and affordable to new farmers. Equity Trust and Berkshire Community Land Trust structured a deal to conserve and transfer the farmland. Equity Trust purchased the land for an agreed-upon price from the retiring farmers and served as an interim landowner. The local land trust, the Williamstown Rural Lands Foundation, used proceeds from the sale of a conservation easement to the state of Massachusetts and fundraised locally to be able to purchase the land from Equity Trust. Williamstown Rural Lands Foundation set up two ground leases to make the land affordable to a new generation of farmers. The first ground lease is between the Williamstown Rural Lands Foundation and the retiring farmers, giving them the ability to live in their house on the property until they die. A second 99-year ground lease is between the Williamstown Rural Lands Foundation and the new farmers, giving them the ability to lease the agricultural lands. Notably, this agricultural ground lease requires stringent protection of natural resources, and the farmers’ equity is tied to natural resource protection. The webpage linked below offers details about the legal structure of the deal.
<https://farmlandaccess.org/caretaker-farm/>

- ***New Communities, Inc.***

New Communities was founded in 1969 as a way to ensure African American farmers could access land and housing. They are the first community land trust in the United States and widely seen as a model and progenitor for the CLT movement. Due to discrimination by the USDA, these farmers were unable to purchase farmland, especially not farmland with affordable housing. Seven individuals collectively purchased 5,785 acres of land in Georgia in 1970, and it became the largest parcel of farmland owned by African Americans. They sought to combine community ownership of land with individual ownership of houses. They began farming and eventually had 1,800 acres under cultivation. The founders facilitated and engaged in community visioning processes to design a land use plan with both housing and agricultural components that nearly 500 families wanted to be a part of. However, due to natural disasters, discrimination by the state and federal government, and a decision by the state of Georgia to rescind a grant that was previously awarded, New Communities lost its land in 1985. Using proceeds from the Pigford vs. Glickman lawsuit in 1999, New Communities purchased a 1,683-acre former plantation called Cypress Pond, where they are still headquartered today.³² <https://www.newcommunitiesinc.com/>

- ***Webinar: New Communities and Community Land Trusts in Movements for Black Lives, Land and Liberation***, from LISC

https://www.lisc.org/our-resources/resource/new-communities-and-community-land-trusts-movements-black-lives-land-and-liberation/?utm_source=substack&utm_medium=email

- ***How a Black Farming Community Found Justice***, by Debbie Weingarten

This article summarizes the story of New Communities Land Trust.

https://www.yesmagazine.org/environment/2019/07/18/black-farming-community-families?utm_source=substack&utm_medium=email

- ***Tierra Colectiva*** - Tierra Colectiva is a CLT redeveloping vacant lots into open, community-owned, and community-designed green spaces.

<https://www.tierracolectivages.org/collective-leadership>

- ***How a Denver neighborhood came together to buy their first community-owned green space***, by Angelika Albaladejo

This article tells the story of how Tierra Colectiva seeks to create a community-owned green space and food forest in Denver.

<https://www.denver7.com/news/environment/how-a-denver-neighborhood-came-together-to-buy-their-first-community-owned-green-space>

³²

<https://www.newcommunitiesinc.com/about.html>

- **Africatown Community Land Trust**

Africatown Community Land Trust is based in Seattle, WA. Africatown CLT was founded to resist gentrification and make home ownership attainable in the rapidly gentrifying city of Seattle.

<https://www.africatownlandtrust.org/>

- **In Seattle, Protests Over Racial Equity Turn to Land Ownership**, by Gregory Scruggs

This article describes Africatown's work in Seattle.

<https://www.bloomberg.com/news/articles/2020-06-23/can-community-land-trusts-build-racial-equity>

- **Southside Community Land Trust**

Southside Community Land Trust works in Providence, Rhode Island to enable access to community gardens and farms all across the city and in nearby areas.

<https://www.southsideclt.org/>

Pros and Cons of the Community Land Trust Model

HOW CAN A CLT HELP ADVANCE LAND JUSTICE OUTCOMES?

- CLT structures evenly split decision-making authority between residents/ tenants, general representatives with subject matter expertise, and community perspectives. The board and governance structure ensure equitable decision-making and afford agency to all parties.
- Benefits accrue to the people who live there.
- Because of the shared equity model, CLTs make secure tenure over land and homes possible for communities who may not be able to purchase land or homes outright.

WHAT ARE THE CHALLENGES IN USING A CLT STRUCTURE TO ADVANCING LAND JUSTICE GOALS?

- CLTs typically rely on external resources (i.e. a philanthropic donation or public or private grant funding) to be able to purchase land and remove its cost from the equation of ownership. These financial resources can be challenging to secure.
- Though governance is essential for participatory decision-making, sometimes it can feel burdensome.

Tools and Links for Community Land Trusts

- **Community Land Trust Program**, from the Schumacher Institute for New Economics
The Schumacher Center is one of the central leaders of the CLT movement, and this page offers a repository of movement history and helpful links to other resources and documents (i.e. model leases).
<https://centerforneweconomics.org/apply/community-land-trust-program/>
- **Community Land Trust Toolkit of Legal Documents**, from the Schumacher Institute for New Economics
This collection of legal documents offers helpful templates for community land trusts.
<https://centerforneweconomics.org/apply/community-land-trust-program/toolkit-legal-documents/>
- **Center for Community Land Trust Innovation**
The Center for Community Land Trust Innovation is an organization supporting the development of CLTs around the world. Click on the resources tab on their website for a robust selection of resources.
<https://cltweb.org/>
- **Comparing Structures**, from the Agrarian Trust
This image illustrates commonalities and differences between conservation land trusts, community land trusts, and agrarian commons.
<https://agrariantrust.org/wp-content/uploads/2021/09/AT-ComparingStructures.pdf>

COMMONS MODEL

What is a Commons?

Commons-focused efforts bring together concepts from the community land trust field of practice (using ground leases to create long-term tenure arrangements; collective governance that includes both users and interested community members); and the conservation land trust movement (use of agricultural conservation easements) in order to make farmland affordable for farmers and to acknowledge the role that farmers play in providing public goods. Each individual commons secures resources (often philanthropic, but sometimes public) to purchase a desired parcel of farmland. They then set up a community board comprised of members of the farming enterprise, members with topical expertise, and interested community members to oversee the governance of the Commons. Commons set up long-term leases (sometimes 99-years, sometimes less, depending on the specific agreement) with farmers who are stewarding the land. The leases are structured so that farmers have secure, affordable land tenure, and rates are mutually negotiated to ensure terms are fair and long-term enough to meet farmers' needs.

Organizations that have pioneered the farmland commons model include the Farmers Land Trust and the Agrarian Commons. The National Black Food & Justice Alliance has pioneered the idea of a Resource Commons to secure land for black farmers, foresters, and community gardeners.

The Role of Land Trusts in a Commons Model

Land trusts can help educate landowners and potential interested farmers about what a farmland commons model is. A land trust could also potentially serve as an incubator and advisor for a commons model, though as far as we know, this has not yet been done.

Organizations Leading in this Area

- **The Resource Commons** (the National Black Food Justice Alliance)
The Black Land and Power coalition strategizes and works towards regional and national Black land retention, protection and recovery. They are creating Resource Commons.
<https://blackfoodjustice.org/blacklandandpower>
- **The Farmers Land Trust**
The Farmers Land Trust is focused on supporting and building the Farmland Commons movement by creating and supporting Farmland Commons.
<https://www.thefarmerslandtrust.org/>
- **The Agrarian Trust**
Agrarian Trust's mission is to support land access for the next generation of farmers, which it does by creating and stewarding agrarian commons across the United States.
<https://www.agrariantrust.org/>

Examples of Commons

- **Central Virginia Agrarian Trust**
The BIPOC-led Central Virginia Agrarian Commons supports BIPOC control of land for building resilient regional food systems. The National Black Food Justice Alliance supported the development of the Central Virginia Agrarian Trust.
 - <https://www.agrariantrust.org/commons/central-virginia-agrarian-commons/>
 - <https://www.yesmagazine.org/economy/2022/08/26/black-farming-historical-land-losses>
- **Garden Variety Harvest**
Garden Variety Harvest is a member of the SW Virginia Agrarian Commons
<https://www.gardenvarietyharvests.com/ag-commons>

Pros and Cons of the Commons Model

HOW DOES A COMMONS HELP ADVANCE LAND JUSTICE GOALS?

- The commons model moves away from notions of private property ownership and instead acknowledges that there are many community goods provided by land and land stewards.
- A commons values and acknowledges the public goods that can come from land stewardship.
- A commons is a way to create affordable access to land, because land access is typically offered for free to a leasing farmer in exchange for good stewardship practices and all the community goods that farmers provide. This means that farmers can access land at very low cost, and that farming can become possible for new or beginning farmers who do not have generational access to land.
- A commons increases the decision-making power of the individual farmers by including them in the structure of the board, giving them at least 1/3 control over governance decisions.
- Farmers can accrue value over time in large part because they are not financially responsible for paying for land, and thus can invest in and grow their business without needing to pay for land.
- Permits and supports resource sharing and administrative support for the collective group

WHAT ARE THE CHALLENGES IN USING A COMMONS MODEL TO ADVANCE LAND JUSTICE GOALS?

- Because a commons effectively extinguishes land ownership, farmers are not able to build wealth through land: they are not the owners of the land, they do not build equity in land (which is many farmers' primary retirement fund), and their wealth is accrued solely through the lease value and the value of their business.
- This model limits farmers' independence, as they do not have full decision-making authority over their land: their actions and farmland management choices are governed, overseen, and must be approved by the community board.
- The commons model is challenging to scale up because funds need to be secured to purchase the land to make it available and affordable to the commons.

Tools and Links for the Commons Model

- ***A Commons Land Trust is a New Type of Land Trust***, from the Farmers Land Trust
<https://www.thefarmerslandtrust.org/projecto-5>
- ***Comparing Structures***, from the Agrarian Trust
This image illustrates commonalities and differences between conservation land trusts, community land trusts, and agrarian commons.
<https://agrariantrust.org/wp-content/uploads/2021/09/AT-ComparingStructures.pdf>
- ***Guide to Creating an Agrarian Commons***, from the Center for Agriculture & Food Systems
<https://farmlandaccess.org/guide-to-creating-an-agrarian-commons/>
- ***Workshop: Land Trusts and Commoning***, from the Women Food and Ag Network and the Farmers Land Trust
<https://www.youtube.com/watch?v=6kyJ2RfNcXA>
- **Resources from The Agrarian Trust**
<https://www.agrariantrust.org/guidebooks-reports/>
- **Resources from the Farmers Land Trust**
 - <https://www.thefarmerslandtrust.org/general-1>
 - About the farmland commons model: <https://www.thefarmerslandtrust.org/farmlandcommonsstructure>
 - Resources and links:
<https://www.thefarmerslandtrust.org/s-projects-side-by-side>

CULTURAL EASEMENTS (ALSO KNOWN AS CULTURAL RESPECT EASEMENTS OR CULTURAL CONSERVATION EASEMENTS)

What is a Cultural Easement?

