

Cherokee Nation Shadow Report to Committee on the Elimination of Racial Discrimination

Submitted by Principal Chief Chadwick Smith, February 5, 2008

INTRODUCTION

In General Recommendation XXIII, the Committee on the Elimination of Racial Discrimination has affirmed 1) that the situation of Indigenous peoples is a matter of international attention and concern, 2) that discrimination against Indigenous peoples falls under the scope of the *International Convention on the Elimination of All Forms of Racial Discrimination*, and 3) that all appropriate means must be taken to combat and eliminate such discrimination [CERD].

The Cherokee Nation is the second largest Indian nation in the United States and is the contemporary manifestation of the original Cherokee Nation. In June of 2007, HR 2824,¹ a bill “[t]o sever United States’ government relations with the Cherokee Nation ...” was introduced in the U.S. House of Representatives “until such time” as the Nation would be forced to “restore full tribal citizenship” to the non-Indian descendants of the freedmen of 1866² (see below). This legislation claims that the Nation is in violation of its treaty obligations under the Treaty of 1866.³ The bill is undemocratic and unjust - it is based on egregious errors and omissions; it assumes treaty obligations of the Cherokee Nation that were bilaterally abrogated more than 105 years ago; the legislative process leading to the introduction of the bill (and since that time) included no opportunity for full and effective participation by legitimate representatives of the Cherokee Nation; and further, rather than wait for ongoing litigation in U.S. and tribal courts to be completed, some members of Congress are trying to impose, through duress, their own directives to the detriment of the Cherokee Nation.

The legislation would, in effect, either allow Congress to determine membership in the Cherokee Nation or sever federal financial obligations to the Nation, close Cherokee businesses, and legitimize unfounded lawsuits against the Nation. It would force the Nation to capitulate or suffer these consequences indefinitely. The Nation, various citizens, Indigenous groups, and others have taken steps to address the inflammatory claims, to re-establish the facts of our Nation’s history, and to bring attention to various human rights of Indigenous peoples that would be undermined or violated, should the legislation proceed.

Our purpose in turning to the Committee is to question **how such potentially damaging legislation, drafted and introduced without any participation by representatives of the Nation and based on premises that are either distorted or untrue could be consistent with the human rights obligations of the United States under CERD.** We call particular attention to the recommendation of the Committee “that the State party ensure effective participation by

¹ See enclosed copy of HR 2824: *To sever United States’ government relations with the Cherokee Nation of Oklahoma until such time as the Cherokee Nation of Oklahoma restores full tribal citizenship to the Cherokee Freedmen disenfranchised in the March 3, 2007, Cherokee Nation vote and fulfills all its treaty obligations with the Government of the United States, and for other purposes.* 110th Congress, 1st Session, In the House of Representatives, June 21, 2007.

² Noting that over 1,500 present day descendants of freedmen (former slaves of 1863) who also established Indian ancestry were already enrolled citizens and will continue to be citizens of the Cherokee Nation.

³ July 19 1866 - Treaty with the Cherokee, 1866.

At: <http://digital.library.okstate.edu/KAPPLER/VOL2/treaties/che0942.htm>

Cherokee Nation Shadow Report to Committee on the Elimination of Racial Discrimination

Submitted by Principal Chief Chadwick Smith, February 5, 2008

Indigenous communities in decisions affecting them ... as required under article 5 (c) of the Convention”⁴

As Principal Chief of the Cherokee Nation and acting on behalf of the Nation, **we respectfully request that the Committee recommend that the United States 1) not initiate any act to dispossess the Cherokee people of their human rights; 2) ensure democratic participation of the Cherokee Nation through its authorized representatives in any draft legislation that may significantly affect their fundamental rights; and 3) ensure that elected or appointed officials are fully apprised of their obligations under CERD.**

BACKGROUND AND RELEVANT HISTORICAL CONTEXT

The Cherokees are an Indigenous nation, with a government-to-government relationship with the United States based on an elaborate system of treaties, agreements, and executive orders. The first treaty between the Cherokee Nation and the United States was the Treaty of Hopewell (South Carolina) in 1785. This treaty defined the relationship of the Cherokee Nation with the United States as being “under the protection of the United States and no other sovereign.” This treaty (and most subsequent treaties) required land cessions to the United States.

