

**Victims of Sovereignty:
A Review Essay on Race and the Cherokee Freedmen**

By Delphine Criscenzo

Red over Black: Black Slavery among the Cherokee Indians. By Robert Halliburton, Jr. Westport, Conn: Greenwood Press, 1977. x, 175 pp.

African Americans and Native Americans in the Creek and Cherokee Nations, 1830s to 1920s: Collision and Collusion. By Katja May. New York: Garland Pub., 1996. v, 281 pp.

Race and the Cherokee Nation: Sovereignty in the Nineteenth Century. By Fay A. Yarbrough. Philadelphia: University of Pennsylvania Press, 2008. x, 184 pp.

On June 21, 2007, United States Representative Diana Watson (D-California), a member of the Congressional Black Caucus, introduced H.R. 2824. This bill seeks to suspend the payment to the Cherokee Nation of its estimated annual \$300 million of federal funding and stop the Nation's gaming operation if the tribe does not honor the Treaty of 1866 signed with the United States. The reasons for the introduction of such a tough bill by Representative Watson lie in the subtle ways in which the Cherokee Nation of Oklahoma has over time worked to disenfranchise and exclude its Freedmen citizens. If the results of such efforts have been more noticeable during the past twenty years, the three historical monographs reviewed in this essay provide a better understanding of the possible reasons behind the actions undertaken by the Cherokee Nation of Oklahoma.

Halliburton's monograph *Red over Black* is a great contribution to the history of slavery. Indeed, he introduces a very important aspect of slavery, which existed for more than 150 years among the Indian tribes of the Southeast before and after their deportation. His second intervention consists of proving that all Cherokee owned slaves, whether they were "full blood, half breed, near-whites or white." It has been argued by some scholars that only the Cherokee with White blood were slave owners. He discredits this myth and provides micro histories of Cherokee slave owners from different racial and economic backgrounds.

Halliburton also emphasizes the different ways in which the Cherokee have internalized certain principles of American society, starting with their constitution, slave codes, miscegenation and intermarriage laws, and an individualistic system of plantation. However, he points out a few very significant differences between both institutions of slavery. First, he says, there was never the organization of an underground railroad, which would have allowed the Cherokee slaves to escape. Second, the free Black Cherokee never owned Black slaves. Third, the Cherokee slaves were used for more complex tasks than their American counterparts, beyond working in the fields. They were barterers, interpreters, and business consultants. It has been emphasized by a few scholars that the ability of the slaves coming from the U.S. to speak English was highly utilized by the Cherokee. Not all the slaves, however, were bilingual. Some could only speak Cherokee primarily because they were born and raised within Cherokee society. Fourthly, Halliburton emphasizes that the Cherokee did not have a bad conscience about owning slaves. They never tried to justify slavery using Christian beliefs. Finally, the striking difference that Halliburton sees between these two systems of slavery was their present attitude

towards their past deeds. The Cherokee Nation, he states, has no feeling of guilt today for holding slaves.

The differences that Halliburton perceives and describes in his book between the Cherokee and American systems of slavery seem to have a relevance to the theme of the Cherokee expulsion of the Freedmen. Indeed, the current officials of the Cherokee Nation of Oklahoma deny the relevance of history when dealing with the expulsion of the Cherokee Freedmen. They argue that their absolute right to sovereignty allows them to determine the criteria for their Nation's citizenship and that the past is of no relevance. Furthermore, they argue that, like in the U.S., only a very small portion of Cherokees owned slaves. Halliburton, however, has demonstrated that the impact of slavery on the Cherokee Nation was broader than it wants to acknowledge and that the skills of the ancestors of the Freedmen were used in many instances.

Halliburton's statement about the attitudes of the Cherokee toward their past history as slave owners suggests that it translates in some ways in the lives of the descendants of Cherokee slaves. He does not refer to any of the conflicts that occurred in the early 1970s when the tribe began to refuse voting or health insurance rights to those who did not have an ancestor listed as Cherokee by blood on the Dawes Rolls of 1907. Nevertheless, his understanding of an absence of guilt from the Cherokee people for what he calls "their past dead" suggests that his research may have been motivated by contemporary issues.

Katja May's monograph *African Americans and Native Americans in the Creek and Cherokee Nations, 1830s to 1920s*, which was published in 1996, has some of the same intentions as Halliburton's work. May contributes to the often untold story of slavery among the Creeks and the Cherokees but also adds to our knowledge about the history of the Indian Territory, which later became the state of Oklahoma.

May's intention is, first and foremost, to react to the different trends in the literature that have dealt with Black/Indian relationships. She argues against the simplistic notions of what she calls the "classic" argument. Authors such as William S. Willis have over-emphasized, in her estimation, the White man's motivations in dividing Blacks and Indians to prevent alliances. Secondly, May also disagrees with the revisionist argument that sees Indians and African Americans as natural allies against an oppressive system imposed on them by the White mainstream. Finally, May denounces the work of those who have ignored Black and Indian relations.