Cultural easements provide perpetual and legally binding cultural rights to a given native nation. A land owner or a land trust grants a cultural respect easement, or cultural use rights, directly to a native nation. A cultural easement can be granted either on land that a land trust owns, or land that a land trust has an easement on. If a cultural respect easement is granted in addition to a traditional conservation easement (between the land trust and a private landowner), they need not happen at the same time. That is, a cultural respect easement can be granted later and to a different entity.

As Ramona Peters, founder of the Native Land Conservancy, describes them, Cultural Respect Easements are “The closest expression of land reparation to indigenous people achieved without an actual transfer of deed. It offers assurance for us to safely access areas of our ancestral homelands to exercise spiritual and cultural practices. Respect for our culture includes respect for our relationship with the earth, especially in areas where our ancestors prayed, danced, toiled, lived, and were buried.”³³

Relationship building and sustaining relationships, as well as coming to a mutually agreed upon arrangement for cultural usage, is key to making these types of easements work. Cultural respect easements should include details about what land can be used, how and when it can be used, what types of activities are permitted, processes for communication and notification of land use, conflict resolution, and other details to ensure that the easement is able to implemented in a way that works both for the landowner and the tribe.

With a cultural easement, the owner of the property continues to own the property, and the tribal nation named in the cultural respect easement is the ‘grantee’ of that specific easement and the rights therein. Like other forms of easements, most cultural respect easements run with the deed of a property. Thus, they are typically transferred as part of the sale of property to the new owners.

³³ <https://www.nativelandconservancy.org/cultural-respect-easements#:~:text=%E2%80%999CA%20Cultural%20Respect%20Easement%20is,exercise%20spiritual%20and%20cultural%20practices>

The Role of Land Trusts in Cultural Easements

A conservation land trust would grant a cultural respect easement to a local tribal nation; the tribal nation would hold the easement. Native-led land trusts such as the Native Land Conservancy could serve as advisors. As a matter of policy, land trusts can default to allowing cultural access arrangements as part of their fee-held lands, and could encourage private landholders with easements on their land to do the same. Land trusts should work with tribal nations to ensure they are developing appropriate easement terms.

Organizations Leading in This Area

- **Native Land Conservancy**

Native Land Conservancy, one of the few native-led land conservation organizations east of the Mississippi, was started by Ramona Peters in 2012. They primarily operate in Massachusetts. They have formed relationships with a couple of nearby land trusts, including the Sandwich Land Trust and Dennis Land Conservation Trust. These land trusts have given cultural respect easements to the Native Land Conservancy and local indigenous peoples. For example, the Dennis Conservation Land Trust gave a cultural respect easement to the Native Land Conservancy in order to let members of the Mashpee Wampanoag Tribe access a property that was a former Wampanoag village.

<https://www.nativelandconservancy.org/blog/eh8ynwxntcqaf8xvkkswkcu1vrqbp8>

- **Conservation Partners**

Conservation Partners is a law firm focused on land conservation, and has provided legal counsel on a number of conservation projects with a goal of returning land access and title to tribal nations.

<https://www.conservationpartners.com/>

Examples of Cultural Easements

- ***Midpeninsula Regional Open Space District and the Amah Mutsun Tribal Band - Central California***

In December of 2017, the Midpeninsula Regional Open Space District granted a cultural easement to the Amah Mutsun Tribal Band for 36 acres on Mount Umunhum in the Sierra Azul Open Space Preserve. The Midpeninsula Regional Open Space District (Midpen) refers to the arrangement as granting “permanent rights for the Amah Mutsun Tribal Band to steward the mountaintop for natural resource conservation, cultural relearning, and public education in partnership with Midpen.”³⁴ The Tribe provides educational, cultural, and natural resource activities on the site. Midpen continues to own the land.

<https://www.openspace.org/cultural-conservation-easement>

- ***Save the Redwoods and Sonoma County Agricultural Preservation and Open Space District with the Kashia Band of Pomo Indians Tribe - Northern California***

In 2017, Save the Redwoods League transferred a conservation easement on lands they owned to the Sonoma County Agricultural Preservation and Open Space District. At the same time, they granted a cultural access easement to the Kashia Band of the Pomo Indians. The bluffs on this parcel are sacred to the Kashia Band of the Pomo Indians. The cultural access easement allowed the tribe to access their traditional lands. The tribe uses this land to gather seaweed, harvest abalone, conduct traditional prayers, and conduct other spiritual and cultural activities.

<https://www.savetheredwoods.org/league-announcement/historic-stewarts-point-property-permanently-protected-by-save-the-redwoods-league-and-sonoma-county-agricultural-preservation-and-open-space-district/>

- ***Hlel-din and the Tsungwe Council - Northern California***

In May 2020, a conservation easement was placed on Hlel-din, the site of one of the Tsungwe Council’s ancestral villages. The easement includes terms that give the council rights to gather traditional plants and medicines and perform ceremonies.³⁵

<https://www.conservationpartners.com/tsnungwe-tribe-cultural-easement/>

³⁴

<https://www.openspace.org/cultural-conservation-easement>

³⁵

<https://www.conservationpartners.com/tsnungwe-tribe-cultural-easement/>

- **Muddy Pond - Kingston, MA**

Northeast Wilderness Trust granted a cultural respect easement on the Muddy Pond Wilderness Reserve, which they own in fee, to the Wampanoag Nation. They worked with the Native Land Conservancy, an indigenous-run land trust focused on restoring traditional access to land for tribal nations, to develop the cultural respect easement terms. This gives the Wampanoag Nation the ability to access this property, which is in their traditional homelands. Northeast Wilderness Trust, who owns the land, also donated a forever wild conservation easement to the Native Land Conservancy, giving that organization the ability to oversee and steward the land in perpetuity.

<https://newildernesstrust.org/native-land-conservancy-partnership/>

Pros and Cons of Cultural Easements

HOW DO CULTURAL RESPECT EASEMENTS ADVANCE LAND JUSTICE OUTCOMES?

- Enable tribal members to access their traditional lands and practice traditional activities.
- Can offer safety when practicing traditional activities, as they explicitly allow and offer legal documentation about the right of indigenous peoples to practice traditional activities, rather than leaving indigenous people open to questions as to whether they have permission to be on a particular property.
- Can be a first step towards larger land repatriation efforts.

WHAT ARE THE CHALLENGES OF USING CULTURAL RESPECT EASEMENTS FOR LAND JUSTICE OUTCOMES?

- Cultural easements are intrinsically complicated – a private entity (a land trust or a private landowner) is the authority to choose which group may receive rights and what said rights may be. This can place the land trust in a complicated position of authority, specifically in reference to their relationship with a tribal nation(s). Land trusts are able to “decide which lands to protect in perpetuity and what the rules regarding use of those lands should be.”³⁶ This gives the land trust the power to stipulate the permitted activities and access to a given cultural site.

- Cultural easements don't offer high levels of autonomy for the group granted the easement.
- Land trusts ideally should donate cultural respect easements without expecting anything in return. This can be a very challenging shift in mindset.

Tools and Links for Cultural Easements

- ***Restoring Tribal Access to Land: A Menu of Options to Reestablish Cultural Access Rights***, from Conservation Partners
<https://www.conservationpartners.com/restoring-tribal-access-to-land-a-menu-of-options-to-reestablish-cultural-access-rights/#:~:text=Cultural%20Access%20Easement%20%7C%20Separate%20Easements,a%20separate%20cultural%20access%20easement.>
- ***Cultural respect easements***, from Native Land Conservancy
<https://www.nativelandconservancy.org/cultural-respect-easements>

HEIRS' PROPERTY

What is Heirs' Property?

Heirs' property refers to property held by multiple owners with unclear, or 'cloudy,' title. Upon one generation's passing, if there is no will dictating how property will be passed down, the interest in the property is distributed equally to subsequent generations. This is called 'fractionated ownership,' wherein multiple owners have different ownership shares in a parcel of land. Because land is a single parcel, the subsequent landowners are called 'tenants in common,' meaning that they each own a portion of the property as a whole, rather than owning a specific slice of it.

Sometimes, subsequent generations are not aware that they own land, particularly in large families with multiple generations. This can pose challenges, such as when taxes accrue on a property and need to be paid, or when one owner wants to sell their portion of the land. With unclear title, it can also be more difficult to access government conservation programs or use property as collateral when applying for a loan.

While owning land with other family members isn't, or shouldn't, inherently be a problem, many heirs' property families have faced exploitation. That's because in states that have not reformed their laws governing tenancy in common, it only takes one co-owner to force a sale of the entire property, even if all remaining co-owners do not want to sell. Unscrupulous individuals and companies have forced the sale of land by one landowner in order to cheaply purchase land, sometimes even buying into heirs' property arrangements so they can force the sale themselves. This dispossesses people of their land and its associated familial, cultural, historical, and productive values. These forced sales also often yield below-market values, stripping families of their chance to build generational economic security.

Heirs' property exploitation especially affects lower-income families who lack the resources to conduct effective and legally-sound estate planning. It is particularly common for many African-American families in the American South who did not have valid wills. According to Earthjustice, "Today, as much as 40% of Black farmland is considered an heirs' property, and [according to the USDA](#), it is the leading cause of Black involuntary land loss."³⁷

³⁷ <https://earthjustice.org/experts/yosef-robele/harvesting-equality-addressing-historical-injustices-to-foster-a-resilient-agricultural-future>

The Role of Land Trusts in Heirs' Property

Many efforts are underway to address property issues and establish clear title to land. Organizations like the Center for Heirs' Property Preservation, Federation of Southern Cooperatives, and Mississippi Center for Justice provide legal services to African-American landowners to help them resolve heirs' property issues organizations like fractionated ownership. Some university efforts, like the Wake Forest Law's Heirs Property Project in North Carolina, also try to help heirs' property owners by providing free legal assistance while training the next generation of legal advocates.