In 1835, a small dissident group of unauthorized Cherokee tribal members signed the now infamous Treaty of New Echota. Congress ratified the treaty over the protests of the vast majority of the people and the legitimate government of the Cherokee Nation. The Treaty of New Echota exchanged the southeastern homeland for land in the ‘Indian Territory’ (now Oklahoma). In 1838-39, the Cherokee Nation was forcibly removed from its homeland in the southeastern United States to ‘Indian Territory’, resulting in the deaths of over 4,000 men, women, and children. That forced displacement of Cherokee citizens became known as the “Trail of Tears.” The Cherokees’ last treaty, the Treaty of 1866, was the result of the Cherokee/ U.S. government relations at the end of the American Civil War.

Beginning in 1794, federal agents and some missionaries began to actively promote the use of black slaves in their “civilizing” efforts to turn the Cherokees into farmers like their neighbors in the South (in Georgia and nearby states). Like many other Native American nations, the Cherokees had long been accustomed to a form of ‘traditional’ slavery related to captive enemies. The concept of slavery as a ‘natural by-product’ of one’s birth or skin color was a foreign concept. Consequently, the Cherokee Nation, like the United States, was deeply divided over the institution of slavery and it was never accepted by the majority of Cherokee people, although Cherokee law did permit it. At its peak in 1860, less than 2 percent of the Cherokee people were slaveholders.⁵

As a result of these and other divisions, Cherokees fought on both sides in the American Civil War. However, at least two-thirds of Cherokee men served in the Union Army in opposition to slavery. The Cherokee Nation, in the middle of the Civil War, passed its own Act to voluntarily abolish slavery, almost *three years before* ratification of the 13th Amendment to the U.S.

⁴ *Committee on the Elimination of Racial Discrimination (A/56/18), Concluding observations: United States of America*, August 14, 2001, para. 400

⁵ 1860 Slave Federal Census Cherokee Nation, Indian Territory
At: http://www.rootsweb.com/~usgenweb/ok/nations/1860_federal_census_of_indian_te.htm

Cherokee Nation Shadow Report to Committee on the Elimination of Racial Discrimination

Submitted by Principal Chief Chadwick Smith, February 5, 2008

Constitution doing the same. Nevertheless, at the end of the Civil War, the Cherokee Nation entered into the Treaty of 1866 with the United States and was required to cede land, jurisdiction, and autonomy.

Article 9 of the treaty stated that the “freedman” and “other free colored persons” and “their descendants” according to certain residency requirements “shall have all the rights of native Cherokees.” The Treaty did not grant citizenship. The Cherokee Nation voluntarily amended its Constitution in 1866 to add a citizenship provision. The freedmen and their descendants, according to certain residency requirements, had such rights until a 1902 act of Congress placed a cutoff date on *entitlements to enrollment*.

This was the Dawes era. Congress had adopted the 1898 Curtis Act⁶, and the Cherokee Nation was being forced by the federal government to divide its territory into individual allotments and to agree to termination of its national government, in violation of prior treaty provisions. Maintaining *entitlement to enrollment* in an Indian nation that was, through duress, being divided into pieces lost importance at that time.

The 1902 Act of Congress⁷ provided in Sec. 26 that citizens living on September 1, 1902, be enrolled and that “*no child born thereafter to a citizen ... shall be entitled to enrollment.*”⁸ This reflects the intent of Congress to terminate the very existence of the Cherokee Nation. The citizens of the Cherokee Nation, including the freedmen, the descendants of freedmen and inter-married whites, participated in a vote to approve the negotiated Act of 1902. Had it not been approved, the un-negotiated and even more destructive terms of the 1898 Curtis Act would have applied. The majority of the traditional Indian citizens of the Nation chose not to vote and the Act was approved. It also provided that each citizen would be allotted 110 acres of Cherokee land and their proportionate share of other tribal property. Further, the Act specifically stipulated that no previous “treaty provision inconsistent with this agreement shall be in force.”

