



THE UNITED CHEROKEE NATION OF INDIANS-ANIYVWIYA

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Treaties of 1620, 1621, 1730, 1785, Treaty of Holston 1791 (7 Stat.39), Treaty of 1816 (7 Stat. 138),

Treaty of Hopewell 1785 (7 Stat.18), Treaty of 1835 (7 Stat. 478),

Article VI, sec.2, U.S. Constitution - Treaties are the Supreme Law of the Land.

Under the Jurisdiction of Cherokee Tribal Law

The Written Law of the United Cherokee Nation of Indians-Aniyvwiya

PREFACE

The ancient Cherokee had no need for a written law since the statutes they observed were engraved on their hearts from an early age and everyone practiced them every day in all aspects of their lives. Because they were interwoven into the very fabric of the Cherokee existence, the various precepts by which those people lived could not be overlooked, they could not be ignored.

Sadly, if a law was broken, the punishments were quite severe. “An eye for an eye” was the rule of retribution for the old Cherokee culture. This seemed to mimic the ancient Israeli law, even to the point of a clan member legally avenging the death of one of their other clan members.

Today, in a more enlightened time, we no longer subscribe to the brutality of the old days. Unfortunately, we also do not subscribe to the idea of laws “written on our hearts”. In today’s world, laws must be codified and transcribed into many formats so anyone who looks at a nation can see that they are “civilized”. The truth is that written law is much more easily ignored or conveniently forgotten.

Still, this is the world in which we live. Therefore, we have endeavored herein to provide a simple framework of law. It will afford the necessary codification required of us by other nations and it will allow for additional legal enactments should they become necessary.

The Star Council of the United Cherokee Nation

Section One:

(a) The United Cherokee Nation (also known as the Cherokee Nation and the Nation) is a sovereign entity whose sovereignty is from antiquity and, therefore, does not come from the United States of America or any other group or nation.

(b) All laws and practices of the United Cherokee Nation shall display and encourage that inherent sovereignty.

(c) Any nation, group or person outside the Cherokee Nation who disparages that sovereignty, by word or deed, shall be deemed guilty of ***Lese Majeste***. Lese Majeste means “injured majesty” and protection

from it shall extend to any/all persons and properties of the Nation as well as ideas emanating from same.

(d) Even though our law has been codified and externalized, the understanding of the idea of “right and wrong”, which shall be the guiding factor both in our laws and in the prosecution of those who break them, shall be expected of all participants in the fellowship of the United Cherokee Nation. This is more than just a mechanical “do this” and “don’t do that” system. What we require is a genuine respect for a Tribal member’s self and for his fellow members.

Section Two:

(a) Rather than produce endless lists of punishments our Judges may prescribe, we will rely on the integrity and justice inherent within those Judges and also their compassion and understanding of the human condition. Therefore, this framework shall, primarily, give guidelines concerning the punishment of breaches of Our laws.

(b) The Magistrate presiding over a case shall have broad powers of discretion as it applies to sentencing, which shall include but not be limited to, capital punishment, corporal punishment, incarceration, removal of privileges, fines and any other disciplinary action and/or combinations of disciplinary actions thought appropriate by the overseeing Magistrate. Indeed, if the Judge feels that both sides of a case should simply go home and work the problem out themselves, then that will be within his/her discretion as well.

(c) In the most extreme cases or instances of repeated criminal activity by a person or persons, removal from the Tribe is a possibility. This would be approached in conjunction with the Star Council.

Section Three

(a) Murder shall be considered a heinous crime in the United Cherokee Nation. Those accused of such crime shall have the protection of Our Constitution. They will be tried fairly. If said person(s) are found to be guilty of the act of murder, the Magistrate shall be constrained in his/her decisions concerning the punishment of said illegal act. As it currently stands, no provision for capital punishment exists in the Cherokee Nation and most other punishments would be insufficient. Therefore, incarceration is the only avenue available at this time.

(b) Appeals will be allowed if applicable.

Section Four

The forcing of sexual activity upon anyone above the age of consent (which is generally agreed to be 18 years of age) and/or the inflicting of sexual activity upon anyone under the age of consent and/or the inflicting of sexual activity upon anyone whose mental or emotional situation prevents them from making good moral decisions shall be construed as the crime of rape. Any Cherokee Nation member accused of such activity shall be tried in accordance with Our Constitution. If a guilty verdict is delivered, the Magistrate shall be constrained from a decision of capital punishment. However, all other punishment forms would be acceptable.

Section Five

The taking of people for profit or position shall be construed as the crime of kidnapping. As above, said accused shall be tried and, if found guilty, shall be sentenced by the Magistrate of the case. Said

Magistrate shall be constrained from a decision of capital punishment in all but the most abhorrent and abominable cases. However, see Section Three, paragraph (a) above. Corporal punishment shall be an option as well as incarceration.

Section Six

Theft shall always be considered a crime in the Nation. However, there are many different types of and reasons for theft. The Magistrate in charge of the case shall be responsible for considering all the types and reasons and rendering a decision based upon his/her careful deliberation. Obviously, capital punishment is not an option. Corporal punishment is an option except in extreme forms (for instance, cutting off of body parts is not to be considered). Incarceration is also a possible course as are other forms of disciplinary action.

Section Seven

Attacking a person for harm, not resulting in murder, shall be considered the crime of battery. If the person(s) is found guilty, the Magistrate may use their discretion as to the suitable punishment.

Section Eight

Threatening a person, either verbally or bodily, shall be considered the crime of assault. If the person(s) is found guilty, the Magistrate may use their discretion as to the suitable punishment. Since assault is often combined with battery, see Section Two, paragraph (b) above.

Section Nine

Abuse of the elderly and of minors shall not be tolerated in the Cherokee Nation. The presiding Magistrate shall have broad discretionary powers both in the interpretation of the crime and its seriousness and in the sentencing of individuals who are found guilty.

Section Ten

(a) There are numerous lesser offenses such as slander, libel, trespassing and vandalism. Once again, the Magistrate must use his/her experience and such inherent justice as they may possess but, also, they must use their compassion and understanding. They will be afforded full discretion to apply such punishments as are fitting to the offense.

(b) Many other infractions are not yet listed. As they are nominated, they will be added to this framework to be brought before the Cherokee Court.