Land trusts can advocate for legal resolutions to heirs' property. 23 states have passed versions of the Uniform Partition of Heirs' Property Act (UPHPA), which support just resolution of heirs' property issues.^{38,39} These bills are based on model language from lawyers like Dr. Thomas W. Mitchell, one of the nation's leading heirs' property scholars and activists and head of the Boston College Initiative on Land, Housing, and Property Rights.^{40,41} UPHPA ensures a fair sale process: if one tenant in common wants to sell, the property must be fairly valued, and family members get the first opportunity to buy before it's offered on the open market.

The other way that land trusts can get involved is to work with landowners who have recently identified that they own title to land. Once a clear title has been established, land trusts can work with landowners to identify ways that they can afford to keep the land. For example, land trusts can connect landowners with programs that help them find ways to make a sustainable livelihood from the land, like forest management or farming. Sometimes there may be many individuals in a current generation of landowners, meaning that specific legal or social services around succession or financial planning may be needed. Oftentimes, a sale of property is forced because one owner cannot afford to own the land (often for tax reasons).

Land trusts might help landowners, if they wish, conserve the land to reduce the property tax burden and ensure it remains intact for future generations. They may pursue opportunities to pay landowners for their development rights, achieving both land protection and enhanced economic well-being. Furthermore, the professional services and legal process to permanently protect land have the potential to sync with the legal process for clearing title (i.e. title search, boundary survey, closing

38
<https://landtrustalliance.org/resources/learn/explore/partition-of-heirs-property-act>

39
<https://publicintegrity.org/inequality-poverty-opportunity/law-helps-vulnerable-heirs-property-owners-but-only-if-they-can-afford-it/#:~:text=Reading%20Time:%208%20minutes,ills%20of%20heirs%20property%20persist>

40
<https://scholarship.law.tamu.edu/facscholar/805/>

41
<https://www.bc.edu/bc-web/schools/law/academics-faculty/faculty-directory/thomas-mitchell.html>

attorney, and consultation with family members on their vision for the future of the property). So in some cases, Land trusts can play a key role in identifying professionals and covering the often prohibitive costs for landowners of clearing title.

Organizations Leading in This Area

Organizational descriptions are adapted from each organization's website and mission statement.

- **The Center for Heirs' Property Preservation**

The Center for Heirs' Property Preservation works to protect heirs' property and promotes sustainable land use.

<https://www.heirsproperty.org/>

- **Where's My Land**

Where's My Land helps Black Americans discover connections to stolen land through research, data, and technology, and provides general education about heirs' property issues.

<https://whereismyland.org/>

- **Heir Shares**

Heir Shares provides educational content, data, and innovative technology tailored to empower heirs' property owners, attorneys, and other service providers.

<https://www.heirshares.com/>

- **The Sustainable Forestry and Land Retention Project Network**

The Sustainable Forestry & African American Land Retention (SFLR) Network exists to create a sustainable system of support for African American land and forest owners that significantly increases the value of African American-owned forests through sustainable forestry practices, land retention services, technical assistance, and more. SFLR works collaboratively across eight network sites to convene landowners and forestry leaders, to raise funds to support landowner services on the ground, to train emerging conservation leaders, to amplify African American land stories, and to advocate for equitable land policies.

<https://sflrnetwork.org/>

- **Black Family Land Trust (NC)**

The Black Family Land Trust, Inc. (BFLT) is one of the nation's only conservation land trusts dedicated to the preservation and protection of African-American and other historically underserved landowners assets.

<https://www.bflt.org/>

- **Land Loss Prevention Project (NC)**

The Land Loss Prevention Project helps Black farmers retain land and develop their agricultural enterprises through services such as farm business planning, legal coaching, heirs' property planning, and other services.

<https://www.landloss.org/index.html>

- **Wake Forest Law's Heirs' Property Project (NC)**

The Heirs' Property Project provides legal representation, conflict resolution, and land management support to heirs' property owners; trains lawyers in managing heirs' property cases; and serves as a hub for research, learning, and interdisciplinary training on land rights issues in North Carolina.

<https://law.wfu.edu/clinics/environmental/projects/heirs-property/#:~:text=The%20Heirs'%20Property%20Project%20was,manage%20heirs'%20property%20cases%3B%20and>

- **Federation of Southern Cooperatives (Southeast)**

The Federation of Southern Cooperatives provides outreach, education, and technical assistance that supports cooperative development, land retention, and advocacy with a focus on supporting underserved Black farmers, landowners, and cooperatives in rural Alabama, Georgia, Florida, Louisiana, Mississippi, South Carolina, and Texas.

<https://www.federation.coop/>

- **Mississippi Center for Justice (MS)**

The Mississippi Center for Justice is a public interest law firm that partners with national, regional and community organizations to develop and implement campaigns designed to create better futures for low-income Mississippians and communities of color in the areas of educational opportunity, financial security, healthcare, affordable housing and other issues.

<https://mscenterforjustice.org/>

- **Georgia Heirs Property Law Center (GA)**

Georgia Heirs Property Law Center is a not-for-profit law firm that helps heirs property owners, nonprofits, and municipalities remediate fractured title, increase equity, and transfer wealth to the next generation through title clearing, wills creation, estate planning, and facilitating access to government, private sector, and nonprofit land management/home improvement programs.

<https://www.gaheirsproperty.org/>

- **Alcorn State Socially Disadvantaged Farmers and Ranchers Policy Research Center (MS)**

The mission of the Policy Center is to conduct research, analyze policy and make recommendations seeking to achieve equitable and economic integration of USDA programs and policies for socially disadvantaged farmers, ranchers, communities, and rural landowners.

<https://www.alcorn.edu/discover-alcorn/socially-disadvantaged-farmers-and-ranchers-policy-research-center/>

- **Legal Aid offices in respective states**

- **Private Attorneys**

Heirs' property landowners may also consider connecting with a private attorney who has heirs' property and estate planning expertise and experience.

Tools and Links for Heirs' Property

- ***FSA's Heirs Property Relending Program***

USDA's Farm Service Agency's Heirs Property Relending Program provides financing to heirs property owners through intermediary lenders.

<https://www.farmers.gov/working-with-us/heirs-property-eligibility/relending#program>

- ***Their Family Bought Land One Generation After Slavery. The Reels Brothers Spent Eight Years in Jail for Refusing to Leave It***, by Lizzie Presser (ProPublica, 2019)

<https://features.propublica.org/black-land-loss/heirs-property-rights-why-black-families-lose-land-south/>

- ***Historic Partition Law Reform: A Game Changer for Heirs' Property Owners***, by Thomas W. Mitchell (for the U. S. Forest Service)

<https://research.fs.usda.gov/treesearch/62090>

- **Restoring Hope for Heirs Property Owners: The Uniform Partition of Heirs Property Act**, by Thomas Mitchell (Texas A&M School of Law): <https://scholarship.law.tamu.edu/facscholar/805/>
- **Partition of Heirs' Property Act**, from the Uniform Law Commission: <https://www.uniformlaws.org/committees/community-home/library-documents?communitykey=50724584-e808-4255-bc5d-8ea4e588371d&LibraryFolderKey=&DefaultView=&5a583082-7c67-452b-9777-e4bd-f7e1c729=eyJsaWJyYXJ5J5ZW50cnkiOil3NTc1NzE5Zi01NDIiLTRhMjMtOTQ3Ni-OzYzlwMTczZmRkMjgifQ%3D%3D>
- **Information and Resources**, from the Land Loss Prevention Project: <https://landloss.org/resources/index.html>
- **Initiative on Land, Housing and Property Rights**, from Boston College Law School: <https://www.bc.edu/bc-web/schools/law/centers/land-initiative.html>
- **Guide to ACEP-ALE for Heirs' Property Landowners**, from the American Farmland Trust: <https://farmlandinfo.org/publications/acep-ale-for-heirs-property-landowners-guide/>
- **Heirs' Property Legal Toolkit**, from the Farmland Access Legal Toolkit: <https://farmlandaccess.org/heirs-property/> and <https://farmlandaccess.org/heirs-property/#statefactsheets> (fact sheets for individual states)
- **Heirs' Property Toolkit**, from the Land Trust Alliance: <https://landtrustalliance.org/resources/learn/explore/heirs-property-toolkit>
- **The 'Family Tree' and Heirs' Property Rights: Connecting People, Land, and Legacy**, with Sam Cook, Natalie and Nikki Jefferies, and host Jamie Lewis, by the Society of American Foresters: <https://forestry.org/event/forest-optimism-webinar-series-the-family-tree-and-heirs-property-rights-connecting-people-land-and-legacy/>
- **Active policy efforts to address the history of BIPOC land theft in America**, by Chelsea Gazillo from the American Farmland Trust <https://farmland.org/active-policy-efforts-to-address-the-history-of-bipoc-land-theft-in-america/>

LAND BACK

What is Land Back?

While the definitions and interpretations of Land Back vary widely, the core of Land Back as a movement and a practice is the Indigenous reclamation of land, culture, and the right to self-determination. Land Back is an Indigenous-led movement with a rich, deep, and complex meaning and application. Land Back includes the physical transfer of land to Indigenous peoples or Tribal nations as well as the freedom to practice lifeways and traditions.⁴² In its simplest form, Land Back is a transaction where fee title ownership is transferred to a Tribal nation.⁴³

The Role of Land Trusts in Land Back

Land trusts are in a unique position to facilitate fee title ownership transitions to Tribal nations through many forms of participation, including convening discussions, assisting in obtaining grant money and funding, and serving as a connector between funders/donors and tribal nations.⁴⁴ Land trusts can also acquire land and transfer ownership to a tribe.

For land trusts to be good partners with Tribal nations, they should build relationships with Tribal nations before a specific transaction so as to understand what types of land-based resources the tribe is interested in securing access to and the degree of ownership and sovereignty tribes seek. For instance, sometimes Tribal nations seek full fee-title ownership of land, while other times, they might not have the desire or capacity to own land but instead seek access to land and resources. This is inherently a case-by-case discussion.

Some conservation tools don't provide full sovereignty to Tribes. For instance, transferring land with a conservation easement on it might not be considered a full Land Back transaction because there is an external source of control and regulation exerted through the presence of the easement. If land has a pre-existing conservation easement on it, that easement will remain with the land even if the land is transferred to a Tribal nation, and its terms will remain the same. Because conservation easements run with the title of the land and are a perpetual legal agreement, they can never be extinguished, regardless of who owns the land.

42
<https://sites.duke.edu/thewellianmag/2021/11/08/what-is-land-back/>

43
<https://www.conservationpartners.com/restoring-tribal-access-to-land-a-menu-of-options-to-reestablish-cultural-access-rights/>

44
<https://www.conservationpartners.com/restoring-tribal-access-to-land-a-menu-of-options-to-reestablish-cultural-access-rights/>

The terms of specific transactions must be specifically negotiated and agreed upon. Some transactions might not be appropriately described as Land Back transactions unless a Tribal nation labels it as such.

