

To: **The Honorable Senator Barack Obama**

**713 Hart Senate Office Building, Washington D.C. 20510**

Or email

[Michael\\_Strautmanis@obama.senate.gov](mailto:Michael_Strautmanis@obama.senate.gov)

<http://obama.senate.gov/contact/index.php>

202-224-2854; Fax: 202-228-4260;

Re: Request that you support Congressional Bills Backing Freedmen Treaty Rights

**Dear Senator Obama,**

My name is \_\_\_\_\_

The press has recently reported that you are opposed to Congressional intervention which supports the Cherokee Freedmen Treaty rights to equal citizenship in the Cherokee Nation. I request that you revise or clarify your position and state that Congress must intervene on behalf of the Cherokee Freedmen descendants as this is a Treaty of 1866 violation pertaining to the citizenship of its former African slave descendants. We need your support on HR 2824 (introduced by Congresswoman Diane Watson), and the amendment introduced by Congressman Mel Watt on HR 2786 (NAHASDA). Both these amendments tie the Cherokee Nation's ability to receive federal funds to the tribe's continuance of Cherokee freedmen citizenship which was guaranteed by the treaty.

Neither our position nor the bill's impact the settled law regarding tribal sovereignty. Over 100 years ago, the US Supreme Court held in the *Cherokee Intermarriage cases*, that except for treaties and statutes that state otherwise, tribes have the right to determine their membership. The treaty referenced was the Treaty of 1866 and the group exempted from tribal determination was the Cherokee Freedmen descendants.

The purpose of the narrow exception for the Freedmen was of utmost importance to the United States following the Civil War and was based on the following factors. The Cherokee Nation regulated the industry of slavery through the establishment of slave codes prior to the Civil War. (See Daniel Littlefield's, *Africans and Seminoles*, p.78) The Cherokee nation severed its relationship with the US, allied with the Confederate States, and then waged war against the United States to defend slavery. Congress passed the Emancipation Proclamation in 1863, the 13<sup>th</sup> Amendment in 1865 and the Civil Rights Act in 1866. To ensure that slavery and violations of the fundamental rights of former slaves did not occur in Indian Country, the US and the Cherokee Nation executed the Treaty of 1866. The treaty guaranteed the former slaves and free blacks living among the Cherokees all the rights of native Cherokees. Granting the Freedmen citizenship, land rights and the right to hold elected office were the conditions for re-establishing the government-to-government relationship with the Cherokee nation.

You are correct that the US government must honor tribal sovereignty. But the Cherokee nation forfeited their sovereign right to regulate slavery and determine the citizenship of the former slaves and their descendants when they signed the United States *Treaty with the Cherokee Indians July 19, 1866* and when the US Congress enacted the 13<sup>th</sup> Amendment. It is also important to uphold treaties. While they do not create sovereignty, they are the most important indication of government-to-government relationships. Your position to uphold the treaty rights and the limited exception to tribal sovereign immunity is important to the accurate recognition of the relationship between the United States and the Cherokee Nation.

The United States is duty bound to uphold this Treaty pursuant to the terms and the case of *Seminole v. Norton II* wherein US Officials were sued by the Seminole Nation for severing the government-to-government relationship with that Tribe when it held an election that expelled the Seminole Freedmen. The DC District Court in 2002 stated the Tribe was duty bound to protect the Freedmen, when it failed to do so, the US must.

