

Black, Native American and Fighting for Recognition in Indian Country

Enslaved people were also driven west along the Trail of Tears. After a historic Supreme Court ruling, their descendants are fighting to be counted as tribal members.

By Jack Healy

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OKMULGEE, Okla. — Ron Graham never had to prove to anyone that he was Black. But he has spent more than 30 years haunting tribal offices and genealogical archives, fighting for recognition that he is also a citizen of the Muscogee (Creek) Nation.

“We’re African-American,” Mr. Graham, 55, said. “But we’re Native American also.”

His family history is part of a little-known saga of bondage, blood and belonging within tribal nations, one that stretches from the Trail of Tears to this summer of uprisings in America’s streets over racial injustice.

His ancestors are known as Creek Freedmen. They were among the thousands of African-Americans who were once enslaved by tribal members in the South and who migrated to Oklahoma when the tribes were forced off their homelands and marched west in the 1830s.

In treaties signed after the Civil War, they won freedom and were promised tribal citizenship and an equal stake in the tribes’ lands and fortunes. But what followed were broken promises, exclusions and painful fights over whether tens of thousands of their descendants should now be recognized as tribal members.

Some of the descendants have won lawsuits seeking inclusion in the Cherokee Nation. Some gained nominal citizenship as Seminoles, but said they could not access tribal services. Others, like Mr. Graham, have nothing.

But now, a landmark Supreme Court decision for tribal sovereignty has breathed new life into their fight.

In July, the Supreme Court recognized a huge portion of eastern Oklahoma as reservation land under the terms of an 1866 treaty. The same treaty also guaranteed that freed slaves and their descendants would “have and enjoy all the rights and privileges of native citizens.”

To groups of their descendants, the logic was simple: If the United States still had to honor treaty promises it made to tribal nations, then tribal nations had to keep their word to the descendants of those formerly enslaved by the tribes.

“We’re making noise,” said Marilyn Vann, a Cherokee citizen and president of the Descendants of Freedmen of the Five Civilized Tribes.

Ms. Vann estimated that there was a diaspora of some 160,000 descendants of those formerly enslaved by the tribes, many of them living in Oklahoma. There are groups representing descendants from each of the five tribes who meet to share sepia photographs of ancestors, compare genealogical records and plan protests.

Ms. Vann added: “There are chiefs who’d like to get rid of what they think of as the Freedmen problem. We have our rights.”

Now, as they file lawsuits in federal and tribal courts, they say they are fighting for tribal benefits including access to jobs, health care at tribal clinics and hospitals, housing, scholarship funds for their children and the right to vote in tribal elections. But also for something more fundamental: “My identity,” Mr. Graham said.



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In a statement, the Muscogee (Creek) Nation said that the issue of the status of the descendants of enslaved people raised thorny questions about tribal citizenship that “cut to the core of self-determination.” They said the tribes had fundamental rights to run their own governments and decide for themselves who qualifies as a citizen. Some said that a reconciliation commission would be a better way to resolve the issue, rather than an edict from Congress.

“Many of our citizens feel that identity is at the heart of this issue and that blood lineage is essential to protecting it,” the Muscogee Nation said. “But, on the other hand, the grave injustice done to the slaves owned by some Creeks has to be acknowledged and discussed.”

The fight is unfolding as Oklahoma grapples with another bloody chapter of its history: A white mob’s massacre and destruction of a thriving Black neighborhood in Tulsa in 1921. Many of the Tulsa victims were descendants of people formerly enslaved by the tribes, activists say. This summer, crews excavated a suspected mass burial site searching for remains, and survivors and descendants of the victims recently sued the city.

The legacy of anti-Black racism in tribal nations can be a fraught, uncomfortable topic, one that forces communities who have suffered centuries of land theft, colonialism and genocide to confront the darker corners of their own past. Several tribal officials declined interview requests to discuss the issue.

“When we have that difficult history to deal with, we don’t talk about it,” said Chief Chuck Hoskin Jr. of the Cherokee Nation. About 7,000 descendants of Freedmen were incorporated into the Cherokee Nation after a federal judge ruled in 2017 that they had tribal citizenship rights. That history is “a stain on the Cherokee Nation we’ve got to remove,” the chief said.