Organizations Leading in This Area

- **Indigenous East**

Indigenous East is creating a connected network of Indigenous-led protected areas spanning the length of the eastern United States, and through that work demonstrating the value of Indigenous Science and Traditional Ecological Knowledge and assisting the upward movement of Indigenous and Afro-Indigenous scientists and leaders in conservation organizations and governmental organizations.

<https://www.indigenouseast.org/home>

- **Sogorea Te' Land Trust**

Sogorea Te' Land Trust is an urban Indigenous women-led land trust that facilitates the return of Indigenous land to Indigenous people. They primarily operate in the San Francisco Bay Area of California.

<https://sogoreate-landtrust.org/>

- **Conservation Partners**

Conservation Partners is a law firm focused on land conservation, and has provided legal counsel on a number of conservation projects with a goal of returning land access and title to Tribal nations.

<https://www.conservationpartners.com/>

Examples of Land Back

- **Esk'etemc First Nation (British Columbia, Canada)**

In 2017, a retired rancher in British Columbia donated half of his land to the Esk'etemc First Nation. The rancher had owned the land since 1961 and had strong personal relationships with the First Nation. The transfer went directly from private ownership to ownership of the Esk'etemc First Nation, with no role played by a land trust or other conservation entity.⁴⁵

<https://www.cbc.ca/radio/asithappens/as-it-happens-friday-edition-1.4112585/reconciliation-in-its-best-form-b-c-rancher-gives-land-back-to-his-first-nation-neighbours-1.4112589>

- **Tc'lh-Leh-Dûñ (Fish Run Place) (Mendocino County, California)**

This 523-acre property was purchased by the Save the Redwoods League, a California-based conservation land trust. It is located in the traditional lands of the Sinkyone people in Mendocino County, California. The Save the Redwoods League used funding from the Pacific Gas & Electric Company's (PG&E) Compensatory Mitigation Program to purchase the land, then they donated the land to the Sinkyone Council, and the Council then granted a conservation easement back to the Save the Redwoods League. The Intertribal Sinkyone Wilderness Council is a collection of 10 tribes that oversee the management of the land. Their purpose is to "protect culturally important lands, waters, animals, trees, and plants within the traditional Sinkyone Tribal territory and beyond" by supporting the revitalization of California Indian peoples' cultural ways of life, traditional land practices, and spiritual relationships with these places. They do this by acquiring and caring for traditional lands and waters; promoting recreational access; protecting cultural values, places, and ways of life; restoring native plant, animal, and fish habitat; and education about traditional ways of caring for lands and waters.

- <https://sinkyone.org/achievements>
- <https://www.savetheredwoods.org/project/tcih-leh-dun-fish-run-place/>
- <https://www.savetheredwoods.org/blog/protecting-tcih-leh-dun/>

⁴⁵

<https://www.cbc.ca/radio/asithappens/as-it-happens-friday-edition-1.4112585/reconciliation-in-its-best-form-b-c-rancher-gives-land-back-to-his-first-nation-neighbours-1.4112589>

- **Pissacoack/ Fones Cliffs (Virginia)**

In 2022, the Rappahannock Tribe regained access to 465 acres of land in their traditional homelands. This land above the Rappahannock River is the traditional homeland of the Rappahannock people and a nationally significant bird nesting area. Rivers are an important part of the Rappahannock culture, making this area especially significant. The land is owned in fee by the Rappahannock Tribe, and has a conservation easement with the U.S. Fish and Wildlife Service. The Chesapeake Conservancy worked with many partners (such as USFWS, the Land and Water Conservation Fund, the National Park Foundation, The Conservation Fund, foundations, and others) to assemble funds to purchase the land, structure the deal, and ultimately give it to the Rappahannock Tribe. Tribal members will use this land for youth education and as a place from which to access their traditional lands and waters.⁴⁶

- <https://www.rappahannocktribe.org/return-to-the-river/>
- <https://www.chesapeakeconservancy.org/fonescliffs>
- <https://grist.org/indigenous/rappahannock-tribe-gets-465-acres-land-back-chesapeake-bay/>

- **Bois Forte Land Back (Minnesota)**

In 2022, the Bois Forte Band of Chippewa in Minnesota regained control and ownership of 28,000 acres of their ancestral lands (nearly 20% of their traditional lands; this transaction doubled the size of the Tribe's current land holdings). The Conservation Fund, a land conservation organization, purchased the land from PotlatchDeltic, a timber company. The land was enrolled in the State of Minnesota's Sustainable Forests Incentive Program, which offers annual payments for deferring timber harvests. The Bois Forte band received a loan from the Indian Land Capital Company, a subsidiary of the Indian Land Tenure Foundation, to purchase the land. The Bois Forte Band will use funds from the Sustainable Forests Incentive Program and sustainable timber harvest to pay back the loan.

- <https://nativenewsonline.net/sovereignty/bois-forte-band-gets-28-000-acres-of-land-back-in-northern-minnesota>
- <https://www.mprnews.org/story/2022/06/08/return-of-28000-acres-to-minnesota-tribe-is-likely-largest-landback-deal-ever>
- <https://www.conservationfund.org/impact/blog/land/2696-looking-back-at-a-historic-day-for-the-bois-forte-band>

⁴⁶

<https://www.rappahannocktribe.org/return-to-the-river/> ; <https://www.chesapeakeconservancy.org/fonescliffs> ; <https://www.audubon.org/magazine/winter-2022/how-tribes-are-reclaiming-and-protecting-their>

- **Wáhsehtək^w (Maine)**

In 2023, the Trust for Public Land purchased a 31,367-acre parcel of land in the Katahdin region of Maine. TPL secured funding to be able to purchase the land when it was on the market and serve as an interim owner; their goal is to give the land to the Penobscot Nation. This is likely to be a project with a long timeline, and TPL, the Penobscot Nation, the National Parks Service, and other partners will need to work together to develop the project structure and funding to return this land to the Penobscot Nation. This is the largest collaborative land return between a U.S.-based nonprofit and a Tribal nation in recent history.

- <https://www.tpl.org/our-work/wahsehtekw>
- <https://tribalbusinessnews.com/sections/real-estate/14518-penobscot-landback#:~:text=National%20nonprofit%20Trust%20for%20Public,people%20who%20originally%20occupied%20it.>
- <https://www.fromthegroundupne.org/archive/salmon-are-creatures-of-the-forest>

- **Wakeby Preserve (Massachusetts)**

In 2015, the Sandwich Conservation Trust donated this property to the Native Land Conservancy, an Indigenous-run land trust, to own and manage.

- <https://www.nativelandconservancy.org/story>

- **Esselen Tribe of Monterey (California)**

In June 2020, the Esselen Tribe purchased a 1,200-acre ranch near Big Sur, CA. In 2004, after the death of the original owner, Western Rivers Conservancy, a land trust based in Portland, OR, purchased the land. The Western Rivers Conservancy worked on behalf of the tribe to secure a \$4.5 million grant from the California Natural Resources Agency to pay for the land purchase price. The Chairman of the Esselen Tribe, Tom Little Bear Nason, stated at the time of acquisition that the Tribe's intention was to share the land with other local tribes, including the Ohlone, the Amah Mutsun, and the Rumsen people.⁴⁷

- <https://www.theguardian.com/us-news/2020/jul/28/northern-california-esselen-tribe-regains-land-250-years>

47

<https://www.theguardian.com/us-news/2020/jul/28/northern-california-esselen-tribe-regains-land-250-years>

- **Sek-wet-see (Oregon)**

In May of 2015, Ecotrust Forest Management (EFM) sold 3,200 acres of culturally important forestland to the Coquille Tribe at fair market value. Ecotrust is a Forest Stewardship Council-certified forestland investment manager located in the Pacific Northwest.⁴⁸

- <https://ecotrust.org/press-release/efm-sells-3200-acres-of-ecologically-and-culturally-significant-coastal-oregon-forestland-to-coquille-tribe/>

Pros and Cons of the Land Back Model

HOW DO LAND BACK PROJECTS HELP ADVANCE LAND JUSTICE OUTCOMES?

- Sovereignty and full agency for Indigenous peoples to use land for their needs
- Repairing historical harms: many Indigenous people were forcibly removed from their traditional territories and have not had access to land, natural resources, and cultural traditions.

WHAT ARE THE CHALLENGES IN USING LAND BACK TO ADVANCE LAND JUSTICE GOALS?

- Many Indigenous people were forcibly dispossessed from their lands, and no longer reside in their traditional territories.
- Some Tribal nations do not have the capacity to own, manage, and steward land.
- Land Back can be more complex for non-federally recognized Tribes, as they are often not eligible for federal grants.
- Many traditional conservation tools and funding sources do not offer full sovereignty to Tribes. Traditional conservation tools and funding sources often seek a conservation easement or other legal degree of certainty about the future use of land, which can be considered contrary to true sovereignty.

⁴⁸

<https://ecotrust.org/press-release/efm-sells-3200-acres-of-ecologically-and-culturally-significant-coastal-oregon-forestland-to-coquille-tribe/>

Tools and Links for Land Back

- **Seeds of Land Return Toolkit**, from the Sustainable Economies Law Center
 This toolkit offers a comprehensive overview of land return approaches.
 - Summary article describing this toolkit by Janelle Orsi, Sustainable Economies Law Center
https://docs.google.com/document/d/1Yp98KjaAxS_5qdfol7bXG2lnBsQ8VrKZ7AqqDXlwzkE/edit
 - Summary resource of toolkit from Sogorea Te' Land Trust
https://sogoreate-landtrust.org/slt_resources/seeds-of-land-return/
 - Full Toolkit from Sustainable Economies Law Center
https://www.theselc.org/seeds_of_land_return
- **Land Rematriation Resource Guide**, from Sogorea Te' Land Trust
 This resource guide describes principles for engaging respectfully with land and supporting land rematriation.
https://sogoreate-landtrust.org/slt_resources/rematriation-resource-guide/
- **Land Justice Project**, by Oregon Coalition of Land Trusts, First Light, and Tributaries Network (2021)
 This effort brought together Indigenous communities in Oregon with Oregon land trusts to engage in mutual dialogue and learning in order to “increase land access, support Indigenous sovereignty, and return land to tribal communities.”
<https://www.oregonlandjustice.org/>
- **Resources for Land Justice**, from Resource Generation
 Resource Generation has compiled a comprehensive spreadsheet describing Land Back tools.
<https://docs.google.com/spreadsheets/d/1dJnodZGUldsKsl5ley7ikE4zKXN83WMsNU1jA3YSOMY/edit#gid=137874846> ;
 - The tab titled “Types of Land Returns/Definitions” describes land back concepts in great depth: <https://docs.google.com/spreadsheets/d/1dJnodZGUldsKsl5ley7ikE4zKXN83WMsNU1jA3YSOMY/edit#gid=321249095>
- **Landback: Restoring People, Place, and Purpose (webinar)**, from Sogorea Te' Land Trust
 This webinar was moderated by Cara Romero and featured PennElys Droz; Corrina Gould; Tom Little Bear Nason; Kawenniiosta Jock. Each speak about different approaches to the return and rematriation of ancestral territories,

including organizational, fundraising, and legal strategies and how non-Native people can be good allies for #Landback.