Thus, Article 9 of the Treaty of 1866 was *bilaterally abrogated* by the United States and the Cherokee Nation.⁹ Additionally, the Cherokee Nation abrogation was the result of a democratic vote mandated by the United States.¹⁰ The Five Tribes Act of 1906¹¹ also established a cutoff date according to residency requirements and extended the ‘legal existence’ of the Cherokee Nation’s government.

⁶ June 28 1898, *An act for the protection of the people of the Indian Territory, and for other purposes* (The Curtis Act). At: http://digital.library.okstate.edu/KAPPLER/Vol1/HTML_files/SES0646.html

⁷ July 1 1902, *An act to provide for the allotment of the lands of the Cherokee Nation, for the disposition of town sites therein, and for other purposes*. At: http://digital.library.okstate.edu/kappler/vol1/html_files/SES0787.html

⁸ See enclosed booklet to Congress, *The Cherokee Nation – Human Rights Overview (with regard to HR 2824 and amendment to HR 2786) Timeline – History Re-established*, pp. 4-10

⁹ See *Garfield v. United States ex rel. Lowe*, 34 App. D.C. 70, 1909 WL 21538*4 (D.C. Court of Appeals 1909), *aff’d sub mon*, *United States ex rel. Lowe v. Fisher*, 223 U.S. 95 (1912)

¹⁰ It is worth emphasizing that no such vote would have ever occurred had the United States not *unilaterally* abrogated prior treaties guaranteeing the Nation its lands and territories.

¹¹ April 26 1906, *An act to provide for the final disposition of the affairs of the Five Civilized Tribes in the Indian Territory, and for other purposes*. At: http://digital.library.okstate.edu/kappler/Vol3/HTML_files/SES0169.html

Cherokee Nation Shadow Report to Committee on the Elimination of Racial Discrimination

Submitted by Principal Chief Chadwick Smith, February 5, 2008

As previously mentioned, HR 2824 was introduced in June 2007 to force the Cherokee Nation and its citizens to agree to the enrollment of the present-day non-Indian descendants of freedmen, even though this issue is currently being litigated and examined by U.S. and Cherokee courts. The legal complexities are further compounded by the brutal treatment of the Cherokee Nation in its past history. Upon consultation with the Cherokee Nation, drafters of H.R. 2824 would understand critical historic and legal issues such as the *Cherokee Nation has had no remaining obligation arising from the Treaty of 1866 on the issue of citizenship for over 105 years*. This in no way restricts the *inherent right* of the Cherokee Nation to enroll citizens according to the Nation's own requirements, since such acts would be different from 'entitlements' established and bilaterally abrogated by federal law.

It is important to note that the Cherokee Nation recognizes slavery is reprehensible, unjust, and morally unsupportable. Slavery is also contrary to Cherokee, United States, and international law. A tiny percentage of Cherokee citizens were slaveholders, but the entire Cherokee Nation took responsibility for the actions of these citizens. By extending entitlements to citizenship for almost 40 years, the Cherokee Nation ensured that the freed slaves and their descendants, according to certain residency requirements, received land and monetary considerations never given to the freed slaves in the United States. It further recognizes that land ownership and cash payments of percentages of tribal properties had a positive benefit on former slaves and their descendants, which translated into smaller gaps in wealth and income.

MODERN CHEROKEE REVITALIZATION

From 1906 until 1971, the President of the United States appointed the Principal Chief of the Cherokee Nation, and approved or disapproved of all Cherokee acts, ordinances, resolutions, payments or expenditures.¹² Cherokee self-governance existed only in Cherokee community organizations and sacred societies.

