

THE HARVEST INSTITUTE

Wednesday, September 11th, 2013

Harvest Institute Freedmen Federation Lawsuits and the 1866 Indian Treaties



It is a well kept secret that institutional slavery could not have occurred or existed in America without the support of the Five Civilized Indian Tribes (Cherokees, Seminoles, Choctaw, Chickasaw, and Creek), who were slave holders, traders, chasers, and who signed agreements with and fought with the Southern Confederacy during the Civil War to maintain Blacks in slavery. Even after President Lincoln's Emancipation Proclamation, the 13th Constitutional Amendment and the end of the Civil War in 1865, Indian Tribes continued to hold Blacks as slaves. The Indian Tribes refused to free their slaves, arguing that Tribes were sovereign nations that had the right to hold Blacks as property.

In refusing to free their Black slaves and allying with Southern rebels, the Five Tribes played into the hands of European immigrants and the government that wanted westward expansion. When the Tribes took up arms against the United States in the Civil War, they violated all previous treaties and therefore lost their territorial property/land claims. The United States government had given amnesty to the Southern Johnny Rebs. The federal government also offered amnesty to the Five Civilized Tribes, in the form of the 1866 Indian Treaties, which remain the basis upon which the government has provided preferential benefits to Indians for the last 150 years. The 1866 Treaties required Indian Tribes to free their black slaves, and grant freed Blacks, Black Indians and their descendants, full tribal membership and voting rights in all matters pertaining to the Tribes. The Treaties mandated that the federal government and the Tribes provide the Black freedmen and Black Indians with no less than 150 acres of land, \$160 dollars, equal share in all government provided material benefits, free schooling, reservation resources, and to be treated in all matters, similar to the way non-black members of the Tribes

were treated. Today, that would include free college education, tax-exempt status and the right to own and operate gambling casinos.

By 1890, however, both the federal government and the Indian Tribes began to ignore their legal mandated obligations. The government shifted focus from the foundation premise of the Treaties, to free and aid Black Freedmen and Black Indians, to instead reward unearned recognition and benefits to the slave-holding Indian Tribes and their descendants. In 1941, the United States government provided guidance to Tribes on how to redefine Indian in a way that excluded Black Freedmen and Black Indians. The government has continually narrowed its sphere of enforcement and has ignored its fiduciary responsibilities to the Black Freeman and Black Indians, as defined in those treaties. It is that failure that is the basis of the Harvest Institute Freedmen Federation's (HIFF) lawsuit.

In November 2006, Harvest Institute Freedmen Federation (HIFF) filed ground-breaking lawsuits against the United States Department of Interior and its Bureau of Indian Affairs on behalf of descendants of Black Freedmen and Black Indians. The lawsuits are based on the requirement of the 1866 Treaties with the Five Civilized Tribes that mandated that Blacks be treated in all matters, similar to any other Tribal member. The Harvest Institute Freedmen Federation has filed lawsuits in the Federal Claims Court, the Federal Appeals Court, the U.S. 6th Circuit Court, and the U.S. Supreme Court. The cases continue to traverse the legal system.

The 1866 Treaties are law and the basis for non-Black Indians receiving a negotiated settlement from the courts and the Obama Administration in the case of Cobell vs. Salazar in 2012. Neither the Cobell case of the settlement included, recognized or mentioned Black Freeman or Black Indians. The basis of the HIFF law suit is that the United States government has discriminated against Black Freedmen and Black Indians by continuing to exclude them from the clear mandates of the law, ignoring their rights and benefits. Non-Black Indians have received preferential treatment for the last 150 years. While the courts continue to withhold or acknowledge the Harvest Institute Freedmen Federation legal cases, it is clear that the barrier is not only legal, but political. The HIFF has pursued this quest for equity and fairness in the courts for seven years. It is an expensive but right endeavor. The pursuit is made more difficult because of the indifference and naïveté of Black elected officials, civil rights organizations, and the Black masses who do not know or understand the facts of this issue or the importance of the Treaties. **Below are the points of legal redress the HIFF lawsuits are seeking:**

- Classification of Black Freedmen and Black Indians as a separate federally recognized Tribe;
- A public declaration from the U.S. Department of Interior that Black Freedmen and Black Indians must be included in the mandated benefits that non-blacks have been receiving for over 150 years;
- An order from the Courts directing the governmental agencies to retro-actively distribute benefits to eligible Freedmen and Black Indians with Dawes Roll numbers;

- A greater awareness on the part of Black Americans of the importance of seeking and fighting for their historical monetary entitlements.

Since that time, the government has ignored its fiduciary responsibilities. Instead, the government began to offer guidance to the Tribes, to shift focus to reward only the descendants of the slave-holding Indians, the primary purpose and mandate of the 1866 Treaties. By 1920, the United States government gave the tribes guidance on how to redefine who is Indian, in a way that excluded Black Freedmen and Black Indians.