https://sogoreate-landtrust.org/slt_resources/landback-restoring-people-place-and-purpose/

- ***How Returning Land Can Build Power and Advance Healing Justice***, by Donna Bransford and Jocelyn Wong (Nonprofit Quarterly)
<https://nonprofitquarterly.org/how-returning-land-can-build-power-and-advance-healing-justice/>
- ***How Returning Lands to Native Tribes Is Helping Protect Nature***, by Jim Robbins (Yale Environment 360)
<https://e360.yale.edu/features/how-returning-lands-to-native-tribes-is-helping-protect-nature>
- ***How Tribes Are Reclaiming and Protecting Their Ancestral Lands From Coast to Coast | Audubon***, by Chris Aadland (Audubon)
Article describing three land back projects: the management of the National Bison Range by the Confederated Salish and Kootenai Tribes in Montana; the return of Pissacoack to the Rappahanock nation; and the 12,000 acre Snoqualmie Tribe Ancestral Forest to the Snoqualmie people:
<https://www.audubon.org/magazine/winter-2022/how-tribes-are-reclaiming-and-protecting-their>
- ***Land Back Social Syllabi***, by Rachel Cargle
An overview of Land Back principles.
<https://www.patreon.com/file?h=44309807&i=6802750>
- ***The Land Back Movement Unravels Manifest Destiny***, by Kalen Goodluck (Sierra Club)
This article describes why land back is necessary and describes how US history and policy resulted in dispossession of Indigenous lands. It describes recent Land Back examples, such as the return of land to the Bois Forte Tribe in Minnesota, Pissacoack to the Rappahanock Tribe in Virginia and Pe' Sla in South Dakota to the Lakota and Cheyenne Nations.
<https://www.sierraclub.org/sierra/2023-3-fall/feature/land-back-movement-unravels-manifest-destiny>

LAND TAX

What is a land tax?

Much of the language in this section is drawn from both the resource page on the Shuumi Land Tax from Sogorea Te' land trust and a report written by Yale School of the Environment students about land taxes.

A "land tax" is a voluntary contribution or obligation by settlers or non-Indigenous people who are residing on or benefiting from Indigenous land. This payment recognizes the historical and ongoing dispossession of Indigenous peoples from their lands and is a way for settlers to acknowledge this injustice and support Indigenous sovereignty. These taxes recognize the debt owed to Indigenous peoples for land use and contribute to returning land control to them. Sena Crow says, "The truth is, Indigenous communities need resources, not apologies."⁴⁹

Voluntary land taxes are part of Land Back efforts, allowing homeowners, renters, and landowners to acknowledge their position on stolen Indigenous land and return wealth to original landowners. Voluntary land taxes are donations paid either directly to Tribal nations, or via collaborations with non-Tribal groups. They are not legally enforceable taxes. Amounts vary, and to be tax-deductible, they must be paid to a 501(c)(3) organization or federally recognized Tribe.

The size of a land tax can vary. Most organizations educating and encouraging the payment of land taxes offer suggested amounts or calculators to define how much an individual or business should pay. However, many also encourage settlers to give as they are able to; in the words of the Manna Hatta fund: "Native land literally underpins everything about our lives in the U.S. Our homes, schools, places of worship, culture, recreation, agriculture, businesses, and friendships are all made possible because Native people were and are displaced from their ancestral lands. This can feel overwhelming, but the Manna-hatta Fund Collective calls on you to think of this as an opportunity to be bold in your own giving. We should all give a meaningful gift, an amount that is as big as our individual budget will allow."

⁴⁹
<https://medium.com/@senamcrow/youre-already-on-stolen-land-you-might-as-well-pay-rent-e2250a81d1fe>

⁵⁰
<https://mannahattafund.org/faq>

The Role of Land Trusts in Land Taxes

Land trusts could educate their members about the importance of a land tax, encourage landowners in their networks to pay a land tax and provide resources on how to do so, and could pay a land tax on their own landholdings to Indigenous Nations in their geography.

Organizations Leading in this Area

- **Sogorea Te' Land Trust**
<https://sogoreate-landtrust.org/>
- **Real Rent Duwamish**
<https://www.realrentduwamish.org/>
- **Manna Hatta Fund**
<https://mannahattafund.org/>

Examples of a Land Tax

- ***Sogorea Te' Land Trust's Shuumi Land Tax***
Sogorea Te' Land Trust is an Indigenous, women-led organization based in the San Francisco Bay Area, focused on the return of Indigenous land to Indigenous people. They help residents in the Bay Area calculate how much they should contribute each year to support the land trust's land repatriation efforts. They describe the land tax in this way: "This land has a deep history and a community of people who have lived here for thousands of years. Living here, you are inadvertently benefitting from the genocide waged against the Ohlone people and the theft of their land. Whether you know it or not, however you feel about it, this is an inescapable fact. The civic infrastructure, the economic system, the private development and the consumption of natural resources in our society are all connected to and in different ways built upon the colonial occupation of this land and the violent displacement of the Ohlone. Paying the Shuumi Land Tax is a small way to acknowledge this history and contribute to its healing, to support the Ohlone community's current work to create a vibrant future." Sogorea Te'

offers suggested donation amounts for individuals and businesses based on socio-economic status.

<https://sogoreate-landtrust.org/shuumi-land-tax/>

- In 2021, the city of Alameda, CA voted to pay a land tax of \$11,000 per year for two years to Sogorea Te' Land Trust in recognition of their occupation of Tribal lands.⁵¹

<https://www.alamedaca.gov/RESIDENTS/Information-for-Residents/Sogorea-Te%E2%80%99-Land-Trust-Shuumi-Land-Tax>

- In 2024, the Kataly Foundation gave a \$20 million Shuumi contribution to support Sogorea Te's efforts to rematriate lands. A number of other Bay area foundations have begun paying land taxes to Sogorea Te'.

<https://kataly.medium.com/sogorea-te-land-trust-receives-20-million-shuumi-land-tax-contribution-from-kataly-foundation-a5adf7296995>

- **Real Rent Duwamish**

The Duwamish Tribe lives in what is now known as Seattle. Real Rent Duwamish is a campaign for Seattle residents to pay a voluntary tax to Duwamish Tribal Services, which is a nonprofit. These funds are used to provide social, educational, health, and cultural services to Tribal members. Over 22,000 people and organizations have contributed to this effort.

<https://www.realrentduwamish.org/>

- **Manna Hatta Fund**

The Manna Hatta Fund raises funds from settlers in what is now known as New York City. They encourage a land tax of \$24 per month, as this is how much colonists paid the Canarsie tribe to "purchase" the island of Manhattan. Funds go to the American Indian Community House (AICH), a 501(c)(3) non-profit which provides cultural and social supports to members from over 72 Indigenous Nations, including the the Leni Lenape, Haudenosaunee, and Shinnecock Nations.

<https://mannahattafund.org/>

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<https://www.alamedaca.gov/RESIDENTS/Information-for-Residents/Sogorea-Te%E2%80%99-Land-Trust-Shuumi-Land-Tax>

Pros and Cons of the Land Tax Model

HOW DO LAND TAX PROJECTS HELP ADVANCE LAND JUSTICE OUTCOMES?

- Land taxes are a way for individuals to provide resources directly to Tribal Nations who have lost their land.
- Land taxes typically don't come with 'strings,' and thus Tribal Nations have full sovereignty to invest funds in the infrastructure they most need.

WHAT ARE THE CHALLENGES IN USING LAND TAXES TO ADVANCE LAND JUSTICE GOALS?

- Land taxes are voluntary and thus do not offer an assured source of income.
- If there is not an established relationship with a local Tribal Nation (or intermediary), it can be challenging to figure out where to give funds.
- If a Tribal Nation is not federally recognized, land taxes paid to them are not tax deductible.
- Land taxes should be given with no expectations, requirements, or stipulations as to how funds are used, which can be challenging for donors.

Tools and Links for Land Taxes

- **LandBack and Honor Native Land Taxes**, from Tucson Alliance for Housing Justice Resource Page on Land Back and Land Taxes
<https://tucsonhousingjustice.org/landback-and-land-taxes/>
- **Native American 'land taxes': a step on the roadmap for reparations**, by Maanvi Singh (The Guardian)
<https://www.theguardian.com/us-news/2019/dec/31/native-american-land-taxes-reparations>
- **Shuumi Land Tax**, from Sogorea Te' Land Trust
More Information about the Shuumi Land Tax.
<https://sogoreate-landtrust.org/shuumi-land-tax/>
 - FAQ's: <https://sogoreate-landtrust.org/shuumi-land-tax-faqs/>
 - Shuumi Land Tax for Foundations (from Justice Funders)

- Pete Ivy, Lauren Phipps, and Rita Flanagan. ***Tribal Sovereignty and Resource Clinic: Final Land Tax Research Memo***. Yale University (December 2023). Unpublished.
- ***Voluntary Land Taxes***, from the Native Governance Center <https://nativegov.org/news/voluntary-land-taxes/>



LEASES

What is a Lease?

In some cases, land trusts own land and lease it to farmers. Often, these leases are very affordable, and sometimes are focused on allowing particular communities (such as new and beginning farmers, or BIPOC farmers) to access land.

Lease terms can take different shapes. Some borrow from the CLT community of practice and take the form of a 'ground lease' (described in the community land trusts toolkit). Some leases have equity-building provisions, or offer a lease-to-own structure. Some public landowners, such as cities, lease farmland for commercial farms or community gardens; land trusts and other land-owning non-profits also sometimes lease land to farmers. Lease terms are mutually negotiated between lessees and land owners.

The Role of Land Trusts in Land Leases

Land trusts can lease lands they own to enterprises like farms. Land trusts can make lease terms favorable for the individuals or communities they are leasing to. Land trusts can affirmatively choose to lease to groups or individuals who have traditionally been excluded from accessing land.

