United Cherokee Nation - Aniyvwiya

P.O. Box 245, Springfield, Missouri 65801 USA.
P O. Box 191793, Atlanta, Georgia 31119, USA
Tel: 417-691-5009
www.unitedcherokeenation.net

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

Narrative about the United Cherokee Nation of Indians

The United Cherokee Nation was formed in 2005 and at the time was known only as the 11th Tribe of the Cherokee Nation. Later, as other people came on board, our founder and number one Elder, David Joseph Jackson (also known to the tribe as Daei Grandor), changed the name to The United Cherokee Republic. David believed he had a "calling" to "help the Cherokee" but couldn't even join an established, Federalized tribe since his ancestors were not listed on the infamous Dawes Role. So, believing in his calling and yet finding no common ground in which to work, he began the above mentioned endeavor. He passed away on January 24, 2014.

Part of his legacy is that the United Cherokee Nation of Indians is ***known*** to the U.S. government through our court cases but we are not Federalized, meaning that we do not accept the Federal handouts. We are ***recognized*** by treaty with several other First Nations Groups around the world, most notably the Maori people of New Zealand (Aotearoa). In fact, if one wants to be technical, we **are** recognized by the U.S. because, since we are Cherokee and since the treaties do not exclude this Cherokee group or that, we **are** recognized by the same treaties that recognize the Federalized tribes. Neither those tribes nor the U.S. government wants to admit that, however.

At this time, we are a tribe of about 200 and have continued to thrive and stand on our inherited sovereignty, bestowed upon all our generations by The Creator, which includes the Native Human rights to peace, prosperity and the pursuit of happiness. Being Cherokee by blood, we have the right, under the 40 + treaties signed between the Cherokee and The United States of America, to self government and self determination.

We also claim our inherited rights to the land where our people were living when the "white man" first discovered them. The old Cherokee territory consisted of 10 million acres which included parts of the 8 states known today as Georgia, Tennessee, North Carolina, South

Carolina, Virginia, West Virginia, Kentucky and Alabama. Our land was ceded (usually by way of fraudulent transactions) to the USA to be put into trust for the preservation of the Cherokee and their future generations. ***Congress has never extinguished Native title to the land***. Therefore, we still have rights to the vast region that The Creator gave us. Especially since the Trust has not been properly managed and funds have been used to fund wars since 1812. The trustee's have not appropriated funds properly. See below for further discussion.

Points of History, Case Law and Facts:

- Tribal Court Judgments are Valid - 29 United States Code Section 1738 provides for full faith and credit entitlement to tribal court judgments. 18 United States Code Section 2265 offers full faith and credit entitlements to tribal court protection and protective orders. It is that plain and simple. No translations or interpretations required. Tribal court judgments prove, among other things, mortgage fraud and, therefore, the issue of Aboriginal title is usually frowned upon and dismissed by state and federal courts.
- Along that same line is Tribal jurisdiction over its members. The treaties of Hopewell (1785), Holston (1791) and the Treaty of 1835 (codified into 18 USC 1152 and 25 USC 1301) all proclaim exclusive criminal jurisdiction over Native People to Tribal governments. Article 6 of the U.S. Constitution says that treaties shall be considered the supreme law of the land. The American Indian Policy Review says this: "Tribal sovereignty and tribal immunity have become the benchmark today that unerringly identifies, recognizes, confirms, and validates tribal self-government. The previous federal shibboleths of manifest destiny, discovery and conquest, plenary congressional power, the trust relationship, and the 'domestic dependent ward' status derived from common law have given way to a heightened sense of the reality and currency of tribal self-government. Application of the doctrine of sovereignty to Indian tribes acknowledges simply and fundamentally that they are governments with the authority to manage their own affairs within their own territory". ***Id.;* 1 American Indian Policy Review Commission Final Report 99-100 (1977)**. Williams vs Lee (1959) says that state courts have NO jurisdiction over Native affairs. American Indian Agricultural Credit Consortium vs Fredericks (1982) says state courts have NO jurisdiction over Tribal members. The various states (who hate to give up their authority over every living thing) are further prohibited from interfering with Tribal affairs by Michigan vs Long (1983) which says that state questions bordering on Federal law allow the Supreme Court's interpretations. Then there is Worcester vs Georgia, 31 U.S. (6 Pet.) 515 (1832) which says that "…the whole intercourse between the United States and this (Cherokee) nation is, by our Constitution and laws, vested in the government of the United States…" Then we find Iron Crow vs Ogallala Sioux Tribe (1955) which says that Tribes have power over their court system limited only by Congress. Then there is Santa Clara Pueblo vs Martinez , 98 S. Ct. 1670 (1978) and 98 S. Ct. at 1681 which says that "Tribal courts have repeatedly been recognized as appropriate forums for the exclusive adjudications of disputes affecting *important personal and property interests of both Indians and non-Indians."* (emphasis added) Finally, there is Rice vs Olson (1945) quoted in McClanahan vs Arizona State Tax Commission which states that the policy of leaving Natives free from state jurisdiction is deeply rooted in the U.S. history.