Spanish and English colonizers enslaved Native people across the Americas. But tribes in Alabama, Georgia and Florida also adopted the practice themselves, enslaving African-Americans to work on cotton plantations and in homes. When the United States government forcibly removed the Cherokee, Seminole, Choctaw, Chickasaw and Muscogee people to Oklahoma, their slaves also made the deadly march or were transported west in boats, according to historians.

The Civil War and the question of slavery divided tribes, with some fighting for the Union and other tribal members declaring loyalty to the Confederacy. Some enslavers retreated to Arkansas or Texas to escape skirmishes and raids. Black Indians joined the Union or Confederate armies, and later escaped to freedom in Kansas.

“It’s a history that still divides our citizens over what rights the descendants of those Freedmen should have, as well as the larger conversation concerning who is ‘legitimately’ Cherokee,” Rebecca Nagle, a Cherokee writer and host of the podcast “This Land,” wrote this summer after the Cherokee Nation removed two Confederate war memorials in eastern Oklahoma. “We need to do more to confront that history within our tribe.”

The Freedmen were granted tribal citizenship — and in some cases “an equal interest in the soil and national funds” of the tribe — in the treaties that Oklahoma’s tribes signed with the federal government after the Civil War, in which the tribes were forced to cede huge portions of their land to the government.

On the Muscogee (Creek) Nation, there were once three “colored” tribal towns that formed their own small governments. Despite segregation and racist legal structures, Freedmen served as council members, ministers, judges. Jesse Franklin, who was born a slave in Alabama in 1817, was named to the Creek Supreme Court in 1874 — some 93 years before Thurgood Marshall ascended to the United States Supreme Court.

But their descendants say they were edited out of existence over the past half-century by tribal constitutions and other laws denying them citizenship because they were not citizens by blood, or because they or their ancestors had been placed on a roster of ineligible people when government agents began sorting Oklahoma’s tribes into “citizens” and “Freedmen” in the 1890s.



Capt. Archibald S. McKennon, center, enrolled Freedmen in the early 1900s on what was then Cherokee Nation land in Oklahoma, as part of the Dawes Commission's efforts to end collective land ownership and allot land to individual members instead. Aylesworth Album Collection/Oklahoma Historical Society

Sharon Lenzy Scott said her mother was stripped of her Creek citizenship when a new constitution was passed in 1979, and spent the next 20 years until her death trying to ensure that her family never forgot.

“She called all her children into the living room and said, ‘I’m going to tell you who you are, and don’t let anyone tell you you’re not,’” Ms. Scott said. “She knew who she was.”

The N.A.A.C.P. has weighed in to support the descendants of those formerly enslaved by the tribes, and some members of Congress have proposed legislation that would sever ties between the United States and the Creek Nation, or withhold housing money from other tribes, until the descendants are granted tribal citizenship.

But to some tribal leaders, those threats undermine tribal sovereignty.

Gary Batton, the chief of the Choctaw Nation, wrote in a June letter to the speaker of the House, Nancy Pelosi, that he objected to any legislative maneuvering, and said the “Freedmen issue is a problem caused by the United States, not the Choctaw Nation.”

“America should solve its own problems,” Chief Batton wrote.

Still, the descendants’ cause has supporters among tribal members. Eli Grayson, a Muscogee (Creek) citizen whose family once owned slaves, said the Freedmen’s descendants had been excluded for too long.

“These Freedmen lives don’t matter,” he said, echoing the Black Lives Matter mantra.

Mr. Graham said he has been petitioning for his Muscogee (Creek) status since he went to a tribal citizenship office in 1983 and told the office workers that his father was Theodore “Blue” Graham, who spoke the Creek language and went to traditional stomp dances. On that long-ago day, he said, the clerk told him his father had been nothing but a slave: “It tore my heart out.”

Mr. Graham can speak a few shards of Creek himself, enough to say “Come to dinner” or teach his children “Mvto” for thank you. He has come to dislike the term Freedmen, calling it a pejorative relic.

He would like, one day, to just be a citizen of his tribe.

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