Organizations Leading in this area

- **Vermont Land Trust**

The Vermont Land Trust sometimes leases land to farmers as part of their farmland access program.

vlt.org

- **Intervale Center**

For many years, the Intervale Center in Vermont provided affordable farmland leases to beginning farmers.

intervale.org

- **Farm Commons**

Farm Commons provides legal resources for farmers and farm service providers. They offer many resources, guidance, and template documents about the legal side of farm business operations, structures, and ownership on their resource page.

<https://farmcommons.org/>

<https://farmcommons.org/library/>

Examples of Leases

- **Liberation Farms (Lewiston-Auburn, ME)**

Liberation Farms, which has also been known as the Little Jubba Central Maine Agrarian Commons, was created by the Somali Bantu Community Association (SBCA, a group of predominantly Black, Muslim, refugee farmers) working with many partners to secure land tenure for the Liberation Farms project. Liberation Farms aims to provide economic opportunities for Somali Bantu refugees and immigrants (many of whom have agricultural backgrounds) by providing access to land, resources, and training in culturally appropriate, sustainable farming practices. The Somali Bantu Community Association sought land close to the greater Lewiston-Auburn area of Maine, where many farmers live, some without access to a personal vehicle. They worked with numerous partner organizations like The Good Food Council of Lewiston Auburn, Cumberland County Food Security Council, land conservation groups (including the Agrarian Trust, Maine Farmland Trust, Land for Good, and American Farmland Trust), farmers, prospective farmers, community food advocates, academics, and more to design lease terms and an ownership structure that would work for this community, and to develop plain language resources about land access and tenure that were appropriate for this community. They initially intended to work with the Agrarian Trust, adopting an agrarian commons structure, and use an agricultural easement to make the land more affordable and protect its agricultural resources; with time, the Somali Bantu Community Association decided it would better support their goals to hold the land themselves, and not encumber it with a conservation easement held by an outside entity. By holding land in trust and providing long-term leases, the Somali Bantu Community Association and its Liberation Farms project aims to ensure that Somali Bantu farmers have the stability needed to

cultivate their crops, sustain their livelihoods, preserve their agricultural heritage, and achieve community empowerment and food sovereignty.

- The Somali Bantu Community Association
<https://somalibantumaine.org/our-land-search-journey/>
- This case study offers a comprehensive overview of the Somali Bantu Community Association's search for land, from their perspective.
<https://somalibantumaine.org/wp-content/uploads/2023/12/sbca-case-study-finding-a-home-for-liberation-farms.pdf>

- **HAFa Farm (St. Paul, MN)**

The HAFa Farm, or Hmong American Farmers' Association Farm, is a 155-acre research and incubator farm near St. Paul, Minnesota. The HAFa Farm is operated by a collective of Hmong farmers who banded together in 2011 to provide services to members of their community. They lease land to Hmong farmers, many of whom were farmers in Laos and Thailand before they moved to Minnesota in the 1970s as political refugees. HAFa runs the farm, provides business planning, conducts crop research (especially on traditional Hmong crops that are newly grown in the USA), and runs a food hub to help farmers sell their products.

<https://www.hmongfarmers.com/about-hafa/>

<https://www.hmongfarmers.com/>

- **Intervale Center (Burlington, VT)**

The Intervale Center in Burlington, VT, owns prime agricultural land along the Winooski River. For many years, they ran an incubator farm program, where they leased land to new and beginning farmers to help them get started. They had a variety of on-site resources for farmers, such as a shared equipment cooperative, shared greenhouses, an on-site food hub to collect and sell products, and provided business planning and technical assistance services. With time, they realized farmers needed more time in a specific place, both to develop their agricultural resources and to develop steady and consistent markets. The Intervale stopped "graduating" farmers in 2018 and instead now maintains longer lease terms with farmers.

<https://www.intervale.org>

<https://www.intervale.org/history/early-programs>

- **Vermont Land Trust's Farmland Access Program (VT)**

When land comes up for sale, Vermont Land Trust occasionally purchases farmland and leases it to farmers through their farmland access program until the farmer can assemble the resources needed to purchase land. These leases can be anywhere from one to five years in length, and are generally an 'interim' strategy aimed at the goal of a farmer purchasing land as soon as they are ready. VLT has done significant fundraising to have enough low-cost capital to be able to purchase and serve as an interim holder of farmland.

<https://vlt.org/how-we-help/farmers-farmland/>

- **Smokey House Center (Danby, VT)**

Smokey House owns land and leases it to their two partner farmers with affordable, 40-year leases. Smokey House has funded and manages a retirement fund for the two farmers so that when the farmers reach the end of their lease, they will have savings to retire with. This helps farmers without land ownership build savings for retirement, as land is typically a farm's primary asset.

<https://www.smokeyhouse.org/>

- **Dirt Capital Partners (nationwide)**

Dirt Capital Partners is a private impact investor focused on sustainable agriculture and land conservation. They purchase farmland and provide financing and support to farmers practicing sustainable agriculture. Acting as an 'interim holder,' they lease land to farmers with flexible terms until the farmers are prepared to buy it themselves, allowing them time to develop their businesses. Dirt Capital also offers technical assistance and advice on sustainable practices and sometimes funds necessary infrastructure. Often, the sale of an agricultural conservation easement is a key tool used to make land affordable so that farmers will be able to purchase the land.

<https://www.dirtpartners.com/>

- **Sample Recent Projects from Dirt Capital Partners**

<https://www.dirtpartners.com/projects>

- **Case Study: Triple 3 Livestock**, from Dirt Capital Partners

This case study illustrates how Dirt Capital served as an interim landholder and worked in partnership with Triple 3 Livestock to access land for an organic, grass-fed dairy. This case study illustrates the favorable lease terms interim holders can employ to help farmers access land and capital.

https://static1.squarespace.com/static/64db998fdd61257c337d4502/t/64dbef639a258238fcfa16e1/1692135269142/Triple%2B3%2B_%2BFINAL.pdf

- **Chapter 1, Land Trust Leases Land to Farmer: Sonoma County Agricultural Preservation and Open Space District with Tierra Vegetables, from California Farm Link's Conservation And Affordability Of Working Lands: Nine Case Studies Of Land Trusts Working With Next-Generation Farmers**

See the case study of Tierra Vegetables (page 1) for a specific example of a land trust leasing farmland to a farmer in a 'lease to own' arrangement.

https://walandtrusts.org/wordpress/wp-content/uploads/2018/02/land_trust_case_studies_march20151.pdf

Pros and Cons of Leases

HOW DO LEASES HELP ADVANCE LAND JUSTICE OUTCOMES?

- Leases offer ways for farmers to access land without needing to assemble financing to purchase it.

WHAT ARE THE CHALLENGES IN USING LEASES TO ADVANCE LAND JUSTICE GOALS?

- Landowners have power in setting lease terms.
- It is more challenging for a farmer to accrue equity in a lease.
- It can be challenging to make investments of time and money in land without secure tenure.

Tools and Links for Leases

- **Agricultural Lease Agreement Basics**, from Farm Commons
This 'tipsheet' includes considerations for leasing agricultural land for both tenants or landowners.
<https://farmcommons.org/resources/articles/agricultural-lease-agreement-basics/>

- **Build-A-Lease Tool**, from Land for Good
This resource includes modules to learn about farm leases and build a working version of a lease agreement.
<https://landforgood.org/resources/lease-tool-login/>
- **Chapter 2: Agricultural Leases and Crop-Share Agreements 10**, from Growing On Solid Ground: A Farmer’s Guide To Land Tenure
This guide describes examples of land tenure structures from a farmer perspective.
https://gafarmlink.org/sites/default/files/63b770ff02e67ecac21a800b_Growing%20on%20Solid%20Ground%20-%20A%20Farmer%27s%20Guide%20to%20Land%20Tenure%20%281%29.pdf
- **Farm Incubators Resource Page**, from the Cornell Small Farms Program
This page includes many examples of farm incubators, and links to other resource pages.
<https://smallfarms.cornell.edu/projects/trainers-toolbox/farm-incubators/>
- **Leasing Module**, from The Center for Agriculture and Food Systems’ Farmland Access Legal Toolkit
This page offers a comprehensive selection of resources about leasing, including questions to consider before signing a lease, a free online farm lease-building tool, and creative lease models
<https://farmlandaccess.org/leasing/>
 - The Legal Toolkit goes into detail on a number of lease structures, such as:
 - Ground Leases - <https://farmlandaccess.org/creative-leasing/#groundleases>
 - Equity-Building Lease Provisions - <https://farmlandaccess.org/creative-leasing/#equity-building>
 - Lease-To-Own - <https://farmlandaccess.org/creative-leasing/#lease-to-own>
 - Leasing from Public Land - <https://farmlandaccess.org/creative-leasing/#leasing-from>
 - Leasing Land with Conservation Easements and/or OPAVs - <https://farmlandaccess.org/creative-leasing/#leasing-land>

- **NIFTI Training Tools**, from the National Incubator Farm Training Initiative (NIFTI, run by New Entry Sustainable Farming Project)
A comprehensive collection of resources for incubator farms
<https://nesfp.nutrition.tufts.edu/NIFTI>
- **Farm Commons**
Farm Commons provides legal resources for farmers and farm service providers. They offer many resources, guidance, and template documents about the legal side of farm business operations, structures, and ownership on their resource page.
<https://farmcommons.org/>
<https://farmcommons.org/library/>
- **Inspirations for Creating a Long-Term Agricultural Lease for Agroforestry: A Workbook**, by Erin Hannum (Farm Commons)
This workbook is focused on long-term lease arrangements. While it focuses on agroforestry, it can be relevant for leasing any type of agricultural land, and can be useful for both landowners and farmers.
<https://www.fs.usda.gov/nac/assets/documents/morepublications/longterm-lease-workbookbook.pdf>

ADDITIONAL RESOURCES

This section includes comprehensive guides to land justice tools and additional reading and resources.