Sovereign Status of the United Cherokee Nation of Indians - Aniyvwiya Lore

- **Treaty of 1620**
- **Treaty of 1621**
- **Treaty of 1730**
- **Treaty of Hopewell 1785**
- **Treaty of Holston of 1791**
- **Treaty of 1816 (7 Stat. 138)**
- **Treaty of 1835**
- **Technical Corrections Act**

The issue of tribal sovereignty has long been established as a sine qua non of Indian tribes as a separate distinct political community.

The sources of federal Indian law which recognized, acknowledged and accepted inherent tribal sovereignty are found in the U.S. Constitution, principles of international law, scholarly treatises, treaties with Indian tribes, federal statutes and regulations, executive orders, and judicial opinions.

The Wheeler-Howard Act of June 18, 1934 (Indian Reorganization Act) was one of the first positive unequivocal expressions of acknowledgement and endorsement of sovereign Indian rights when the Act's preamble declared that "The Act embodies the basic and broad principles of the administration for a new standard of dealing between the Federal Government and is Indian wards." (emphasis added).

The "old standard of dealing" was beset with treaty breaches as an expression of treaty compliance despite constitutional language and entreaties that Treaties are part of the supreme law of the land as stipulated in Article VI, section 2 of the U.S. Constitution. The very fact that treaties were concluded with approximately 245 Indian tribes out of a total of 568 such tribes is evidence that tribes have always enjoyed the standing and status of independent sovereign political communities.

U.S. Supreme Court decisions in the Marshall Trilogy (Johnson v. McIntosh (1823), Cherokee Nation v. Georgia (1831), and Worcester v. Georgia (1832) underscored Indian tribal inherent sovereignty.

Felix S. Cohen's Handbook of Federal Indian Law, 1942, 2005 editions captures the essence of the fundamental principles of federal Indian law thus:

1. An Indian nation possesses in the first instance all of the powers of a sovereign state.

2. The federal government has broad powers and responsibilities in Indian affairs within the strictures and limitations imposed by the U.S. Constitution.

3. State authority in Indian affairs is limited.
Scholarly articles written by Franciscus de Victoria (De Indis et du Iure Relections 127-128, Ernest Nys ed., J. Bate trans., Carnegie Instituion, 1917, orig. ed. 1557) acknowledge the status and standing of Aboriginal Peoples in the New World as distinct political communities. Other commentators of international law like Hugo Grotius, Emmerich Vattel and (The Law of War and Peace 397, Classics of International Law ed. 1925); Alexis de Tocqeville have written extensively on Indian rights and standing in international law. See S. James Anaya, Indigenous Peoples in International Law 12 (Oxford Univ. Press 1996).

Pope Paul III lent papal support to Victoria's doctrine in the 1537 Bull Sublimus Deus which among other things, provided that Aboriginal land and personal property rights be protected and preserved.

As recent as 2007, 157 nation-states including the USA, Canada, Australia and New Zealand became willing signatories, after initial hubris, to the United Nations Declaration of the Rights of Indigenous Peoples.

The issue of tribal sovereignty is now well established and settled law seen from local, municipal, county, state, regional, national and international perspectives.