The Cherokee Nation began a period of revitalization in 1971 with passage of a federal law that acknowledged the right of the Cherokee people to elect their own Principal Chief. On June 26, 1976, the Cherokee people overwhelmingly ratified a new Constitution that replaced the 1839 constitution, noting in Article 16: "*provisions of this Constitution overrule and supersede the provisions of the Cherokee Nation Constitution enacted the sixth day of September 1839.*" It provided that citizenship includes Cherokee, Shawnee, and Delaware Indians. In 2003, the Cherokee people voted again on a new Constitution and affirmed that Cherokee citizens should be Cherokee, Shawnee and Delaware Indians. Both the Cherokee and federal courts affirmed the right of the Cherokee Nation to determine citizenship.¹³

¹² The last elected Principal Chief was 'retained' in the position until his death in 1917. For the next twenty-four years (1917-1941), various Presidents of the United States appointed a total of six Principal Chiefs, whose tenure in office collectively added up to 23 days (one serving 18 days, the other five serving one day each).

In 1941, Jesse Bartley Milam, a Cherokee citizen and co-founder of Phillips and Milam Oil Company, was appointed Principal Chief and was 'allowed' to remain in office until his death in 1949. In 1949, W.W. Keeler, a Cherokee citizen and Vice President of Phillips Petroleum Company, was the last Principal Chief to be appointed by a President of the United States. In 1971, he was also the first Chief 'allowed' to be elected.

¹³ 10th Circuit Court of Appeals, *Nero vs. Cherokee Nation*, 1989 and Cherokee Nation Justice Appeals Tribunal (JAT), *Riggs vs. Ummerteeskee*, 2001

Cherokee Nation Shadow Report to Committee on the Elimination of Racial Discrimination

Submitted by Principal Chief Chadwick Smith, February 5, 2008

However, in 2006, the Cherokee Nation's highest court reversed itself. It held that the 1975 language was not clear enough and that if the Constitution "was intended to limit membership to citizens by blood, it should have said so" and required more "specific language." This ruling¹⁴ overturned three decades of court decisions to the contrary, but repeatedly recognized that "the Cherokee citizenry has the ultimate authority to define tribal citizenship." However, the ruling allowed for immediate enrollment of non-Indians in the Cherokee Nation.

Cherokee citizens, in a March 2007 referendum vote to amend their constitution, provided the more "specific language" required by the Court. They reaffirmed what they had already believed to be true - that Indian ancestry is required for citizenship in their Indian nation - and they limited citizenship to those who were descended from Indian ancestors listed on the Dawes Rolls. In the meantime, the 2,867 non-Indians who had been enrolled since the 2006 ruling were no longer entitled to enrollment. This presented a dilemma that is being decided in three courts today.

The 2007 vote to amend its constitution was a crucial vote for the future of the Cherokee Nation and its own sense of identity. HR 2824, which provides for unlimited enrollment of non-Indians, would undermine the Nation's right to determine its own citizens (a right consistently recognized by the United States¹⁵), and therefore undermine the integrity of the Nation. This vote has been falsely characterized as racist, while, in fact, the vote was for an explicit clarification of who is a documented Indian in regards to citizenship in the Cherokee Nation.¹⁶

¹⁴ Cherokee Nation Supreme Court, *Allen vs. CN Council, Registrar and Registration Committee*
At: <http://www.cherokee.org/docs/news/Freedman-Decision.pdf>

¹⁵ See for example: *United Nations General Assembly* – United States explanation of vote, *UN Declaration on the Rights of Indigenous Peoples*, 13 September 2007:

Under United States domestic law, the United States government recognizes Indian tribes as political entities with **inherent** powers of self-government as first peoples. In our legal system, the federal government has a government-to-government relationship with Indian tribes. In this domestic context, this means promoting self-government over a broad range of internal and local affairs, including **determination of membership, culture**, language, religion, education [emphasis added]

See also: *Organization of American States* – standard-setting proposal by the United States, *Draft American Declaration on the Rights of Indigenous Peoples*, 27 April 2007:

States should recognize, for example, that **Indigenous peoples have the collective right to self-determination** within the nations in which they reside. This means the right to self-government in matters relating to their internal and local affairs, **including culture**, language, religion, education ... **economic activities**, lands and resources management, environment, **determination of membership ... as well as ways and means for financing these functions**. As Indigenous peoples are first peoples with the right to self-government, states should have political relationships with Indigenous peoples residing within their countries. [emphasis added] *Similar statements were made by U.S. government at the OAS in 2006, 2003, 2002 and 2001.*

¹⁶ It is important to repeat that the over 1,500 present-day descendants of freedmen who have established Indian ancestry are citizens of the Cherokee Nation, and will continue to be citizens of the Cherokee Nation. See for example, enclosure: Heather Williams, *Let the Cherokees decide who's Cherokee*, *Los Angeles Times*, 10 July 2007. Heather Williams is a present-day descendant of a freedman who also established Indian ancestry and is a citizen of the Cherokee Nation. *Additionally*, a simple look at the 'complexion' of the Nation reveals that there are thousands of citizens who are African American, Hispanic American, Asian American, and Caucasian. All are citizens today because they each have one Indian ancestor listed on the Dawes Rolls.

Cherokee Nation Shadow Report to Committee on the Elimination of Racial Discrimination

Submitted by Principal Chief Chadwick Smith, February 5, 2008

It should be noted that, despite the referendum, the Nation supported a tribal court order to stay the effects of the Constitutional amendment until the litigation is resolved. Until that time, the 2,867 people affected will remain citizens with voting rights, access to social and health services, and expert genealogical research at no charge to learn whether they have an Indian ancestor listed on the Dawes Rolls in order to help them become a permanent citizen of the Nation.

In international law, the *UN Declaration on the Rights of Indigenous Peoples* also supports the right of an Indigenous people to determine their own citizens: “Indigenous peoples have the right to determine their own identity or membership in accordance with their customs and traditions.”¹⁷

RIGHT TO FULL AND EFFECTIVE PARTICIPATION

In addition to HR 2824, in September 2007, the U.S. House of Representatives passed an amendment to exclude the Cherokee Nation from federal housing benefits *unless and until* they meet the demands of HR 2824.¹⁸ The wording of the amendment itself denies housing funding *until* the Nation “is in full compliance with the Treaty of 1866 and” fully recognizes all present day non-Indian descendants of freedmen “as citizens of the Cherokee Nation.” The amendment was then rightfully further amended to delay enforcement until ongoing judicial processes are concluded.

In noting the language of the Congressional floor debate, damaging misconceptions and misinformation about the Cherokee Nation, as alleged in HR 2824, were accepted as fact throughout the discussion. *Not one member* asserted the right of Cherokee representatives to fully and effectively participate in a decision which could gravely affect the Nation's ability to continue to exist as a distinct nation. The obligation of the United States' government to respect and uphold the human rights of Indigenous peoples under international human rights law was never mentioned. Indeed, the words ‘human rights’ were never used. Members of Congress seemed completely unaware of any obligation in this regard.

It is difficult to imagine that any other group in this country would be subjected to such far-reaching proposals without elected officials of the federal government, at the least, assuming a ‘duty to consult’. Neither a ‘duty to consult’ nor the right of Cherokee leadership to “full and effective participation”¹⁹ in decisions affecting the Cherokee people was recognized. This right

¹⁷ *United Nations Declaration on the Rights of Indigenous Peoples* adopted by the UN General Assembly, 13 September 2007, Article 33 (1). See also: *Indigenous and Tribal Peoples Convention*, 1989, Article 1(2).

¹⁸ HR 2786: *Native American Housing Assistance and Self-Determination Reauthorization Act of 2007*, H.AMDT.783 (A001). At: <http://www.govtrack.us/congress/bill.xpd?bill=h110-2786>

¹⁹ See also: *Indigenous and Tribal Peoples Convention*, 1989, Art. 6 (1) “In applying the provisions of this Convention, governments shall: (a) consult the peoples concerned, through appropriate procedures and in particular through their representative institutions, whenever consideration is being given to legislative or administrative measures which may affect them directly” and (2) The consultations carried out in application of this Convention shall be undertaken, in good faith and in a form appropriate to the circumstances, with the objective of achieving agreement or consent to the proposed measures.