Overarching resources on land justice and land access

- ***Decolonizing Conservation: A Reading List (2019)***, by Dr. Sara Cannon
Dr. Sara Cannon developed this reading list for non-Indigenous folks working in biodiversity conservation to better understand the colonial roots of conservation.
<https://saracannon.notion.site/saracannon/c175fb8fa923469d840dda6555fc355a?v=bc65c3cc59ac4a4194e6c6f62365a612>
 - ***Exploring Community Land Ownership: An Annotated Bibliography***, from the Center for Community Investment
This resource describes a variety of tools, many commonly used in the affordable housing community, to describe models and tools for community ownership of land.
https://centerforcommunityinvestment.org/resource/exploring-community-land-ownership-an-annotated-bibliography/?utm_source=Center+for+Community+Investment&utm_campaign=1127bf3c40-EMAIL_CAMPAIGN_2023_03_22_06_31_COPY_01&utm_medium=email&utm_term=0_7c159f050b-%5BLIST_EMAIL_ID%5D
 - ***Farmland Access & Ownership: An Overview of Barriers, Models, and Actions to Increase Land Access for Connecticut's BIPOC Farmers***, from the Connecticut Land Conservation Council
This report summarizes strategies to advance land access for BIPOC farmers in Connecticut, and includes a number of case studies.
https://portal.ct.gov/-/media/doag/boards_commissions_councils/diversity-working-group/access-to-secure-land-tenure/ct-doag-farmland-access-and-ownership-final-march-2024.pdf
 - ***Glossary of Land Use Terms***, from the Lincoln Institute of Land Policy
A dictionary of land use terms from the Lincoln Institute of Land Policy.
<https://www.lincolninst.edu/glossary-land-use-terms>
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- ***Imagining Land Justice***, from the Nuns and Nones Land Justice Project
The *Imagining Land Justice* guidebook series includes guidebooks on Landback, land reparations, regenerative stewardship and collective ownership. It illustrates these concepts through real case studies, context, scenarios, and stories.
<https://www.nunsandnones.org/Imagine>
- ***Land Justice Project***, by Oregon Coalition of Land Trusts, First Light, and Tributaries Network (2021)
This effort brought together indigenous communities in Oregon with Oregon land trusts to engage in mutual dialogue and learning in order to “increase land access, support Indigenous sovereignty, and return land to tribal communities.”
<https://www.oregonlandjustice.org/>
- ***Land Reparations & Indigenous Solidarity Toolkit***, Resource Generation (2018)
This toolkit is for those with access to land and resources to understand ways to make land-based reparations.
<https://resourcegeneration.org/land-reparations-indigenous-solidarity-action-guide/>
- ***Resources for Land Justice***, from Resource Generation
Resource Generation has compiled a comprehensive spreadsheet about resources, tools, and models that support BIPOC land sovereignty
<https://docs.google.com/spreadsheets/d/1dJnodZGUldsKsl5ley7ikE4zKXN83WMSNU1jA3YSOMY/edit#gid=137874846>
- ***Resource Library***, from Sogorea Te’ Land Trust
Sogorea Te’ Land Trust’s resource library links to resources about indigenous land return.
<https://sogoreate-landtrust.org/resources/>

Resources focused on specific topics

COMMUNITY LAND OWNERSHIP AND CLTS

- ***New Communities and Community Land Trusts in Movements for Black Lives, Land and Liberation***, from LISC

This resource describes how CLTs can help combat Black land loss and displacement, build community wealth, and strengthen community health and care. The resource includes a recording of Shirley Sherrod (the founder) describing New Communities Land Trust, the first community land trust, and includes a collection of resources at the bottom.

https://www.lisc.org/our-resources/resource/new-communities-and-community-land-trusts-movements-black-lives-land-and-liberation/?utm_source=substack&utm_medium=email

CO-MANAGEMENT

- ***Bridges to a New Era: A Report on the Past, Present, and Potential Future of Tribal Co-Management of Federal Public Lands***, by Monte Mills and Martin Nie

This guide describes a historical overview of tribal co-management of public lands, and suggests paths forward.

<https://digitalcommons.law.uw.edu/faculty-articles/854/>

- ***Bridges to a New Era: A Report on the Past, Present, and Potential Future of Tribal Co-Management of Federal Public Lands in Alaska***, by Monte Mills and Martin Nie

This guide describes a historical overview of tribal co-management of public lands in Alaska and offers suggestions for the future.

<https://digitalcommons.law.uw.edu/faculty-articles/913/>

- ***Bureau of Land Management Policy on Co-Stewardship***, from the Bureau of Land Management:

<https://www.blm.gov/press-release/blm-publishes-tribal-co-stewardship-policy-reaffirms-commitment-work-tribes-manage>

- ***Sovereign to Sovereign Cooperative Agreements***, from the University of Washington School of Law:
This site collates a collection of resources about co-management, such as sample co-management agreements, tools, and legal frameworks used.
<https://lib.law.uw.edu/c.php?g=1329421&p=10063577>
- ***Tribal Co-management of Federal Lands: Overview and Selected Issues for Congress***, from the Congressional Research Service (2023):
<https://crsreports.congress.gov/product/pdf/R/R47563>

COOPERATIVES

- ***Successful Farming on a Land Cooperative***, by Mimi Arnstein (Land for Good, 2014)
This article describes how Wellspring Land Cooperative functioned and how the author operated a farm as part of the coop.
<https://landforgood.org/wp-content/uploads/Successful-Farming-on-a-Land-Cooperative-by-Mimi-Arnstein-2014.pdf>
- For more information about the Wellspring Land Cooperative, read this case study
<https://landforgood.org/wp-content/uploads/Basics-of-Wellspring-Co-Op-Case-Study.pdf>

FARMLAND ACCESS AND STEWARDSHIP

- ***Conservation And Affordability Of Working Lands: Nine Case Studies Of Land Trusts Working With Next-Generation Farmers***, by Kendra Johnson, Molly Bloom, Liya Schwartzman, Ali Robinson, Frederick Smith, and Holly Rippon-Butler of the National Young Farmers Coalition (California Farm Link, 2015)
This booklet offers nine case studies of farmers and land trusts working together. It features case studies on topics like: leases, buy-protect-sell, selling conservation easements, farm transfers from older to younger generations, and affirmative agriculture easement tools. Note: Many of these case studies are linked in the narrative above.
https://walandtrusts.org/wordpress/wp-content/uploads/2018/02/land_trust_case_studies_march20151.pdf

- ***Farmland Access & Ownership: An Overview of Barriers, Models, and Actions to Increase Land Access for Connecticut’s BIPOC Farmers***, by Yaw Darko (Connecticut Land Conservation Council, 2024)

This guide describes the challenges and barriers BIPOC farmers in Connecticut face to accessing, stewarding, and owning farmland.

https://portal.ct.gov/-/media/doag/boards_commissions_councils/diversity-working-group/access-to-secure-land-tenure/ct-doag-farmland-access-and-ownership-final-march-2024.pdf

- ***Farmland Access Legal Toolkit***, from Vermont Law School’s Center for Agriculture and Food Systems

This resource offers an overview of a variety of tools that can be used to facilitate affordable access to farmland through creative leasing, farmland access tools, and farmland transfer stories. Specific resource pages include detailed descriptions of different types of leases, conservation easements, collaborative farm structures, property tax abatement, affirmative agricultural easements, federal funding sources, and discussion of different farm legal structures. Within each topic, there are detailed case studies and links to sample language. This resource goes into depth on the legal dimensions of farmland access.

<https://farmlandaccess.org/access-tools/>

- ***Growing On Solid Ground: A Farmer’s Guide To Land Tenure***, by Poppy Davis and Liya Schwartzmann (California Farm Link, 2017)

This guide describes different, creative strategies for farmers to secure land tenure, including leasing and owning land, and a variety of case studies for each. It is written from a farmer-centric perspective, and intended to educate about what land tenure is and how to ensure it works for farmers.

https://gafarmlink.org/sites/default/files/63b770ff02e67ecac21a800b_Growing%20on%20Solid%20Ground-%20A%20Farmer%27s%20Guide%20to%20Land%20Tenure%20%281%29.pdf

- ***Land Access For Beginning And Disadvantaged Farmers***, by Meleiza Figueoroa and Leah Penniman (2020)

This document outlines racial disparities in access to farmland, and suggests systemic solutions for making more farmland available to beginning and socially-disadvantaged farmers.

https://www.filesforprogress.org/memos/land_access_for_beginning_disadvantaged_farmers.pdf

- **Library**, from Farm Commons
Farm Commons provides many resources, guidance and template documents here on the legal side of farm business operations, structures and ownership.
<https://farmcommons.org/library/>
- **Toward Land Justice: Actions White Farmland Owners Can Take**, from Land for Good and the Ohio Ecological Food and Farm Association (2024)
This comprehensive guide outlines strategies for how white farmland owners can partner with farmers and communities of color to access land.
<https://landforgood.org/wp-content/uploads/2024/03/LFG-OEFFA-Toward-Land-Justice-guide.pdf>

HOW LAND TRUSTS CAN SUPPORT AFFORDABLE HOUSING

- **Breaking Ground: An Affordable Housing Resource Guide for Land Trusts**, from the Land Trust Alliance (2023)
This resource summarizes why collaboration between housing and conservation groups is relevant; defines affordable housing terminology; and shares four case studies of collaborative housing-conservation projects from across the country.
 - Webinar: Introduction to Affordable Housing for Land Trusts, from the Land Trust Alliance (2023)
<https://landtrustalliance.org/resources/learn/explore/commercial-use-ethical-considerations-and-climate-implicat>
- **Building Collaboration among Community Land Trusts Providing Affordable Housing and Conservation Land Trusts Protecting Land for Ecological Value**, by Katie Michels and David Hindin (Lincoln Institute of Land Policy, 2023)
Report summarizing the benefits of collaboration between affordable housing organizations and conservation land trusts, barriers to collaboration, and recommended pathways for further collaboration.
<https://www.lincolninst.edu/publications/working-papers/building-collaboration-among-community-land-trusts-providing-affordable>

- ***When Rural Land Banks Look to the City for Solutions***, by Jake Bullinger (Bloomberg, 2018)

This article describes ways conservation land trusts are increasingly working in urban areas, and profiles how conservation organization Forterra has collaborated with the Africatown Community Land Trust, a nonprofit corporation that acquires land on behalf of the Black/African diaspora community in Seattle. <https://www.bloomberg.com/news/articles/2018-03-21/when-rural-land-banks-look-to-the-city-for-solutions>

INDIGENOUS LAND RETURN

- ***First Light Learning Journey***

Indigenous and non-Indigenous communities have come together in Maine to learn from each other and identify ways for conservation organizations to work in solidarity with Wabanaki people. The First Light Learning Journey model has two affinity groups: the First Light Land Return Initiative, composed of non-Indigenous representatives from land conservation organizations, and the Wabanaki Commission on Land and Stewardship, composed of members from Maine's five Indigenous Nations. First Light has a variety of resources to support education and learning about the history of Wabanaki people in Maine, tools to examine how conservation has caused harm to Indigenous communities, and strategies for supporting Indigenous leadership and land return.