- It is a blatant falsehood that Tribes that are not federally recognized have no standing. If one reviews the Indian Commerce Clause, Art. 1, sec 8, cl.3 of the U.S. Constitution, one finds that it says that "Congress shall have the power to regulate commerce with foreign nations, amongst the several states, and with Indian tribes." Now you will notice that words and phrases like "treaty tribes" or "federally recognized tribes" are not mentioned in this Article. Tribals are also mentioned as "Indians not taxed" in Art. 2, sec 2, cl.3, U.S. Constitution and sec.2 of the 14th Amendment. Again, it does not say "federally recognized Indians" or "Indians whose tribes signed treaties with the federal government." Indian tribes are inherently sovereign predating European contact, the U.S. Constitution and any/all Federal legislation (Talton vs Mayes 1896; U.S. vs Wheeler 1978; Andrew Bird vs U.S. 2002; U.S. vs Lara 2004; Plains Commerce Bank vs Long Family Land and Cattle Company 2008). Felix S. Cohen's book "The Handbook of Federal Indian Law" will give valuable insights about this highly specialized field of law about which most state and federal judges and lawyers are unaware.
- We strenuously object to the current issuance of passports by the U.S. government as concerns Native Peoples of all tribal affiliations. Immigration attorneys and administrative judges, fearful of their livelihoods, will seldom allude to Art. 1, sec. 8, cl.4 of the U.S. Constitution which says Congress shall only make ***rules*** of naturalization, not ***laws*** for naturalization. A law may be a rule, but a rule cannot be a law. Columbus, DeSoto, Cortez, the Pilgrims and many others settled in Indian Country without valid travel documents, passports or visas, yet had the nerve and gumption to make immigration laws without asking Aboriginal permission, consent and approval. There was a time when passports were required of the white settlers who wanted to travel through Indian country. See the Act of March 3, 1802 Section 3, 2 Stat. 139 empowering State governors to issue passports for travel through, not settlement in, Indian country. But, we all know what happened to illegal settlements which blossomed into hamlets,

villages, towns, bustling cities and metropolises. INDIAN TRIBES should be issuing passports for international travel if the United Nations Declaration of the Rights of Indigenous Peoples of 13 September, 2007 adopted by 144 member nations means anything. Not surprisingly, the United States, Canada, New Zealand and Australia voted against its adoption for obvious reasons.

- "A tribe's right to define its own membership for tribal purpose has long been recognized as central to its existence as an independent political community. A tribe is free to maintain or establish its own form of government. This power is the first element of sovereignty. Tribal government need not mirror the U.S. Government but, rather, may reflect the tribe's determination as to what form best fits its needs based on practical, cultural, historical or religious considerations"
- Smith v. Babbitt, 875F. Supp. 1353,1360 (D.Minn. 1995);
- Santa Clara Pueblo v Martinex 436 U.S. 49, 72,n.32 (1978);
- United States v Wheeler, 435 U.S. 313,322 n. 18 (1978);
- Roff v Burney, 168 U.S. 218 (1897);
- Cherokee Intermarriage Case, 203 U.S. 76 (1906)
- Native American Church v. Navajo Tribal Council, 272F.2d 131 (10th Cir. 1959);
- Chaposse v. Clark, 607 F. Supp 1027d. Utah 1985 aff'd 831, Fed 931 (10th Cir. 1987)
- Indian title is ***superior*** title to any fee simple, land patent, land grant or allodial title. Usucapion (Latin for ownership due to lengthened possession) is beautifully codified in 18 United States Code Section 1151 where Indian Country is defined. Even if a State came into existence in Indian country, it is, nevertheless, in Indian Country UNLESS Congress extinguishes Indian title. That goes for rights-of-way, infrastructure (freeways, highways, roads, buildings) and all other easements that came into being by legislation. Adverse possession and eminent domain are the judge-made laws that prevail over the universal truth. Individual Aboriginal Title has been recognized in Cramer v. United States, 261 U.S. 219 (1923); Carino v. Insular Government of the Philippines Islands, 212 U.S. 449 (1908); and in United States v. Dan, 873 F. 2d 1189 (9th Circuit).
- Because treaties are to be considered the supreme law of the land and because not one treaty has any mention of "taxation" (the only mention at all has been noted above from the original Articles of the Constitution and the 14th Amendment), we strongly deny any right of the Federal government or the states to tax Native Peoples. See also Revenue Ruling 67-284 and Revenue Ruling 94-16 and Sec. 17, Indian Reorganization Act, 1934.