See also: *United Nations Declaration on the Rights of Indigenous Peoples*, Art. 19, “States shall consult and cooperate in good faith with the Indigenous peoples concerned through their own representative institutions in order to obtain their free, prior and informed consent before adopting and implementing legislative or administrative

Cherokee Nation Shadow Report to Committee on the Elimination of Racial Discrimination

Submitted by Principal Chief Chadwick Smith, February 5, 2008

is essential to democratic processes. Further, the provisions of HR 2824 would deny the Cherokee Nation's right to preserve and revitalize its own culture for its continued existence as a distinct people.

Rather than allowing the Cherokee people to make their own decisions regarding their own future through their elected government, judiciary, legislative branch, popular referendums, and public meetings – a Congressperson stepped in with her own *unilateral* directive. Although we vehemently reject the inflammatory misrepresentations made against our Nation, something more important is at stake.

Indian nations know their own history. Without respect for the right of “full and effective participation” of Indian nations in decisions affecting them, other rights can be ignored - such as our right to continue to exist as a distinct nation, our right to our own culture, our right to be different, our right to security,²⁰ and most importantly, our right of self-determination, including our right to self-government and to determine our own citizens. Article 4 (c) of CERD provides that State parties “shall not permit public authorities or public institutions, national or local, to promote or incite racial discrimination,” a highly prejudicial, yet intentional effect of HR 2824. Members of Congress are inciting racial discrimination against the Cherokee Nation by unfairly branding the Cherokee Nation and its citizens as those who are committing the discriminatory acts. For instance, the Representative who introduced HR 2824 publicly claimed that the Cherokee referendum vote in March 2007 to amend its Constitution “equaled if not surpassed the most vitriolic attacks against African Americans in the once segregated South.”²¹

Article 5 of CERD calls for State parties “to guarantee the right of everyone, without distinction ... to equality before the law.” It is inequitable for a member of Congress to draft and introduce such legislation without allowing courts to complete their review fairly, based on all of the evidence, and to suggest that such legislation is justified to confirm alleged, but unproven, racial discrimination. By circumventing existing judicial processes, this legislation pre-determines draconian measures, such as severing the United States' government relations with the Cherokee Nation, and ignores the political, social, economic, and cultural implications that such measures would entail.

CONCLUSIONS

Paragraph 4(c) of CERD General Recommendation XXIII calls on States to “provide Indigenous peoples with conditions allowing for a sustainable economic and social development compatible

measures that may affect them.” These rights and standards in international law serve to interpret the provisions of CERD, in regard to Indigenous peoples and individuals.

²⁰ See, for example, the *UN Declaration on the Rights of Indigenous Peoples*, Article 7 (1) “Indigenous individuals have the rights to life, physical and mental integrity, liberty and security of person. (2) Indigenous peoples have the collective right to live in freedom, peace, and security as distinct peoples ...”; and Article 20 (1) “Indigenous peoples have the right to maintain and develop their political, economic and social systems or institutions, to be secure in the enjoyment of their own means of subsistence and development, and to engage freely in all their traditional and other economic activities.”

See also: the *Universal Declaration of Human Rights* (UDHR), Articles 3 and 25 and the *International Covenant on Civil and Political Rights* (ICCPR), ratified by the United States in 1992, Article 9 (1)

²¹ Representative Diane Watson (D-CA), *Jim Crow in Indian Country*, October 25, 2007. At: http://www.huffingtonpost.com/rep-diane-watson/jim-crow-in-indian-countr_b_69927.html

Cherokee Nation Shadow Report to Committee on the Elimination of Racial Discrimination

Submitted by Principal Chief Chadwick Smith, February 5, 2008

with their cultural characteristics.” In this case, the United States would have the Cherokee Nation either surrender its inherent right of self-determination or face devastating financial consequences. By severing the government-to-government relationship, the proposed legislation would diminish, if not destroy, the Nation’s ability to provide essential infra-structure, education, health and housing services to its citizens. It would eliminate 6,500 jobs. It would undermine the Nation’s ability to determine its own future by denying the Nation its resources.