In the midst of all the works that she rejects, she attempts to provide a new perspective that would first detail the experiences of Cherokee slaves and their struggles to become first-class citizens of the Cherokee and Creek Nations as early as the 1830s. The removal of the "Five Civilized Tribes" from the southeastern United States was traumatic for the Cherokee Nation on many levels. May argues that this resolution to deport the Cherokee into another territory has been understood by the Nation as a direct attack on its sovereignty. As a means of reaffirming its power as a functioning nation, the National Council of the Cherokee wrote a constitution that did not recognize its free Black members as citizens and created very strict slave codes and intermarriage laws. Fifty years later, when its land was allotted, the Cherokee Nation saw more and more of its sovereignty being usurped. "By effectively ousting large numbers of African Americans, including their former slaves and part Cherokee Blacks from their midst, Cherokee could feel they were still a sovereign nation." "It could be argued," says May, "that this success during an era of relentless political defeats *vis-à-vis* whites was the reason behind perpetuating injustice on the African American minority in the Cherokee Nation" (255).

May uses the term African American when she refers to Black Cherokee, whether or not they were slaves. This is problematic because most persons of African descent did not have American citizenship in the 1830s. I believe that May misuses the term, which affects her argument to a certain extent. Indeed, the problem behind the exclusion of people of African descent from the Cherokee Nation prior to the creation of the state of Oklahoma meant that these individuals were nationless.

Fay Yarbrough introduces *Race and the Cherokee Nation: Sovereignty in the Nineteenth Century* as “a book on interracial sex from an American Indian perspective” (1). Indeed, this monograph, published in 2008, makes a great contribution to the field of interracial encounters as Yarbrough moves away from White male/Black female relationships to include unions between White males and Cherokee women, as well as Cherokee males and Black women.

Her effort to demonstrate the complexity and fluidity of Cherokee identity through time and space is enormous. However, it seems that she sees a psychological reason behind the Cherokee Nation’s resorting to such exclusive attitudes towards their Freedmen. In an interview in 2004 she says, “the Five Civilized Tribes owned slaves for two reasons: one reason they did this was purely economical. . . a second reason was to send a strong, strategic message to whites. ‘We are free like you; we can own slaves just as any free people can.’”¹

Yarbrough in *Race and the Cherokee Nation* succeeds in demonstrating that the Cherokee have developed a racial ideology very much modelled on the one commonly found among American society. However, if within both societies people of African descent were at the bottom, the Cherokee were at the top of their racial hierarchy, not Whites. With this argument, she not only contributes to understanding racial construction in America, but she also unveils the serious impact that White European invasions and the racial hierarchy that they imposed has had on the psyche of the Cherokee Nation. In Yarbrough’s account, the Cherokee Nation spent most of its energy trying to maintain their political sovereignty, and in order to do so, it resorted to slavery and racism against people of African descent.

Her primary goal, which is to introduce an “American Indian perspective,” is accomplished. She transforms the Cherokee Nation from the victim of a White racial system that it passively internalized into an active subject in the creation of its own racial hierarchy, within which it is at the top. Finding agency in the actions of oppressed groups has in the last few decades been of great importance for scholars of Black Studies, Native American studies, and Latino Studies among many others.

In 1983, what is now known as the federally recognized Cherokee Nation of Oklahoma decided that in order to vote in any of its elections, Cherokee citizens need to provide a Certificate Degree of Indian Blood (CDIB) delivered by the Bureau of Indian Affairs (BIA). Because they are listed as Freedmen on the Dawes Rolls, which are the rolls used by the BIA to determine Indian ancestry, the Cherokee Freedmen are denied a CDIB and are consequently unable to prove their Cherokee ancestry. Yarbrough describes this first attempt by the Cherokee Nation of Oklahoma to disenfranchise Cherokee Freedmen, which has led to many other conflicts in the last chapter of her book, entitled “The Fight for Recognition Continues.” These recent events are, according to Yarbrough, only a continuation of the Cherokee Nation’s struggle to reaffirm its sovereignty and to define clear boundaries to Cherokee identity.

With this last chapter, Yarbrough contributes to another debate, which is not historical. She leaps from the 1890s to the 1980s in this last chapter, thus leading the reader to think that the major purpose of her monograph was to furnish an historical background to a very recent

controversy. While her book was in the process of being published, bill H.R. 2824 was being introduced to Congress by U.S. Representative Diane Watson.

Race and the Cherokee Nation contributes extensively to the current controversy regarding the Cherokee Freedmen, as it provides the reader with an idea of racial formation within the Cherokee Nation throughout the nineteenth century, as well as utilizes many concrete examples that help in the understanding of Cherokee identity formation. Yarbrough says, “the origins of Cherokee ideas about race and the development of racial prejudice are less important to this study than the recognition that the ideas were present in Cherokee society” (75).

I am not sure that the Cherokee Freedmen will be contented by the recognition that ideas of race were present in the Cherokee Nation. This is something that they know and that they live every day. Yarbrough contributes greatly to highlighting the Cherokee’s efforts to maintain their political sovereignty and demonstrating how crucial this status is to their identity. One might surmise that the Cherokee Freedmen would be interested in knowing why it is that their rejection from the Nation is the only way for the latter to reaffirm their sovereignty. Might their skin color have something to do with it?

These three works, extending over a period of forty years, all try to provide an argument for the racial problem that the Cherokee Freedmen have been facing with the Cherokee Nation. Sovereignty is the one trend that is identified by these three scholars as the ultimate answer to Cherokee policies towards Blacks. They all seem to have a common goal: providing an historical background to more recent events. But is sovereignty still a valid argument to make? Could it be that other reasons motivate the Cherokee Nation of Oklahoma’s actions?