- Resource Library: <https://dawnlandreturn.org/first-light/resources>
- The Wabanaki Commission describes active Land Projects: <https://dawnlandreturn.org/wabanaki-commission/enacting-culture>
- Rethinking the Premise of Conservation: a series of five videos about how the First Light learning journey unpacks the assumptions of conservation and seeks to work in solidarity with Maine's Wabanaki community. <https://dawnlandreturn.org/first-light/courses/rethinking-promise-conservation>
- ***Land Justice Project***, by Oregon Coalition of Land Trusts, First Light, and Tributaries Network (2021)

This effort brought together Indigenous communities in Oregon with Oregon land trusts to engage in mutual dialogue and learning in order to “increase land access, support Indigenous sovereignty, and return land to tribal communities.” <https://www.oregonlandjustice.org/>

- ***Restoring Tribal Access to Land: A Menu of Options to Reestablish Cultural Access Rights***, from Conservation Partners

This resource provides details on the following land restoration strategies: 1. Land ownership transferred to Indigenous Tribes; 2. Conservation Easement with Tribes as the grantee of the conservation easement; 3. Cultural access easement (separate easements provide for cultural access and land conservation); 4. A conservation easement (land trust and Tribe named as co-grantees); 5. A conservation easement (Land trust serves a grantee but the easement provides for cultural rights); 6. No fee or Easement Transfer (rather, relationships and access are conducted along a spectrum of more informal options).

<https://www.conservationpartners.com/restoring-tribal-access-to-land-a-menu-of-options-to-reestablish-cultural-access-rights/>

- ***Seeds of Land Return***, from Sogorea Te' Land Trust and Sustainable Economies Law Center

This guide details legal tools for land return to Indigenous communities.

https://sogoreate-landtrust.org/slt_resources/seeds-of-land-return/

ORGANIZATIONS THAT ARE LEADING IN LAND JUSTICE AND CREATIVE FARMLAND ACCESS WORK

Each of the organizations listed below has an excellent selection of resources throughout their webpage.

- **American Farmland Trust (national):** <https://farmland.org/>
- **California Farm Link (CA):** <https://www.californiafarmlink.org/>
- **First Light (Maine):** <https://dawnlandreturn.org/>
- **Land for Good (northeast):** <https://landforgood.org/>
- **National Young Farmers Coalition (national):** <https://www.youngfarmers.org/>
- **Native Land Conservancy (MA, northeast):**
<https://www.nativelandconservancy.org/>
- **Northeast Farmers of Color Land Trust (northeast):** <https://nefoclandtrust.org/>
- **Soul Fire Farm (NY, national):** <https://www.soulfirefarm.org/>
- **Sogorea Te' Land Trust (CA):** <https://sogoreate-landtrust.org/>

KEY VOCABULARY TERMS

This section offers brief definitions of key tools and concepts for easy reference.

Agricultural Conservation Easement: a specialized type of conservation easement meant to protect land with agricultural resources, intended to keep farmland in active farming. These easements contain legal provisions to prevent the conversion of active farmland to non-agricultural uses.⁵²

BIPOC: acronym that stands for “Black, Indigenous, or Person of Color.”

Co-Management: Frequently used to refer to negotiated agreements designed to share responsibilities among Indigenous Peoples and state or federal governments for the management of natural resources including fish, wildlife, land, and water.⁵³

Community Land Trust: non-profit organizations that facilitate shared-equity ownership, typically using a tool called a ground lease. In a ground lease, the community land trust owns the land and leases structures/ resources to tenants. Governance involves a tripartite structure: $\frac{1}{3}$ residents, $\frac{1}{3}$ community members not leasing, and $\frac{1}{3}$ public members. This setup ensures diverse representation and resident involvement in decision-making.⁵⁴ Community land trust structures are most typically used to support access to housing, but the model is increasingly being adapted for other purposes.

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More information: [Farmland Information Center](#) or [Marin Agricultural Land Trust](#)

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<https://www.sciencedirect.com/science/article/pii/S2666558122000458#:~:text=Globally%2C%20co%2Dmanagement%20systems%20have,management%20of%20fish%20and%20wildlife>

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More Information: [Center for Community Land Trust Innovation](#)

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<https://landtrustalliance.org/why-land-matters/land-conservation/about-land-trusts>

Conservation Easement: a voluntary legal agreement between a private landowner and a land conservation organization (often a land trust) that gives the right to protect and steward a given conservation value to the conservation organization. Rights protected by a conservation easement can include outdoor recreation, protection of habitat, preservation of open space, protection of agricultural lands, or preservation of historically important land areas or buildings. Conservation easements are recorded with the deed of a property and are considered to last “in perpetuity” (a legal term that means forever).⁵⁵

Cultural Conservation Easements (a.k.a. Cultural Use Agreements, Cultural Respect Agreements, or Cultural Respect Easements): these are specific types of legal agreements that guarantee the right of a particular group of people to have access to land. These are most frequently used as a way to legally enshrine the ability of Indigenous communities to have access to culturally significant lands. The

uses allowed under cultural use agreements can range from very specific uses (i.e. hunting and gathering, or access to sacred sites), to the overarching right of Indigenous communities to have access to land for a variety of purposes. These easements can either be perpetual or last for a set term of time.

Cultural Use or Cultural Use Resource Permit: permission granted by a landowner for community and cultural purposes, especially for gathering food, medicine, and materials. Often, cultural use permits are granted to local members of a Tribal Nation in recognition of their long-standing claims and connections to a place. Sometimes these permits are specific to particularly significant pieces of land for a Tribe, while in other cases conservation organizations include cultural use permits or cultural access language in their standard conservation easement language, thus setting a standard that their conserved lands will be a resource for local Tribal members.⁵⁶

Decolonization: When used in the conservation context, decolonization refers to conscious efforts to address the impact of the colonial process on land uses.⁵⁷

Direct Land Transfer: Giving full rights and ownership over land to a new party with no legal oversight or strings attached.

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<https://www.conservationpartners.com/restoring-tribal-access-to-land-a-menu-of-options-to-reestablish-cultural-access-rights/> ; <https://www.savetheredwoods.org/league-announcement/historic-stewarts-point-property-permanently-protected-by-save-the-redwoods-league-and-sonoma-county-agricultural-preservation-and-open-space-district/>

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See Linda Smith: Decolonizing Methodologies

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EPA, <https://www.epa.gov/environmentaljustice>

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<https://sesmad.dartmouth.edu/theories/85>

Environmental Justice: According to the EPA, environmental justice is “The fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income, with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies.”⁵⁸

Fortress Conservation: “Fortress conservation is a conservation model based on the belief that biodiversity protection is best achieved by creating protected areas where ecosystems can function in isolation from human disturbance. Fortress, or protectionist, conservation assumes that local people use natural resources in irrational and destructive ways, and as a result cause biodiversity loss and environmental degradation.”⁵⁹

Ground Lease: A ground lease is a type of lease agreement in which a landowner leases land to a tenant for a long period of time (often 99 years). The tenant typically pays rent to the landowner for the use of the land. A ground lease usually gives the tenant the right to develop the land, live in existing homes or construct new homes,

and make property improvements during the lease term, subject to any restrictions or conditions outlined in the lease agreement. However, ownership of the land itself remains with the landowner unless otherwise stipulated in the lease. Ground leases are commonly used by community land trusts, allowing CLTs to purchase land and lease it to landowners without the need for a large upfront capital investment. The model can also be applied to farmland lease arrangements.

Land Acknowledgement: a verbal acknowledgment of the Indigenous communities who previously or currently inhabit a place.⁶⁰

Land Back: An Indigenous-led movement that advocates for a transfer of decision-making power over a given piece of land to Indigenous Communities. The movement also includes calls for the physical return of ancestral lands to present-day Indigenous communities.⁶¹

Land Justice: For this toolkit, land justice is defined as efforts that enable land access, affordability, and decision-making over land by individuals and communities who have traditionally been excluded from owning and/or stewarding land. There are a variety of definitions of land justice. For instance, according to Land Justice Futures, “Land justice is the practice of centering ecological, social, and racial justice in decisions about how land is used, loved, and governed by people.”⁶²

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More information: <https://nativegov.org/news/a-guide-to-indigenous-land-acknowledgment/>

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<https://4rsyouth.ca/land-back-what-do-we-mean/>; <https://ndncollective.org/position-paper/the-right-of-return-is-landback/>

62
<https://www.nunsandnones.org/land-justice>

63
<https://en.unesco.org/links>

64
<https://sogoreate-landtrust.org/what-is-rematriation/>

Local and Indigenous Knowledge Systems: According to UNESCO, this refers to “the understandings, skills, and philosophies developed by societies with long histories of interaction with their natural surroundings. For rural and indigenous peoples, local knowledge informs decision-making about fundamental aspects of day-to-day life.”⁶³

Rematriation: The term rematriation is generally used by Indigenous communities to describe efforts to regain control of and relationship with land. According to Sogorea Te’ Land Trust, which is led by urban Indigenous women, “Rematriation is Indigenous women-led work to restore sacred relationships between Indigenous people and our ancestral land, honoring our matrilineal societies, and in opposition of patriarchal violence and dynamics.”⁶⁴

Rent-Burdened Household: The federal government defines rent-burdened households as those that pay more than 30 percent of their income for housing. A severely rent-burdened house is one where the household spends more than 50 percent of its income on rent.⁶⁵

Reparations: Reparations, according to the Movement for Black Lives, are “the act or process of making amends for a wrong.”⁶⁶ In the context of land-based work, reparations refers to efforts to return land to BIPOC individuals or communities who have had land and resources unjustly taken from them through centuries of slavery, colonization, and other wrongs.⁶⁷

Shared equity: Shared equity refers to a financial arrangement in which two or more parties jointly own an asset, typically a property, and share both the costs and benefits associated with that asset. This concept is often applied in real estate, particularly in home ownership programs designed to make housing more affordable.

Traditional Ecological Knowledge (TEK): According to the National Park Service, Ecological Knowledge is “A body of observation, oral and written knowledge, innovation, practices, and beliefs developed by Tribes and Indigenous Peoples through interaction and experience with the environment. Indigenous Knowledge can be developed over millennia, continues to develop, and includes understanding based on evidence acquired through direct contact with the environment and long-term experiences, as well as extensive observations, lessons, and skills passed from generation to generation.”⁶⁸

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<https://calgreenzones.org/ej-glossary-for-ehjp-release/>

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<https://m4bl.org/wp-content/uploads/2020/11/defining-reparations.pdf>

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See Olefmi Taiwo, *Reconsidering Reparations*

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<https://www.nps.gov/subjects/tek/description.htm#:~:text=Indigenous%20Knowledge%20is%20a%20body,%2C%20cultural%2C%20and%20spiritual%20systems>