The introduction of HR 2824 and HR 2786, as amended, demonstrate that continued assertion of the “*plenary power of Congress*” can cause great harm (whether by intent or in effect or both) to an Indigenous nation in the United States. Such legislative claims seek to change the focus from the historically damaging acts of Congress to blaming the Cherokee Nation. Such claims attempt at least to imply (both in Congress and in an aggressive national media campaign) that the Nation is racist, to deprive it of its collective identity and its economic existence, and to terminate the Cherokee as a distinct people. Such acts of cultural genocide constitute grave violations of human rights under CERD and, more generally, international law.

In paragraph 390 of the Committee’s *Concluding Observations* to the United States of 14 August 2001, the Committee “recommends that the State party undertake the necessary measures to ensure the consistent application of the provisions of the Convention *at all levels of government.*” (emphasis added) In its Periodic Report to CERD, the United States pledges in paragraph 50 that copies “of the report and the Convention” will be “widely distributed within the executive branch of the U.S. government, to federal judicial authorities,” and to “*relevant members of Congress and their staffs ...*” (emphasis added). Clearly “relevant” members would include those members of Congress who introduce such legislation as HR 2824 which would severely undermine the rights of the Cherokee Nation and its people.

Questions requested of the Committee:

- What concrete steps and measures has the United States taken to ensure that elected members of Congress are informed of the legally-binding obligations of the government regarding Indigenous peoples’ human rights under CERD? Are the Concluding Observations of the CERD Committee furnished to members of Congress, including those relating to the collective and individual rights of Indigenous peoples and individuals?
- At least in respect to the United States, have relevant members of Congress (e.g. those addressing HR 2824) been made aware of CERD General Recommendation XXIII relating to Indigenous peoples?
- Has the U.S. government taken any steps to fully and fairly engage in discussion with the Cherokee Nation, since the intent of HR 2824 is “to sever” the relationship with the U.S. government until the Nation complies with the requirements of that bill?

Cherokee Nation Shadow Report to Committee on the Elimination of Racial Discrimination

Submitted by Principal Chief Chadwick Smith, February 5, 2008

Respectfully submitted,



Chadwick Smith,
Principal Chief
Cherokee Nation
PO Box 948
Tahlequah, Oklahoma 74465 USA

ENCLOSURES:

- HR 2824: *To sever United States' government relations with the Cherokee Nation of Oklahoma until such time as the Cherokee Nation of Oklahoma restores full tribal citizenship to the Cherokee Freedmen disenfranchised in the March 3, 2007, Cherokee Nation vote and fulfills all its treaty obligations with the Government of the United States, and for other purposes*, June 21, 2007
- Heather Williams, *Let the Cherokees decide who's Cherokee*, Los Angeles Times, 10 July 2007
- Booklet to members of Congress, *The Cherokee Nation – Human Rights Overview (with regard to HR 2824 and amendment to HR 2786) Timeline – History Re-established*, November 2007
- National Congress of American Indians (USA), Resolution #DEN-07-071, *Opposing Legislation Terminating the Government-to-Government Relationship of Federally Recognized Indian Tribes and Nations*, 16 November 2007
- Suzanne Jasper, *Disinformation Campaign Undermines Cherokee Rights*, Indian Country Today, 30 November, 2007
- Assembly of First Nations (Canada), *Resolution Opposing Legislation Introduced in the United States Congress Terminating the Government-to-Government Relationship of Federally Recognized Indian Tribes and Nations*, 13 December 2007

Cherokee Nation Shadow Report to Committee on the Elimination of Racial Discrimination

Submitted by Principal Chief Chadwick Smith, February 5, 2008